

# HF 653 Section 86

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## Background Check – Private Sector Alternatives

December 15, 2017

This report regarding private sector alternatives for conducting Iowa criminal history background checks is being provided to the Governor of the State of Iowa and the Iowa General Assembly.

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## **HF 653 Committee Members**

Dawn Fisk, Department of Inspections and Appeals

Angell Jobes, Department of Public Safety

Adam DeCamp, Department of Public Safety

Lori Lipscomb, Department of Human Services

David Jobes, Department of Public Safety

## **Executive Summary**

The 89<sup>th</sup> General Assembly, during its 2017 session, passed HF 653. Section 86 of the legislation directed the Departments of Human Services (DHS) and Public Safety (DPS) to jointly review private sector alternatives to the performance of state mandated criminal background checks currently performed solely by the DPS.

The Committee Members reviewed the current background check processes in place with the DPS, Division of Criminal Investigation (DCI), the aggregate information collected through an RFI from private companies who perform background checks, satisfaction survey results from current SING users, and information from other states regarding their background check processes.

Based on the discussion and information gathered, the Committee recommends no change to the current background check process. The time required for an official criminal history record check (through the DCI) is less than or equal to the time required for a background check by a private company. The DCI check provides results from criminal history records which are based on fingerprints, the most reliable means of identification. In instances in which some type of background check is required for persons working with vulnerable populations, the reliability of fingerprint-based criminal history records are especially important. To the extent that the Iowa Health Care Association (IHCA) advocates for “broader capabilities” by way of private companies, these broader checks can be lawfully conducted in addition to the check of the more reliable fingerprint-based DCI records, without any additional statutory authorization. When combined with the DCI checks, the background checks by private companies may add value to the process.

## **Statement of Purpose for the Committee**

The 2017 HF 653 legislation instructed:

Sec. 86. BACKGROUND CHECK – PRIVATE SECTOR ALTERNATIVES. The department of human services and the department of public safety shall jointly review private sector alternatives to the performance of state mandated criminal background checks currently performed solely by the department of public safety. The departments shall submit a report to the governor and the general assembly by December 15, 2017, including a description of the process used in reviewing private sector alternatives to perform criminal background checks, the findings from the review, and recommendations for utilizing private sector entities as an alternative to the department of public safety in the performing criminal background checks.

The Committee was charged with exploring private sector background check companies performing criminal history checks as an alternative to those currently mandated to be done by the DCI. While the focus of this legislation was specific to the criminal history check portion of the larger background check process, this report also includes brief references to the entire process of background checks and the evaluation of criminal, sex offender, child and dependent adult abuse histories. The IHCA, which represents over 800 nursing homes, assisted living and residential care facilities, home health agencies, and independent senior living and retirement communities in the state of Iowa, was included in the discussion to identify the issues for study by the Committee.

## **Current Iowa Code Requirements and Federal Regulations**

Current Iowa Code requires that prior to employment in a health care facility, each facility shall request that the department of public safety perform a criminal history check and the department of human services perform child and dependent adult abuse record checks of the person in this state. (See Code of Iowa, Chapter 135C.33(1)(b) and 135C.33(5)(a)).

If it is determined that a person being considered for employment in a facility has been convicted of a crime under a law of any state, the department of public safety shall notify the licensee that upon the request of the licensee, the department of human services will perform an evaluation to determine whether the crime warrants prohibition of the person's employment in the facility or program.

Additionally, for nursing homes, federal regulations require that the facility must not employ or otherwise engage individuals who have been found guilty of abuse, neglect, exploitation, misappropriation of property, or mistreatment by a court of law (See CFR 42 483.12(a)).

Essentially, the licensee checks the potential employee's criminal, sex offender, and abuse history. If there is a record in any of these areas, the licensee may request an evaluation of the record and obtain a decision from the DHS regarding whether the history warrants prohibition of employment in a health care facility.

## **Description of the Process Used in Review**

The committee immediately identified the need to have a representative from the Iowa Department of Inspections and Appeals assist with the review, because they are the governmental body charged with regulating long term care facilities.

Additionally, the committee engaged with the IHCA, which had advocated for the study. The IHCA had issued a Request for Proposals (Appendix A) through their organization regarding a private alternative for required background checks including "pre-employment criminal, dependent adult abuse and other histories background screening services." In addition, IHCA representatives Steve Ackerson and Bill Nutty participated in a conference call on July 19, 2017.

The committee then used state administrative procedures to issue a Request for Information (RFI) to collect information from private sector companies to learn more about their background check processes. Similarly, the committee queried other states regarding their use of such companies and their general background check processes and requirements. (IHCA identified Wisconsin as a state worthy of study, and information from Wisconsin is included in this report.)

The existing DCI criminal history check for long term care and health care entities involves use of an electronic system called SING. (The SING section of this report provides additional information about the process.) The committee issued a survey to SING users in order to gauge their level of satisfaction with the current criminal history check process.

The committee mapped the background check and evaluation process for criminal, sex offender, child and dependent adult abuse histories. That visual is included in the appendix. (Appendix B)

The following are broad conclusions reached by the committee considering all of the information collected:

- Many states are using a finger print based FBI background check process
- Some states allow for vendors to conduct their background checks but those checks are still required to be run through their state's central repository or utilize a finger print based check
- Fingerprint based records are the most accurate
- SING is an efficient method to query multiple data sources
- The majority of SING users are satisfied

Each step in the review process utilized by the committee is described in more detail below with final conclusions stated at the end of this report.

## **Conference Call with the IHCA**

On July 19, 2017, the committee participated in a conference call with the IHCA representatives Steve Ackerson and Bill Nutty. The following is a summary of the conference call.

IHCA stated clearly that workforce issues are a priority for their membership, specifically being able to bring staff on quickly. They sometimes have difficulty competing with other employers in the community who offer employment at similar hourly wages, but are not subject to the same background requirements, which slows the hiring process, according to IHCA members. IHCA indicated a concern that the turnaround time for the current background check process is subject to staffing fluctuations as well as the changing volume of requests. They stated an additional concern that the volume of SING requests has increased along with a broader range of occupations that require checks of criminal history and abuse, and they asserted that increased volume results in greater delays.

IHCA stated their motivation for this legislation was to provide their membership with an option to utilize a private vendor for criminal history record checks, which they assert will result in a better, faster background investigation. They also stated that their goal was to eliminate the evaluation process currently conducted by the Department of Human Services and suggested it could potentially be replaced with another mechanism to evaluate prospective employees such as psychological profiling. Both of these goals are aimed at reducing the time it takes for their members to hire a new employee. The IHCA stated they recognize the need to properly screen employees to protect patient safety, however they also stated there is a balance between that and meeting their staffing needs.

During the discussion concerning potential improvements to the current system, IHCA noted the system utilized in the State of Wisconsin. They asserted the Wisconsin system is a faster, more efficient system and could serve as a model for changes to the system in place in Iowa.

## **Request for Information (RFI)**

In order to review private sector alternatives to the background checks currently performed solely by the department of public safety, the Committee needed to know more about how the private commercial vendors conduct criminal history background checks. We kept IHCA's desire for a system with broader capabilities and faster results in mind as we reviewed submissions. The goal of the RFI was to explore items such as:

- How and where vendors search for criminal history record information
- Whether vendors search on a national level
- Whether the employee/applicant must sign a waiver
- The result response time
- The fees for the service
- How vendors handle errors and positively identify a subject when in question.

The DHS, DCI and DIA published a Request for Information (RFI) on September 18, 2017. Eleven private commercial vendors responded to the RFI. (Appendix C)

### **Responses indicated:**

#### **How and Where**

All searches are based on name and date of birth but some require additional information such as social security number, address and gender. If an applicant is identified through an online query then most will conduct a manual search of the court records by sending someone to verify the results in person.

All respondents stated they use Iowa courts online as their main data source for searching criminal history records in Iowa. If an applicant is identified through an online query most will

conduct a manual search of the court records by sending someone to verify the results. Three of the respondents will use the DCI for an additional search upon request or as required based on their specific pre-determined package at an additional cost.

