

## National Instant Criminal Background Check System Audit

### Audit Objective(s)/Scope

The FBI's CJIS Division has established audit programs for the purpose of evaluating compliance with policy requirements associated with access to CJIS systems and information. The National Instant Criminal Background Check System (NICS) Audit assesses: compliance with minimum requirements to participate as a full or partial POC for firearm background checks; authorized use of NICS; application of federal prohibitors for transfer of firearms; requirements for use of Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) approved alternate permits; and requirements for submission of records into the NICS Index. The audit is conducted with state and federal agencies and includes reviews of local agency components within their applicable jurisdictions.

POC Requirements In order to qualify as a POC, a state must be able to meet the requirements described in Title 28, Code of Federal Regulations (C.F.R.), Part 25 and provide the minimum services to meet requirements described in Section 2 of the *NICS User Manual*. This includes: requirements for verification and interaction with FFLs; transactional messaging capabilities through the NCIC interface; accessing relevant records; appropriate retention and destruction of information; managing an appeals process; as well as applying system safeguards.

Use of NICS and III Local, state and federal agencies must only access the NICS and III for authorized purposes in accordance with Title 28 C.F.R., Section 25.11 (b), 25.6 (j), and 20.33, as well as with the *CJIS Security Policy*, Version 5.3, Section 4.2. In addition, access to these systems must be conducted using the appropriate purpose codes per requirements described in the *III/NFF Operational and Technical Manual*, Chapter 2, Section 2.

Federal Denial Criteria Agencies must properly apply the denial criteria established in Title 18, United States Code (U.S.C.), Section 922 (g) (1) through (9) and (n) to determine if the transfer of a firearm is lawful. Specific prohibitors assessed include: felony conviction; felony indictment; active warrant; controlled substance user; mental defective; unlawful alien; dishonorable discharge; citizenship renunciation; protection order; and misdemeanor crime of domestic violence.

ATF-Approved Alternate Permits States approved by the ATF to leverage state-issued permits in lieu of conducting a NICS check for each potential firearms transfer must meet requirements established by federal law at Title 18, U.S.C., Section 922 (t)(3)(A). This includes requirements for the length of time that such permits are valid, as well as the use of a NICS check as part of the process for issuing such permits.

NICS Index Records Agencies which enter and/or maintain records in the NICS Index are responsible for ensuring the accuracy and validity of those records in accordance with Title 28, C.F.R., Section 25.5 (b). In addition, agencies are highly encouraged to include all available information as part of their NICS Index records.

## **Overview of the Process**

### **Pre-audit**

Pre-audit activities provide a broad-based appraisal of the audit participant, as well as those activities necessary to coordinate the logistics of the audit. Pre-audit tasks are centered on the initial gathering of information required for successful execution of the audit. Primary pre-audit tasks include:

- Conducting internal research, which includes reviewing NICS transactions/messages as well as applicable statutes used by the audit participant to administer NICS checks.
- Contacting the audit participant to schedule the audit, explain the audit process, and request documentation.
- Selection of local agencies and/or organizational subcomponents/offices for review as applicable, based in part on coordination to determine whether or not processes are centralized or decentralized and the location of supporting documentation for NICS Index records.
- Preparing surveys, questionnaires, and requests for information, and forwarding to the audit participant for completion.
- Reviewing documentation and information received from the audit participant.

### **Assessment**

The assessment phase centers on a comparison between policy requirements and the audit participant's processes associated with those policy requirements in order to determine compliance. There are a number of techniques or combinations of techniques employed:

- Interviews with audit participant personnel to include in-person and/or teleconference.
- Surveys and questionnaires completed by the audit participant.
- Review of policy and procedural documents to include: standard operating procedures; statutes; administrative rules; and forms.
- Review of case files and/or other documentation associated with system transactions and/or NICS Index records.
- Demonstrations by the audit participant of administrative processes and information technology platforms.
- Exit briefings with audit participant personnel to provide tentative results and potential areas of concern.

### **Post-audit**

Post-audit activities center on reporting the results of assessments, as well as reconciliation of compliance issues. A draft audit report is prepared and forwarded to the audit participant. The draft audit report includes:

- Findings of compliance status relative to policy requirements, which could include varying degrees of compliance such as: in compliance; out of compliance; area of concern; and note of interest.
- Analysis describing why the conclusion regarding compliance status was made.
- High-level required actions needed for the audit participant to correct compliance issues or improve performance.
- Request for a formal response from the audit participant describing actions taken as a result of the audit findings and recommendations.

A final audit report is published which incorporates the audit participant's response to the draft report. Applicable final audit results are forwarded to the CJIS APB's CES for review and disposition in accordance with established procedures. As part of these procedures, the APB may follow-up with the audit participant to request additional information in order to ensure compliance issues have been adequately resolved prior to formally closing the audit.