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DISA CLIENT RESPONSIBILITIES

FCRA OVERVIEW

Thank you for signing up for Background Screening Services with DISA Global Solutions! Background reports, otherwise known as “consumer reports”, are a valuable tool for ensuring safety in the workplace and identifying qualified applicants. There are several laws that govern how consumer reports may be used, including when they may be ordered, and what type of information may be requested and considered. As an end-user of consumer reports, you have an obligation to follow applicable law regarding consumer reports. The information in this document provides some of the end-user requirements under the federal law known as the Fair Credit Reporting Act (FCRA). Please note this information is for educational purposes only and is not intended to be legal advice or counsel nor is it intended to address all the various state and local laws that apply to background checks.

- **You must have a permissible purpose.**
 - All end-users must have a permissible purpose under the FCRA to obtain a consumer report. Ordering a report for employment purposes, or in accordance with the written instructions of the consumer are examples of permissible purposes under the FCRA.
- **You must provide certification.**
 - Consumer Reporting Agencies (CRA’s) such as DISA are prohibited from providing consumer reports unless and until the end-user has certified the permissible purpose for which the report is being obtained *and* certifies that it will not be used for any other purpose.
 - End-Users who order consumer reports for employment purposes must also certify to the CRA that they **have** complied with the FCRA’s requirements regarding providing disclosure and obtaining authorization (more on these below), **will** follow the FCRA’s requirements regarding adverse action (more on this below), and that the information will **not** be used in violation of any applicable Federal or State equal employment opportunity law or regulation.
- **If ordering a report for employment purposes, you must provide the consumer with a disclosure.**
 - Prior to ordering a consumer report for employment purposes, you must provide the consumer with a **clear and conspicuous** disclosure that a consumer report may be obtained for employment purposes.
 - This disclosure must be in a document that consists *only* of the disclosure and may not include any extraneous information.
- **If ordering a report for employment purposes, you must obtain the consumer’s written authorization.**
 - Prior to ordering a consumer report for employment purposes, you must obtain an authorization, or “consent” form, signed by the consumer.
- **If ordering an Investigative Consumer Report, you must provide the consumer with a disclosure.**

- An Investigative Consumer Report is a consumer report, or portion thereof, in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer, such as an Employment or Education verification, or the verification of a Professional or Personal Reference.
- Prior to ordering an investigative consumer report, it must be clearly and accurately disclosed to the consumer that an investigative consumer report including information as to their *character, general reputation, personal characteristics, and mode of living*, whichever are applicable, may be made.
- The disclosure must include a statement informing the consumer of their right to request additional information as to the nature and scope of the investigative consumer report.
- **You must have and follow an FCRA-compliant Adverse Action Process.**
 - Prior to taking any adverse (negative) action on an applicant or employee based in whole—or in part—on any information contained within a consumer report, you must notify the consumer.
 - Best practice dictates that Adverse Action consists of a two-step process:
 - Pre-Adverse Action. A notice, along with a copy of the consumer report and A *Summary of Your Rights Under the Fair Credit Reporting Act*, must be sent to the consumer notifying them that adverse action may be taken based in whole, or in part, on the information contained in the consumer report.
 - Adverse Action. After a reasonable amount of time has passed (five business days is recommended; however, some states/counties/cities have laws that dictate a specific waiting period), a final adverse action letter must be sent to the consumer notifying them that adverse action has been taken.
 - Adverse action notices **must include** the following:
 - A statement that the action being taken is based on whole, or in part, on a consumer report received from a consumer reporting agency (CRA).
 - The name, address, and telephone number of the CRA that provided the report.
 - A statement that the CRA did not make the adverse decision and is not able to explain why the decision was made.
 - A statement setting forth the consumer's right to obtain a free disclosure of the consumer's file from the CRA if the consumer makes a request within 60 days.
 - A statement setting forth the consumer's right to dispute directly with the CRA the accuracy or completeness of any information provided by the CRA.
 - State and local law may apply that requires additional action, such as performing an individualized assessment, or may require additional documentation or information be provided with adverse action notices, such as the specific reason for the determination. Please consult with your legal counsel on all background screening matters to ensure compliance with all applicable law and regulations.

A Note on Sample Forms

- **Sample forms provided by DISA are samples only.** Responsibility for using legally compliant forms ultimately rests with the end-user. If you decide to adopt these forms, DISA recommends that you consult with your legal counsel beforehand to review and approve them.

- Sample forms were created based on industry best practice guidelines, recent litigation trends, and guidance from regulators and enforcement agencies.
- The *Sample Standard Disclosure & Authorization Packet* should be used for all consumers who **do not** reside in and are not applying for a position within New York City.
- The *Sample New York City Applicant Disclosure & Authorization Packet* should be used for all consumers that reside in or are applying for a position within New York City.
- If you choose to utilize DISA's sample forms:
 - The sample forms become your forms, and you maintain full responsibility in ensuring their proper use and control.
 - Remove the Sample Form Disclaimer at the top of all forms prior to sending the forms to the consumer.
 - Edit/Update the forms as necessary as indicated on the form or within footnotes and remember to remove the footnotes prior to sending them to the consumer.
 - Grey indicates text that **should be removed**.
 - Yellow indicates text that **may be removed, if not applicable**.
 - Green indicates text that **should be updated**.

Thank you for partnering with DISA for your background screening needs!