### **Committee Analysis**

*Iowa courts online is a valuable source of court records for an individual. However, entries in Iowa courts online are based solely on demographic information provided by the subject, not biometric identifiers. Furthermore, there are differences in the data available through Iowa Courts Online and the DCI. Iowa courts online records do not contain completed deferred judgment information. Completed deferred judgments are required to be expunged from the court records and not available to the public without a waiver or through courts online. Deferred judgments require a finding or admission of guilt and are required to be evaluated by the DHS. All components of a person's criminal history are important for the DHS evaluation process.*

*Since 2002, DCI criminal history records contain over 145,000 records with completed deferred judgments and over 16,000 of those are felony charges. However, there are thousands more on file prior to 2002. Based on the RFI responses, none of the respondents are providing the necessary completed deferred judgment information to their customers.*

*DCI criminal history records are all based on biometric identifiers, specifically fingerprints collected at the time of arrest. Fingerprints provide positive identification and linking of criminal records to a specific person. This process allows the DCI to positively verify the accuracy of each record as it relates to that person, thereby protecting the subject, the employer, the regulating agency and the vulnerable population with whom the subject will have contact.*

### **National record check**

Each respondent refers to a national criminal history record check in various ways. Some refer to it as a nationwide search, a multi-state criminal search, a multi-court jurisdictional search, or a national criminal database search. Others refer to it as their proprietary criminal database. Within the private commercial vendor industry there isn't a consistent term for a national record check.

Each respondent was asked how they determine what state criminal history records to search in a national check. Each vendor uses a different approach to determining what state criminal history records to search, with most allowing the customer to dictate the scope of the search. The vendor will generally rely on the subjects address history to guide them.

One respondent stated *“We do not prefer to use state records as they can contain arrest records, dismissed information and information without dispositions”*.

**Committee Analysis**

*The terms nationwide search, multi-state criminal search, multi-court jurisdictional search, and a national criminal database search implies the search is being conducted on a country-wide, coast to coast basis. However, these terms are not defined consistently and therefore may be misleading.*

*Several respondents refer to a “national criminal database”. Aside from the fingerprint-based National Crime Information System operated by the FBI, there is no publicly-accessible national criminal database, regardless of what it is called by a vendor. The FBI fingerprint-based criminal history check may be completed by each state’s central repository. Private commercial vendors do not have access to the FBI’s national criminal history record information. They could, at best, connect with one or more state court records systems, which are not fingerprint-based.*

**Waivers** *(Authorization by the employee for the employer to check their background)*

All vendors require some sort of a waiver, with most based on the Federal Credit Reporting Agency (FCRA) requirements. Some vendors have general waivers/authorization forms specific to the vendor advising the applicant of the background check or the vendor may require the employer to provide a waiver.

**Committee Analysis**

*The FCRA waiver does not meet the requirements of the Code of Iowa, Chapter 692.2, which allows for the release of certain criminal history data maintained by the DCI, specifically completed deferred judgments and arrests without dispositions older than 18 months. The waiver provided by the DCI is the only acceptable waiver to obtain completed deferred judgment information and arrests over 18 months without a disposition.*

*In addition, according to Iowa Code section 907.9, Iowa Clerks of Court are required to expunge and therefore not maintain for public view completed deferred judgment information. Iowa Clerks of Court input the information that is available for public viewing through Iowa Courts Online. It appears all of the vendors rely on Iowa Courts Online records when searching for criminal history records in Iowa, unless the customer specifically requests the vendor use the DCI.*

*As previously mentioned, there are thousands of completed deferred judgments on file with DCI and several thousand of them with felony charges. The DCI maintains completed deferred judgment information and disseminates it upon request with a waiver signature from the applicant, as allowed by law.*



### **Response time**

All respondents detailed their response times to be anywhere from 24 hours to 5 days. Each respondent stated the turn-around time was dependent upon the scope of the search requested by the customer. Stated reasons for delays by the respondents were staffing at the county courthouses, general county court delays, holidays and natural disasters.

The respondents were also asked if they were able to provide any results in less than one minute. None of the vendors who responded to the RFI were able to provide an instantaneous result to an Iowa criminal history record query. While some stated they could provide an instant response for a portion of the checks they conduct, none of those involved checks of Iowa records.

### ***Committee Analysis***

*When a criminal history record check request is submitted to the DCI through SING they receive an instant “no record found” response 74% of the time based on the information provided by the customer. The remaining 26% of responses are a “further research required” message. This message means the DCI will manually review the request to determine if there is a record or not. When required, the DCI will ask the customer to verify initially submitted information such as the date of birth or the spelling of a name. The DCI may also request additional information such as a middle name, former name or social security number. In addition, if the DCI cannot provide a record or no record response based on the provided information, they will ask for fingerprints from the applicant to make a final determination, eliminating false positive or negative results. Fingerprints are often utilized to resolve record disputes such as when an applicant denies that record response is correctly attributed to them. With the ongoing and increasing occurrences of identity theft, the DCI’s ability to confirm identity through fingerprints is significant.*

*Additionally, SING is available for customer inquiries and responses 24 hours per day, 7 days per week, including holidays. The DCI’s processing time for criminal history record checks is consistent or faster than the processing times provided in the vendor responses. None of the respondents are able to provide an instant response for Iowa criminal history records.*

*Ultimately, 91% of all requests for criminal history records from the DCI are processed in 2 business days or less. The remaining 9% are delayed due to not receiving requested additional information in a timely manner, the volume of requests or staffing levels.*

## **Fees**

Vendors were not asked to provide a specific fee for their services. Each vendor explained the ability to provide fee options as part of a defined package or a package tailored to the customer's specific needs. Vendors were asked if they charged an additional fee for checking multiple names for an individual (i.e. maiden name, former married name, etc.). Each respondent said they charged an additional fee or they offered a higher priced package to include multi-name checks.

In addition, vendor prices vary according to the search conducted. A search of a vendor's nationwide search option may include all names for an applicant for the same price. However, vendor packages other than the nationwide option may require a charge for each additional name searched.

### ***Committee Analysis***

*All DCI criminal history record checks, outside of SING, require an additional fee for each name checked. All DCI criminal history record checks through SING allow for two names to be checked, simultaneously, for one price. The DCI fee for a DCI criminal history record check is \$15.00, as it has been since 2010. The fee for using SING to complete a criminal history record check and query up to 43 databases is \$15.00.*

## **Errors and positive identity**

All respondents provided a conflict resolution process for applicants to appeal the accuracy of the results of a criminal history record check. Most, if not all, of them are based on the FCRA requirements.

The respondents provided a variety of methods for confirming the identity of a subject as it relates to a criminal history record. Those methods included ordering case files and fingerprint cards, verifying the subject's date of birth, social security number and residential history or comparing applicant signatures.

When asked if they allow for the submission of fingerprints to confirm identity most of the respondents stated they do not submit fingerprints to confirm identity, although four stated they do utilize fingerprints. Of those, only one of them submits them to the DCI with the others handling the process through other means. One of the respondents stated they "discourage the use of fingerprint checks because of the inaccuracies and delays."

### ***Committee Analysis***

*Fingerprints are the only means to positively identify an applicant and link them to a criminal history record. This cannot be done by name, date of birth, social security number or residential history, nor can it be accomplished with signature comparison. Identity theft can involve any and all records. Only a fingerprint-based identification can confirm identify. The criminal history records maintained by a state central repository*

*are supported by fingerprints collected by law enforcement at the time of arrest. The fingerprints are provided to the FBI along with arrest and disposition information which allows for a positive identification of the subject related to a record.*

*The FBI is the only official national criminal history record check. Only through the central repository can a non-criminal justice inquiry be made to the FBI's criminal history records.*

*The DCI is the central repository for the state of Iowa. All criminal history records maintained by the DCI are based on fingerprint identification. When a question of identity arises the DCI can positively confirm whether or not the record in dispute is or is not the applicant's.*

## **Survey of Other States**

A survey of other state agencies was conducted from September 5, 2017 through September 29, 2017 to determine if other states allowed the use of 3rd party vendors to conduct criminal background checks for federally-certified nursing facilities. Responses were received from 24 states and summarized for this report. (Appendix D) Those responses indicated:

- 11 of 24 states responding did NOT allow the use of 3rd party vendors to conduct criminal background checks.
- 10 of 24 states responding allowed the use of 3rd party vendors to conduct criminal background checks as long as the vendor utilized either the State's law enforcement agency or a fingerprint-based background check.
- 2 of 24 states responding allowed the use of 3rd party vendors to conduct name-based background checks.
- 1 of 24 states responding did not require criminal background checks.

As part of the Affordable Care Act, grant funding for a fingerprint-based National Background Check Program (NBCP) has been available for several years to encourage and enable states to adopt a national background check program for healthcare workers in federally-certified programs, including nursing homes. This fingerprint-based background check is currently being implemented in 26 states.

Wisconsin was identified by the IHCA as a state having a process the committee should explore. The committee contacted Wisconsin and learned that their law allows facilities to utilize vendors to conduct their criminal history record checks. However, their law also requires the vendor to conduct the same state checks that the facility would have to conduct and using the same sources required, including a criminal history record check through the central repository. Based on current requirements, Iowa and Wisconsin both utilize the same process in regards to criminal history record checks, whether the check is conducted by the facility or by a vendor.

## **Iowa Single Contact Repository (SING)**

The Single Contact Repository (SING) was established as required by the Code of Iowa, Chapter 135C.33.6.a. SING was designed to provide electronic access to data to perform background checks for purposes of employment.

SING provides centralized access to 43 state government databases. Those databases include information from DPS, DHS and DIA. The DCI maintains Iowa criminal history records and the Sex Offender Registry (SOR). The Department of Human Services (DHS) maintains the Iowa Child and Dependent Adult Abuse Registries. When a query is made, SING electronically requests the information from the appropriate database and provides the results to the requester.

To gain access to SING, a user must apply and be evaluated by DCI, DHS and OCIO to determine the authorized level of access to specific databases. Each user is assigned an account number and login credentials, after which, the user has the ability to submit background checks through SING.

The user can complete the background check by entering the required applicant information (name, date of birth and gender). The social security number is valuable but not required. Results are based solely on the information provided by the user. SING directs the information to the appropriate database and electronically responds to the user. The user will be provided an instantaneous criminal history response for all queries. That instantaneous response will be either “no record found” or “further research required”.

- A “no record found” response indicates the DCI database does not contain criminal history data on the subject of the request. (74%)
- A “further research required” response indicates there is a potential match and asks the agency to await final results. (26%)

When no record is found the criminal background check process is complete and the results are immediately posted on SING for user access.

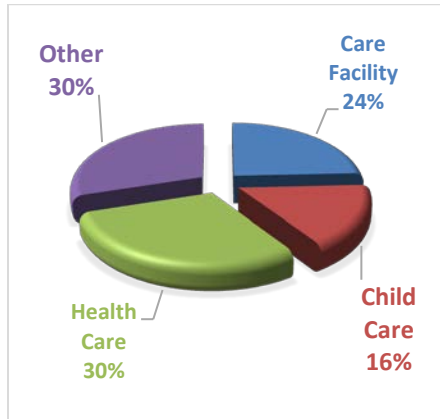
When a “further research required” response is provided to the user, there is a potential match to DCI criminal history data on file. The match may be on one or more of the data elements provided by the user and must be manually researched to ensure an accurate final response. Once the research is complete, the final results are posted on SING for user access.

### **SING Survey**

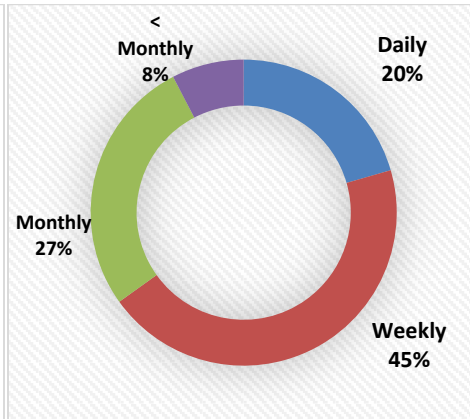
In an effort to access the thoughts and opinions of current SING users, a survey was made available through the SING website. The survey was specific to the use and timely delivery of criminal history records. The survey, which was posted on the SING site from October 3 – 17, 2017, was accessible only after a user’s log in credentials were verified. Respondents were asked to answer questions designed to

capture data in the areas of concerns associated with this project. A total of 338 individual responses were provided. The 338 respondents were from a variety of backgrounds and included frequent and infrequent users.

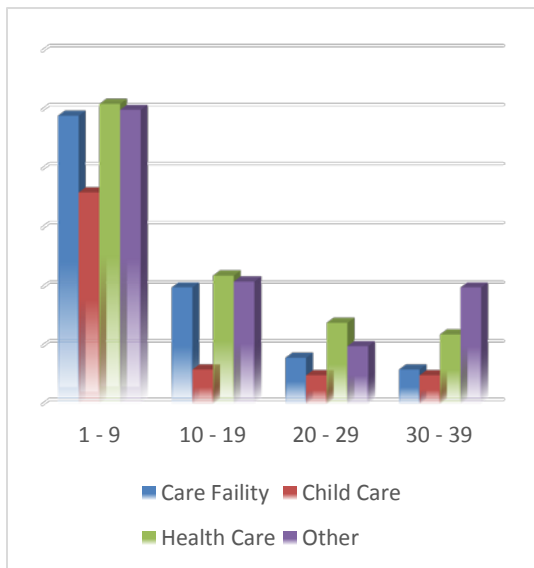
Each respondent was asked to identify the area of employment for which they use SING. Respondents were asked to select Care Facility, Child Care, Health Care, or Other. Respondents were asked to identify their frequency and volume of use; the average time they are provided an instantaneous response, rate their satisfaction in various aspects of SING use and cost associated with SING. (Appendix E)



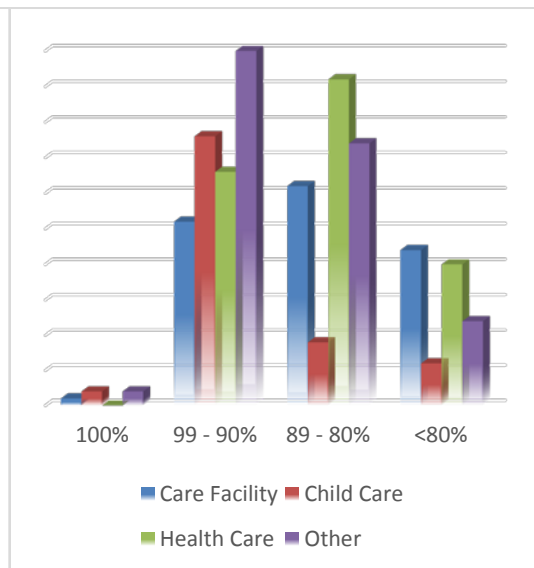
Respondents separated by industry



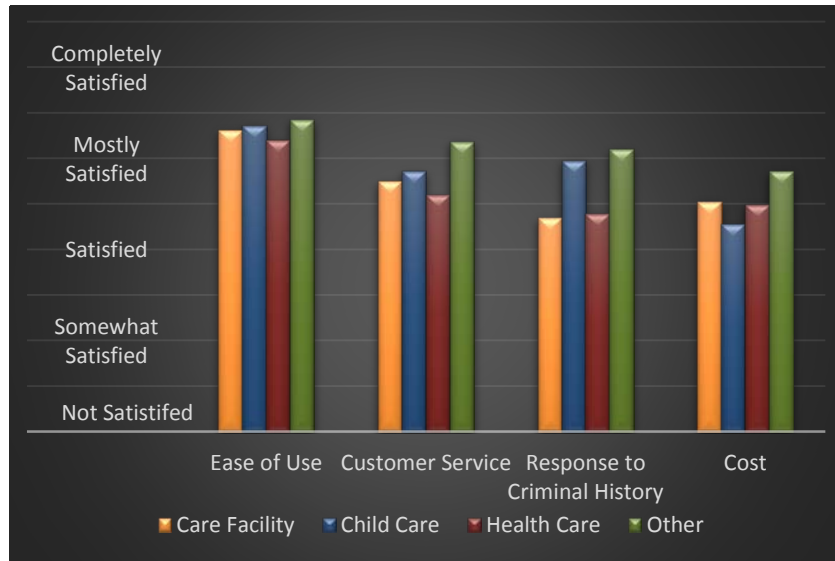
Responses separated by frequency of use



Number of submission each month by industry



Average number of no-hit (instantaneous) responses by industry



*Satisfaction with identified aspects of SING by industry*

The DCI strives to provide all “further research required” responses within two working days (Monday – Friday). In FY17, the DCI completed 91% of all “further research required” inquires within two working days. The two-day response time is dependent upon several factors such as the submitter’s response to follow up requests, the applicant’s submission of fingerprints, and DCI staffing. The two-day response can also be attributed to the criminal history of the subject. A subject with a criminal history within the DCI database will be subject to a “further research required” response.

The limited delay associated with a “further research required” response is necessary to protect the thoroughness and integrity of the criminal history record inquiry process. Each criminal history inquiry impacts the industry requiring it, the agency making it, the public placing trust in the process, the vulnerable populations each inquiry is designed to protect, and the individual that is the subject of the inquiry. Recognizing the broad range of areas impacted by each inquiry demonstrates the necessity to assure the accuracy of each inquiry and every result.

## DHS Audit of Vendor

In September 2017, DHS Policy staff conducted a review of school district background check processes and their use of a contracted vendor as their designee. Some districts use the Iowa School Finance Information Services (ISFIS) to facilitate their background checks and then ISFIS subcontracts with third party vendors. All hits are then evaluated by the Iowa Board of Education rather than DHS.

General concerns noted in this review that are applicable to this work group are:

1. Some vendors reported doing checks for schools as their designee (as allowed by Iowa Code sections 235A.15 and 235B.6) while those schools reported not using a designee for many or sometimes all of their checks. This may be an indicator that vendors are running non-school checks under their SING account which is authorized for school checks only.

Increased risk for breaches of confidentiality due to vendor lack of understanding or regard for appropriate process, legal access and dissemination.

2. Capacity for misuse of access to run unauthorized checks to create/populate vendor databases and then using those databases to run future checks.

## Committee Recommendations

After careful analysis, the Committee recommends making no changes to the current process. The Committee understands the concern, at the center of the HF-653 Section 86 legislation, to be a perceived delay in response time associated with criminal history records check results. The information provided in this report, which was collected from DCI records, the SING survey, and the private commercial vendor survey, show the premium placed on the timely delivery of criminal history records.

The DCI works diligently to provide accurate results in a timely manner with great success. In FY17, the DCI processed 268,761 civilian criminal history record checks. This number includes all requests though SING, US Mail, fax, website submissions, and walk-ins. Of all checks, 244,572 or 91% received a response within two business days of receipt by the DCI. SING submissions accounted for 244,903 (91%) of the criminal history record check requests in FY17.

Being the repository of all Iowa criminal history records, the DCI remains the only provider of instantaneous “no record found” responses, which make up nearly three-quarters of all inquiries. The DCI is also the only provider that has the ability to compare applicant fingerprints to criminal history files for the purpose of confirming identity when questions arise.

On a daily basis, the DCI works with private commercial vendors, who submit criminal history record checks on behalf of public and private entities. While these vendors play a role in a company’s hiring process, it is impossible for the vendors to provide more accurate or a faster certified criminal history record response than the DCI. The DCI strives to provide all criminal history record check responses in a timely manner and acknowledges that the 9% of responses not delivered within two working days is of concern to the agencies and applicants that are awaiting the response to make an employment decision. This delay, however, cannot be solved by adding a private commercial vendor between the agency and the DCI. The timeliest responses are those with the most direct access between the applicant and the DCI. Aside from timeliness, the SING fee has remained the same since 2010. The introduction of a private commercial vendor, while perhaps providing agencies some administrative relief, would certainly add to the cost incurred by each agency.

If the long term care industry or the legislature desires a national criminal history record check of prospective employees, a fingerprint based check through the FBI can be obtained. There is current federal legislation which would allow the long term care industry to run these checks through the National Child Protection Act/Volunteers for Children Act (NCPA/VCA) receive the results directly and provide them to the DHS as part of the current evaluation process. This process is currently utilized by the DHS for their oversight of the child care industry in Iowa.

The DCI is open to all productive conversations to improve the criminal history record check process and deliver a product that is desirable and needed by those seeking the results.

## **Appendices**

- Appendix A IHCA RFP Letter to Vendor pages 1-2
- Appendix B Licensee Background Check Process
- Appendix C Committee RFI
- Appendix D State Survey Summary
- Appendix E SING Survey





Dear [REDACTED],

May 18, 2017

You are invited to submit a proposal for providing our Iowa Health Care Association (IHCA) members with pre-employment criminal, dependent adult abuse and other histories background screening services. Please submit all responses directly to the following address:

Bill Nutty, Vice President, Governmental and Regulatory Affairs, Iowa Health Care Association, 1770 90<sup>th</sup> Street, West Des Moines, Iowa 50266-1563, (800) 422-3106.

### **Background**

Iowa requires that when a licensed or certified health care provider wishes to hire a prospective employee, he/she must have a criminal background and dependent adult abuse check using the state's Single Contact License and Background (SING) background check system. If the SING request returns with a "hit" the prospective employee must be evaluated and approved for work through a separate process under the guidance of the Iowa Department of Human Services (DHS).

Originally developed as a criminal background/abuse/certified nursing assistant (CNA) licensure check service for health care workers only, SING is now used to conduct background checks on additional categories of state employees, including education and child care workers. During the July 1, 2015 –June 30, 2016 time period, over 234,000 background check requests were processed by SING.

Also, SING was developed in the 2000s and little has been done to upgrade the system that, combined with the increasing number of check requests, is leading to unnecessary delays in employers receiving background check results.

### **Proposal**

Rather than invest in expensive upgrades to the SING system, it is likely more cost-effective for the state to contract with a third-party vendor specializing in background checks. IHCA seeks responses for a proposed system that would provide health care providers with an option to access a system with broader capabilities and faster results than SING. Ultimately the state may want a vendor to run all required background checks.

### **Request for Proposal**

**1. Statement of Purpose** To allow an option for IHCA members to request employment background screening for health care workers currently offered exclusively through an outdated, state-sponsored system.

**2. Description of Organization** The Iowa Health Care Association (IHCA) and its divisions, Iowa Center for Assisted Living (ICAL), the Iowa Center for Home Care (IHC) and the Iowa Society for Post Acute and Long Term Care

**3.** Medicine (IPALTC) represent more than 800 Iowa nursing homes, assisted living and residential care facilities, home health agencies, and independent senior living and retirement communities that provide long term services and supports to Iowans. Heretofore, the term “Association” shall reference IHCA, ICAL, IHC, IPALTC.

**4. Proposal Submission Deadline**

All proposals must be received by 11:59 p.m. on June 16, 2017. All bids must be submitted in writing via U.S. Postal Service

**5. General Requirements**

**5.1.** The Association reserves the right to accept or reject any bid in its sole discretion and is not obligated to choose to lowest bid.

**5.2.** Proposals must remain valid for a period of 180 days.

**5.3.** Please direct all questions and comments to the person indicated above only.

**5.4.** Collusion between proposal respondents may be considered grounds for disqualification and violate federal antitrust laws.

**6. Proposals Evaluation Criteria**

**6.1.** Proven ability to meet needs.

**6.2.** Turnaround time commitment.

**6.3.** Customer service.

**6.4.** Price.

**6.5.** Supplier personnel.

**6.6.** Understanding of legal requirements.

**6.7.** Infrastructure, including the system for tracking and reporting.

**6.8.** Ease of reading screening reports.

**6.9.** Additional services provided.

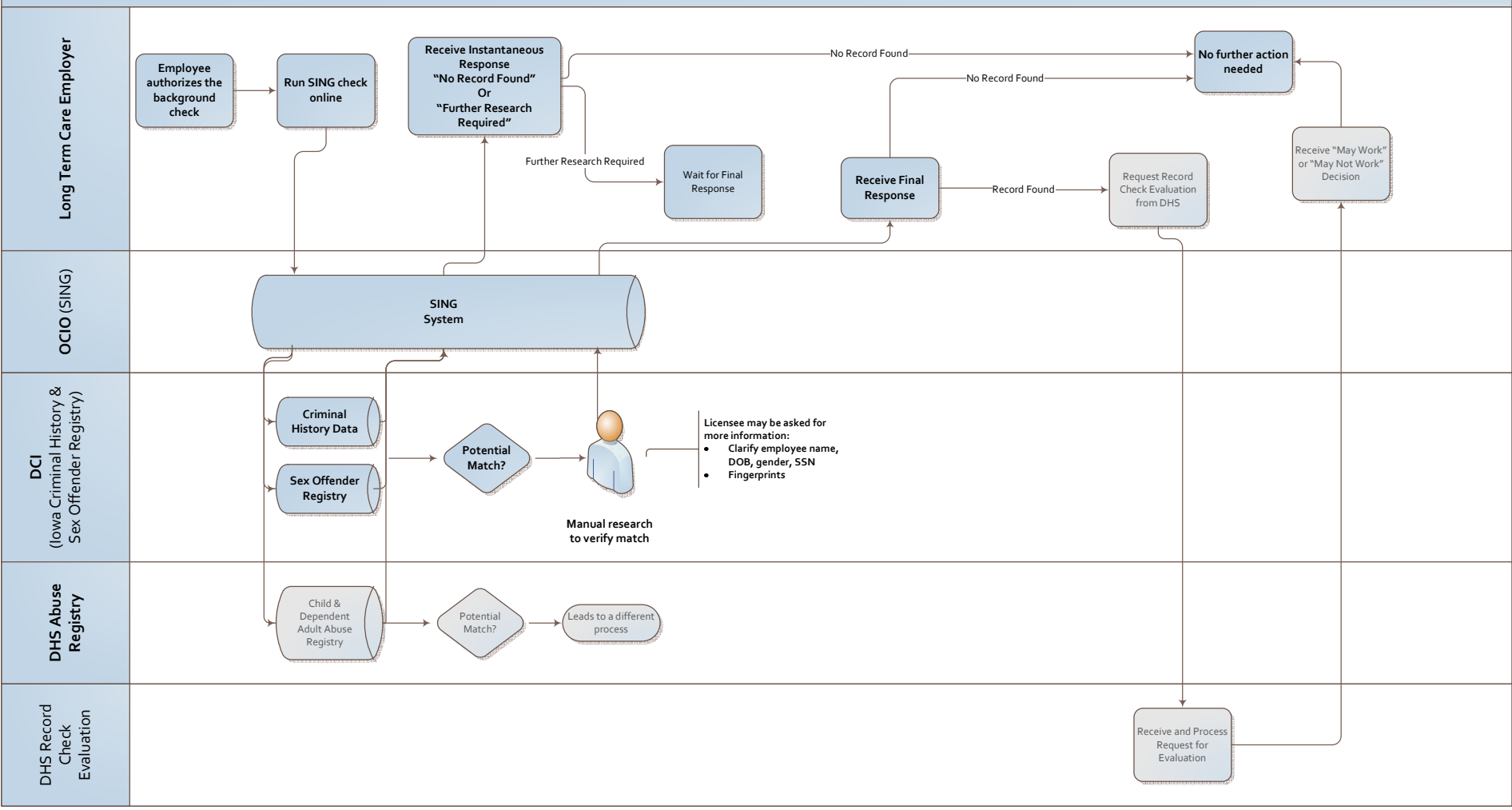
**6.10.** Quality and completeness of product provided.

**6.11.** Knowledge of the process involved.

Appendix A

Licensee Background Check Process for Potential Employees *(Light gray not in scope of legislated study)*

December 2017





## **REQUEST FOR INFORMATION**

**RFI 0918005006**

### **Third Party Screening for Health Care Employees**

#### **Notice to Vendors**

**Proposals Due: 1:00 PM (CST) on Friday, October 13, 2017**

**Submit Proposals to: [Steve.Oberbroeckling@iowa.gov](mailto:Steve.Oberbroeckling@iowa.gov)**

For information regarding this notice and throughout the process, interested providers shall contact only the Issuing Officer: Steve Oberbroeckling, Purchasing Agent 3 (Steve.Oberbroeckling@iowa.gov)

## Section 1: Background and Objectives

### 1.1 Purpose

DPS, in conjunction with DHS and DIA, is researching the potential use of third party screening companies to complete criminal history record checks for the health care industry. The research is mandated by legislative action.

### 1.2 Background Information

DPS would like to achieve the following objectives:

- 1.2.1 Insure the safety and security of patients, clients, and customers within the health care industry.
- 1.2.2 Protect the privacy and rights of individuals subject to a criminal history record check.
- 1.2.3 Determine the thoroughness of screening company criminal history record checks and compare with the thoroughness of criminal history record checks completed by the DCI.
- 1.2.4 Determine the accuracy of screening company criminal history record checks and compare with the accuracy of criminal history record checks completed by the DCI.
- 1.2.5 Determine the timeliness of screening company criminal history record checks and compare with the timeliness of criminal history record checks completed by the DCI.

### 1.3 Relevant Dates

Date/Time	Event
September 18, 2016	Issue RFI
September 29 , 2017 at 1PM Central time	Vendor Questions Due
October 4, 2017	State Responses to Vendor Questions Provided
October 13, 2017 at 1PM Central time	RFI Vendor Responses Due
October 16 to October 20, 2017	State RFI Review / Schedule Interview/Follow Up
October 23 to October 27, 2017	Vendor Interview/Follow Up

### 1.4 Communication During RFI

For information regarding this notice and throughout this process, interested service providers shall contact only the issuing officer:

#### ISSUING OFFICER NAME

Issuing Officer: Steve Oberbroeckling, PA3, Central Procurement Enterprise  
 Iowa Department of Administrative Services  
 Hoover State Office Building – Level 3  
 1305 East Walnut Street  
 Phone: 515-725-2090  
 Email: Steve.Oberbroeckling@iowa.gov

**1.5 Questions and Requests for Clarification**

Vendors interested in responding to this RFI may submit questions or requests for clarifications. All questions or requests must be submitted by e-mail to [Steve.Oberbroeckling@iowa.gov](mailto:Steve.Oberbroeckling@iowa.gov) and received NO LATER than 1:00 PM, Local Iowa Time, Friday, September 29, 2017. The subject line should state: **Questions for RFI0918005006 TPS**

The State reserves the right to contact vendors as needed throughout the RFI process for clarification of RFI or vendor proposal content.

**1.6 Requests for Information Vendor Responses**

Responses to this RFI must be received NO LATER than 1:00 PM, Local Iowa Time, Friday, October 13, 2017, by the issuing officer at the location denoted below:

Vendors are ENCOURAGED TO EMAIL their written responses to [Steve.Oberbroeckling@iowa.gov](mailto:Steve.Oberbroeckling@iowa.gov). The subject line should state: **RFI0918005006 TPS**

If unable to provide an email response, vendors may send or deliver their response to the location denoted below:

Attn: Steve Oberbroeckling, PA3, Central Procurement Enterprise

Subject: **RFI0918005006 TPS**

Iowa Department of Administrative Services  
Hoover State Office Building – Level 3  
1305 East Walnut Street  
Des Moines, Iowa 50319-0105

**1.7 Copy Rights**

A Vendor submitting a response agrees that the state may copy the response information for the purpose of facilitating the review or to respond to requests for public records. The vendor consents to such copying by submitting a response and warrants that such copying will not violate the rights of any third party. The State will have the right to use ideas or adaptations of ideas, which are presented in the response.

**1.7 Review of RFI Responses**

Issuance of the RFI in no way constitutes a commitment by the State to award any contract(s).

**1.8 Gratuities**

The laws of Iowa provide that it is a felony to offer, promise, or give anything of value or benefit to a state employee with the intent to influence that employee's acts, opinion, judgment or exercise of discretion with respect to that employee's duties. Evidence of violation of this statute will be turned over to the proper prosecuting attorney.

**1.9 Costs to Vendors**

The costs of preparation, delivery and, if selected for presentation of the response, are the Vendor's sole responsibility.

**1.10 Response Property of the State**

All responses become the property of the State of Iowa and shall not be returned to the vendor. At the conclusion of the project, the content of the responses will be placed in the public domain and open to inspection by interested parties. Do not include confidential or proprietary information as part of your RFI submittal.

**1.11 Source of Information Used in Addition to Responses**

The State reserves the right to contact vendors after the submission of responses for the purpose of clarification and to ensure mutual understanding.

**1.12 States Obligations**

The issuance of this RFI does not obligate the State in any way to accept or implement the solution options offered by the vendor(s) response.

**1.13 Public Records and Requests for Confidential Treatment**

The Agency's release of public records is governed by Iowa Code chapter 22. Contractors are encouraged to familiarize themselves with Chapter 22 before submitting a Proposal. The Agency will copy and produce public records upon request as required to comply with Chapter 22 and will treat all information submitted by a Contractor as non-confidential records unless Contractor requests specific parts of the Proposal be treated as confidential at the time of the submission as set forth herein **AND the information is confidential under Iowa or other applicable law.**

**1.13.1 Form 22 Request for Confidentiality**

***FORM 22 MUST BE COMPLETED AND INCLUDED WITH CONTRACTOR'S PROPOSAL. COMPLETION AND SUBMITTAL OF FORM 22 IS REQUIRED WHETHER THE PROPOSAL DOES OR DOES NOT CONTAIN INFORMATION FOR WHICH CONFIDENTIAL TREATMENT WILL BE REQUESTED. FAILURE TO SUBMIT A COMPLETED FORM 22 WILL RESULT IN THE PROPOSAL CONSIDERED NON-RESPONSIVE AND NOT EVALUATED.***

**1.13.2 Confidential Treatment Is Not Requested**

A Contractor not requesting confidential treatment of information contained in its Proposal shall complete Section I of Form 22 and submit Form 22 with the Proposal.

**1.13.3 Confidential Treatment of Information is Requested**

A Contractor requesting confidential treatment of specific information shall: (1) fully complete Section II of Form 22, (2) conspicuously mark the outside of its Proposal as containing confidential information, (3) mark each page upon which the Contractor believes confidential information appears **and CLEARLY IDENTIFY EACH ITEM for which confidential treatment is requested; MARKING A PAGE IN THE PAGE MARGIN IS NOT SUFFICIENT IDENTIFICATION**, and (4) submit a "Public Copy" from which the confidential information has been excised.

Form 22 will not be considered fully complete unless, for each confidentiality request, the Contractor: (1) enumerates the specific grounds in Iowa Code chapter 22 or other applicable law that supports treatment of the material as confidential, (2) justifies why the material should be maintained in confidence, (3) explains why disclosure of the material would not be in the best interest of the public, and (4) sets forth the name, address, telephone, and e-mail for the person authorized by Contractor to respond to inquiries by the Agency concerning the confidential status of such material.

**The Public Copy from which confidential information has been excised is in addition to the number of copies requested in Section 3 of this RFP.** The confidential material must be excised in such a way as to allow the public to determine the general nature of the material removed and to retain as much of the Proposal as possible.

**Failure to request information be treated as confidential as specified herein shall relieve Agency and State personnel from any responsibility for maintaining the information in confidence. Contractors may not request confidential treatment with respect to pricing information and transmittal letters. A contractor's request for confidentiality that does not comply with this section or a contractor's request for confidentiality on information or material that cannot be held in confidence as set forth herein are grounds for rejecting contractor's Proposal as non-responsive. Requests to maintain an entire Proposal as confidential will be rejected as non-responsive.**

If Agency receives a request for information that Contractor has marked as confidential and if a judicial or administrative proceeding is initiated to compel the release of such material, Contractor shall, at its sole expense, appear in such action and defend its request for confidentiality. If Contractor fails to do so, Agency may release the information or material with or without providing advance notice to Contractor and with or without affording Contractor the opportunity to obtain an order restraining its release from a court possessing competent jurisdiction. Additionally, if Contractor fails to comply with the request process set forth herein, if Contractor's request for confidentiality is unreasonable, or if Contractor rescinds its request for confidential treatment, Agency may release such information or material with or without providing advance notice to Contractor and with or without affording Contractor the opportunity to obtain an order restraining its release from a court possessing competent jurisdiction.



## **Section 2: Requested Vendor Information and Responses to RFI**

Where possible, the Vendor should provide specific answer or examples and describe processes as requested. This information will be used to better create follow up interviews, as needed.

### **2.1 Subject/Individual Identification**

**2.1.01** What Personally Identifiable Information (PII) does your company require for a criminal history record check?

**2.1.02** Is the subject of the criminal history record check required to sign a waiver/disclosure agreement specific to your company?

### **2.2 Conflicts and Appeals**

**2.2.01** How are reported conflicts handled, including erroneous charges and false identifications? Please describe in detail.

**2.2.02** How are "near hit" records resolved? These are criminal history record checks that may match in most/some of the PII but are not a 100% hit. (Example: A criminal history record check is submitted for James F. Bond, 10/10/73; with no record. However, there is a record for James E Bond, 10/10/73.)

**2.2.03** Does your company allow for the submission of fingerprints to confirm the identity of an individual? If so, to whom are the fingerprints submitted for identification?

**2.2.04** How are deferred judgements, dismissed charges, and criminal charges without dispositions handled?

**2.2.05** How long can a customer access the results of the criminal history records check?

### **2.3 Scope of Check**

**2.3.01** How does your company handle criminal history record checks for individuals with more than one last name (i.e.: maiden names, hyphenated names, former married names, aliases, variable table of names, etc.)?

**2.3.02** Does your company charge for each name checked or is there a multi-name check as part of the original fee? Please describe.

**2.3.03** If desired, does your company offer an option to check Iowa criminal history records, only?

**2.3.04** Please describe a "national" criminal history record check completed by your company.

**2.3.05** How does your company determine what state criminal history records to check as part of a national check?

**2.3.06** Please identify the data sources your company queries to determine if a criminal record exists in Iowa?

- 2.3.07** Are queries conducted on any proprietary database(s) as part of a submitted criminal history check?
- 2.3.08** Does your company complete a new request of source databases for each criminal history record check?
- 2.3.09** Does your company complete a query of results from previously completed criminal history record checks for an individual with the same PII? If so, please explain.
- 2.3.10** For each criminal history record check, is a query submitted to each state's repository of criminal records?
- 2.3.11** For each criminal history record check with an Iowa nexus, does your company submit a query to the Iowa Division of Criminal Investigation? If not, please explain.
- 2.3.12** Since not all criminal history records are available to the public, what steps are taken to insure all criminal records are queried?

## **2.4 Processing**

- 2.4.01** What is the acceptable processing time (in minutes, hours or days) for a criminal history record check. This should include from submission to dissemination.
- 2.4.02** Please detail when a criminal history record check may extend beyond the acceptable processing time.
- 2.4.03** For what percentage of criminal history record checks does your company provide result in less than one minute?

Attachment #1  
Form 22 – Request for Confidentiality

**CONTRACTOR NOTE: SUBMISSION OF THIS FORM 22 IS REQUIRED**

**THIS FORM 22 (FORM) MUST BE COMPLETED AND INCLUDED WITH YOUR RESPONSE (PROPOSAL) TO THE REQUEST FOR PROPOSAL (RFP). THE FORM IS REQUIRED WHETHER THE PROPOSAL DOES OR DOES NOT CONTAIN INFORMATION FOR WHICH CONFIDENTIAL TREATMENT WILL BE REQUESTED.**

**FAILURE TO SUBMIT A COMPLETED FORM WILL RESULT IN THE PROPOSAL CONSIDERED NON-RESPONSIVE AND ELIMINATED FROM EVALUATION.**

**I. Confidential Treatment Is Not Requested**

A request for confidential treatment of information contained in our Proposal is not submitted.

_____	_____	_____
Company	RFP Number	RFP Title
_____	_____	_____
Signature	Title	Date

\*\*\*\*\*

**II. Confidential Treatment Is Requested**

***The below information is to be completed and signed ONLY if Contractor is requesting confidential treatment of any information submitted in its Proposal.***

Per the paragraph labeled as Public Records and Requests for Confidential Treatment in section 2 of the Request for Proposal (RFP), a Contractor requesting portions of its Proposal be maintained in confidence must complete this form and submit it with its Proposal. Contractors should read and familiarize themselves with chapter 22 of the Iowa Code regarding release of public records before completing this Form. Contractor shall refer to the paragraph labeled as Public Records and Requests for Confidential Treatment in section 2 of the RFP for instructions regarding how to request confidential treatment of portions of its Proposal.

**NOTE:**

- 1 Completion of this Form is the sole means of requesting confidential treatment.**
- 2 A CONTRACTOR MAY NOT REQUEST PRICING PROPOSALS BE HELD IN CONFIDENCE.**

Completion of the Form and Agency’s acceptance of Contractor’s submission does not guarantee the agency will grant Contractor’s request for confidentiality. The Agency may reject Contractor’s Proposal entirely in the event Contractor requests confidentiality and does submit a fully completed Form or requests confidentiality for portions of its Proposal that are improper under the RFP.

**To request confidentiality, Contractor must provide the following information:**

- 1  Contractor must conspicuously mark confidential material in its Proposal in accordance with the section titled Public Records and Requests for Confidential Treatment. **Check box when completed.**
  
- 2 Contractor must specifically identify and list the Proposal section(s) for which it seeks confidentiality and answer the following questions for each section listed:
  - Explain the specific grounds in *Iowa Code Chapter 22* or other applicable law which support treatment of the material as confidential.
  - Justify why the material should be kept in confidence.
  - Explain why disclosure of the material would not be in the best interest of the public.
  - Provide the name, address, telephone, and email for the Contractor’s person authorized to respond to inquiries by the Agency concerning the status of confidential materials.

**Please provide the information in the table below. Contractor may add additional lines if necessary or add additional pages using the same format as the table below.**

RFP Section:	Contractor must cite the specific grounds in <i>Iowa Code Chapter 22</i> or other applicable law which supports treatment of the material as confidential.	Contractor must justify why the material should be kept in confidence.	Contractor must explain why disclosure of the material would not be in the best interest of the public.	Contractor must provide the name, address, telephone, and email for the person at Contractor’s organization authorized to respond to inquiries by the Agency concerning the status of confidential materials.

- 3  Contractor must submit a Public Copy of its Proposal from which the confidential information has been excised. The confidential material must be excised in such a way as to allow the public to determine the general nature of the material removed and to retain as much of the Proposal as possible. **Check box when completed.**

This Form must be signed by the individual who signed the Contractor’s Proposal. The Contractor shall place this Form completed and signed in its Proposal immediately following the transmittal letter. A copy of this document shall be placed in all Proposals submitted including the Public Copy.

***\*Failure to provide the information required on this Form may result in rejection of Contractor’s submittal to request confidentiality or rejection of the Proposal as being non-responsive.***

***\*Please note that this Form is to be completed and signed only if you are submitting a request for confidential treatment of any information submitted in your Proposal.***

\_\_\_\_\_ Company

\_\_\_\_\_ RFP Number

\_\_\_\_\_ RFP Title

\_\_\_\_\_ Signature

\_\_\_\_\_ Title

\_\_\_\_\_ Date

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**Department of Administrative Services – Central Procurement Bureau Review**  
**(For Agency use only)**

- Contractor’s Proposal is rejected as non-compliant because of one or more of the following reasons:
  - Contractor’s Proposal is rejected due to not submitting a fully completed Form 22 to either request or not request confidential treatment of information.
  - Contractor’s Proposal is rejected due to the request to treat the entire response as confidential.
  - Contractor’s Proposal is rejected due to the request to treat Proposal pricing as confidential.
  - Contractor requested confidentiality without submitting a **fully completed** Form 22.
  - Contractor requested confidentiality and failed to conspicuously mark such material as confidential within its Proposal in accordance with the RFP.
  - Contractor requested confidentiality without submitting a public copy of its Proposal with the confidential information redacted.
  - Contractor requested confidentiality on material in contravention of the RFP.
  - Other: \_\_\_\_\_.
- Contractor’s submission is accepted.<sup>1</sup>

\_\_\_\_\_  
Purchasing Agent Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
RFP Number

\_\_\_\_\_  
RFP Title

\_\_\_\_\_  
**NOTE:** Agency’s acceptance of Contractor’s submission should not be construed as Agency’s approval of Contractor’s request for confidentiality. Instead, acceptance of Contractor’s submission simply means that Agency believes Contractor’s Form 22 appears fully completed in accordance with the RFP.

## Responses to Question about Criminal & Abuse Background Checks

In Iowa, LTC providers are required to conduct criminal and abuse background checks of prospective employees utilizing the Iowa Department of Human Services and Iowa Department of Public Safety databases. An Iowa provider association wants to change state law to allow LTC providers to utilize private vendors to conduct background checks.

Do any states allow LTC providers to utilize 3rd party vendors to conduct criminal and abuse background checks of their employees? If so, are you aware of specific companies that have been used? Have there been any significant problems with utilizing private companies to conduct these checks?

State	Response
AL	Alabama does not require by statute or rule background checks for employees. However, it is our understanding that all certified nursing facilities in Alabama use 3rd party vendors to conduct criminal background checks of their employees. This seems to be working well. Abuse checks are limited to a search of the abuse registry for CNAs and review of professional licensing authority sites for licensed professional employees.
CO	<p>I am writing from the Colorado Department of Public Health and Environment, Health Facilities and Emergency Medical Services Division.</p> <p>My branch, the Certification, Licensure, Enforcement and Records Branch does the majority of fitness review and background check review for the division. In doing so, we review the background checks conducted by the Colorado Bureau of Investigations and the Federal Bureau of Investigations to determine if the person in question is free of criminal history for the relevant program.</p> <p>Soon, the Colorado Department of Human Services will begin to conduct its own process for vetting individuals that apply to provide direct care to vulnerable adults.</p> <p>Colorado does not use any 3rd party vendors, at least for health facilities and this divisions purposes.</p>
CT	CT has implemented the national criminal background check program and utilizes the State Police and the FBI for it search.
DE	DE does not permit 3rd party vendors to conduct background checks.
FL	In regards to your question concerning 3 <sup>rd</sup> party vendors for criminal background checks the state of Florida conducts both state and national screenings on employees of LTC providers. The statutory authority under which the criminal history information is made available for licensing or employment purposes limits access to the governmental agency whose ORI is in the request. Consequently, identifying an individual as qualified or disqualified is information that cannot be provided to a private entity acting to facilitate screening on behalf of a licensee whose applicants or employees are being screened by a governmental agency. While Florida law would authorize a designated agent to act on the licensee's behalf, the federal requirements restrict the designated agent from viewing the information described

## Responses to Question about Criminal & Abuse Background Checks

	<p>above. Therefore, Florida does not allow for 3<sup>rd</sup> party vendors to conduct criminal background checks.</p>
HI	<p>In Hawaii, several agencies including our's use Field Print. They're a national background check organization. No significant problems using them. Any agency using them should be properly vetted by the SA or other governmental agency such as your criminal justice data center.</p>
ID	<p>Idaho requires all direct staff with direct resident contact to undergo a DHW criminal history check, which is fingerprint based and requires the prints to go through the FBI database. Attached is the link to Idaho Criminal History rules and SNF rules.</p> <p><a href="https://adminrules.idaho.gov/rules/current/16/0302.pdf">https://adminrules.idaho.gov/rules/current/16/0302.pdf</a> Nursing Home Rules  <a href="https://adminrules.idaho.gov/rules/2001/16/0506.pdf">https://adminrules.idaho.gov/rules/2001/16/0506.pdf</a> Criminal History Rules</p>
IL	<p>There is nothing in Illinois law that would prohibit LTC providers from utilizing 3rd party vendors to conduct criminal and abuse background checks of prospective employees. There have not been any significant problems with utilizing private companies to conduct the checks in Illinois.</p> <p>Criminal background checks in Illinois begin when a provider sends an applicant or employee to be fingerprinted by a third party vendor. The prints are then transmitted to the Illinois State Police for a check of its criminal records database. The results of the records check are transmitted from the ISP to us and recorded in the Illinois Health Care Worker Registry. A link to the Health Care Worker Background Check Code is: <a href="http://www.ilga.gov/commission/jcar/admincode/077/07700955sections.html">http://www.ilga.gov/commission/jcar/admincode/077/07700955sections.html</a>. <a href="#">Section 955.285</a> of the Code provides the participation requirements for the fingerprinting companies.</p>
IN	<p>In Indiana, third party vendors may conduct the checks. The focus here is not on who does it, but what data source is used (it must be the Indiana State Police system and database), and what specific information is obtained. If the provider has the required info from the required source, we don't care who gathered it.</p>
LA	<p>In Louisiana all criminal background checks must be conducted by the Louisiana State Police office or an approved vendor. The vendor must be approved by the state police. We have not had any concerns with those that are approved</p>
MI	<p>Michigan requires providers to use a State-based system, as a non-criminal justice user, of the Automated Fingerprint Information System (AFIS) through our Michigan State Police and the FBI. A private vendor is used for Live Scan fingerprinting; however, the vendor does not conduct any of the actual checks because Criminal Justice Information System use must meet confidentiality requirements (both at the State-level and FBI).</p> <p>A private entity generally would not have direct access to CJIS results, and likely are relying on some form of "name-based" check that may not be accurate nor establishes</p>

## Responses to Question about Criminal & Abuse Background Checks

	<p>positive ID of the individual subject to a check.</p> <p>The basis of this move to a private vendor may be related to cost savings. Should CMS move to a regulation requiring fingerprinting, your State may then become in conflict with future federal requirements.</p> <p>If you like, I can forward your inquiry onto the National Forum for Background Checks, which is now a part of AHFSA. The Forum is comprised of States who conduct criminal history checks and may have participated in CMS grants to establish programs for covered facilities to protect vulnerable populations. Some member States may have more information about their experiences with particular private vendors.</p> <p>Here is a link to the Forum (at some point the website will move under AHFSA): <a href="http://bgcheckinfo.cna.org/resources/information-sharing-events/national-forum">http://bgcheckinfo.cna.org/resources/information-sharing-events/national-forum</a></p>
MN	<p>In Minnesota we have a state law that requires background checks and the background checks are completed by the MN Department of Human Services. We do not have third party vendors used in this state that take place of the background checks done by DHS.</p>
MT	<p>Montana uses a variety of vendors for the background checks for LTC. The larger facilities are usually owned by a corporation, which is contracted with a vendor for the checks. This is usually an out of state company. The smaller communities are contracted individually, with anyone they can find to provide the service. Unfortunately, we have a vast array of vendors for this, and I do not have knowledge of the names of the agencies.</p>
ND	<p>In North Dakota we do allow the LTC facilities to use a third party vendor to conduct background checks. They pay for it themselves and it is not a federal finger print criminal background check but it is an all states names search on public records. One I can think of is called "Verify"</p>
NE	<p>We have State regulations that require the Nurse Aide registry be checked for adverse findings. If adverse findings on the Nurse Aide registry then the individual cannot be hired. We also have State regulations that require the Nebraska State Patrol Registry, Adult Protective Services, Child Protective Services and Criminal background checks be completed. We allow facilities to have private companies do these checks. The facility is responsible to have evidence that these checks are completed and if there are any adverse findings and the facility hires the individual, then the facility needs documentation to show the basis for the decision to hire and how it will not pose a threat to patient safety or patient property.</p> <p>I don't know of specific companies.</p> <p>The only issues we have had is that the facility only gets a one sheet notice back saying</p>



## Responses to Question about Criminal & Abuse Background Checks

	<p>everything is ok. We have told facilities that they need to show us the evidence the checks have been completed as well as the content/results of the checks. If someone has a criminal background positive finding then the facility needs to show us what that finding was and why it was ok to hire that individual.</p>
NH	<p>Here in N.H our state law requires a Dept. of Safety background check (In my opinion not the best idea as it only covers our State)Our Legislature is looking at it right now,</p>
NM	<p>NM uses a 3<sup>rd</sup> party contractor to take live-scan fingerprints and submit the prints to the state and federal authorities on our behalf. They do not actually conduct the background checks however. The 3<sup>rd</sup> party contractor is just the middle man.</p> <p>When we first started our background check program over 10 years ago (NM was one of the first states to get the grant) we were running about 6 months behind on processing due to some personnel issues. At that time our providers wanted us to go to a third party contractor to do the background checks too because it cost them too much to keep staff hired on under supervision until they were cleared. Our statute didn't allow it. If I remember correctly, the FBI wouldn't allow us third party vendors to be responsible for the actual background checks and the appeal process. I'm not sure if that's still the case because that was many years ago. By the way, with live scan, our reviews now takes hours.</p>
OK	<p>I saw where Steve Gobbo replied to you about the Forum work. I chair the Forum and would be happy to discuss options with any of your staff. Steve's right about the limitations on vendor initiated background checks, they are name based.</p> <p>That said, it sounds like your current system is name based so letting a provider contract out to have someone run the checks for them may not be much of an extension for you. You will need to establish the agreed documentary evidence to be maintained by the provider to establish compliance.</p> <p>In Oklahoma, we combine name and fingerprint based checks through a web portal developed by CMS for grantee states. This web portal does the name based check of registries while also routing a provider's applicant for fingerprinting. In Oklahoma, the criminal history report comes to our agency for review and we let the providers know through the web portal the results. Oklahoma has criminal history monitoring so applicants don't have to be reprinted when they change employers. The grant helps states set this up. With this ability, providers are able to greatly reduce the cost by sharing costs across applicants when they change employers. It's a model our providers got behind and have come to appreciate. Third party vendors can be contracted by providers to manage their applicants in our web portal while still providing other value added services such as drivers, credit and workers comp checks.</p>
PA	<p>Pennsylvania has the Older Adults Protective Services Act (OAPSA). It does not allow</p>

## Responses to Question about Criminal & Abuse Background Checks

	<p>for 3<sup>rd</sup> party vendors.</p> <p><a href="http://www.aging.pa.gov/organization/advocacy-and-protection/Pages/Criminal-History-Background-Checks.aspx">http://www.aging.pa.gov/organization/advocacy-and-protection/Pages/Criminal-History-Background-Checks.aspx</a></p>
TX	<p>for the past 10 years criminal history checks in Texas for Nursing Facility Administrators, Nurse Aides and Medication Aides have been completed through the Texas Department of Public Safety and not a 3<sup>rd</sup> party vendor.</p> <p>Our facilities can use a private vendor but they have to obtain the background check from The Texas Dept of Public Safety. I don't have any information about specific third party vendors that are being used by our regulated facilities. See below:</p> <p style="text-align: center;">Sec. 250.002. INFORMATION OBTAINED BY FACILITY, REGULATORY AGENCY, OR PRIVATE AGENCY. (a) A regulatory agency or a financial management services agency on behalf of an individual employer is entitled to obtain from the Department of Public Safety of the State of Texas criminal history record information maintained by the Department of Public Safety that relates to a person who is:</p> <p style="padding-left: 40px;">(1) an applicant for employment at a facility other than a facility licensed under Chapter <a href="#">142</a>;</p> <p style="padding-left: 40px;">(2) an employee of a facility other than a facility licensed under Chapter <a href="#">142</a>;</p> <p style="padding-left: 40px;">(3) an applicant for employment at or an employee of a facility licensed under Chapter <a href="#">142</a> whose employment duties would or do involve direct contact with a consumer in the facility; or</p> <p style="padding-left: 40px;">(4) an applicant for employment by or an employee of an individual employer.</p> <p style="padding-left: 40px;">(a-1) A facility or a private agency on behalf of a facility is entitled to obtain from the Department of Public Safety of the State of Texas criminal history record information maintained by the Department of Public Safety that relates to a person who is:</p> <p style="padding-left: 80px;">(1) an applicant for employment with, an employee of, or a volunteer with the facility;</p> <p style="padding-left: 80px;">(2) an applicant for employment with or an employee of a person or business that contracts with the facility;</p>

## Responses to Question about Criminal & Abuse Background Checks

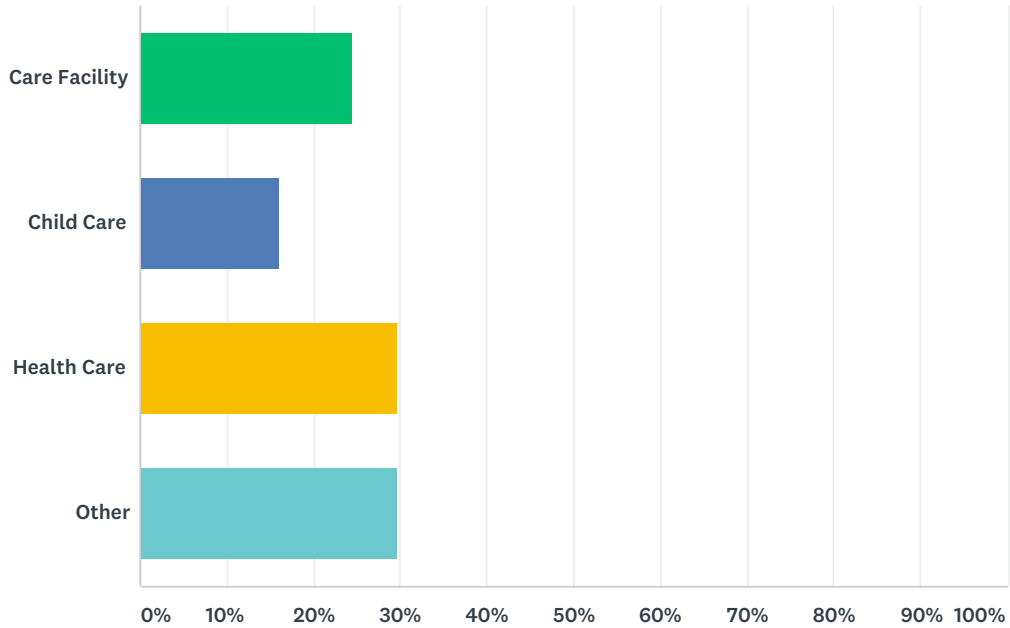
	<p>(3) an applicant for employment by or an employee of an individual employer; or</p> <p>(4) a student enrolled in an educational program or course of study who is at the facility for educational purposes.</p> <p>(b) A facility may:</p> <p style="padding-left: 40px;">(1) pay a private agency to obtain criminal history record information for a person described by Subsection (a-1) directly from the Department of Public Safety of the State of Texas; or</p> <p style="padding-left: 40px;">(2) obtain the information directly from the Department of Public Safety.</p> <p>(c) The private agency shall forward criminal history record information received under this section to the facility requesting the information.</p>
UT	<p>In Utah, we do not allow third party background checks.</p>
WI	<p>WI does allow contract vendors to conduct background checks.</p> <p>If the entity contracts out, they must keep on file a written agreement allowing the contractor to retain the required background information. Then the contractor has to do one of two things:</p> <p>A complete background check includes:</p> <ol style="list-style-type: none"> <li>1. Background Information Disclosure (BID) form (F-82064)</li> <li>2. Response from Department of Justice (DOJ) showing:             <ol style="list-style-type: none"> <li>a. No record found, or</li> <li>b. Criminal record transcript</li> </ol> </li> <li>3. DHS/DCF/DSPS letter (also known as the IBIS letter) which shows:             <ol style="list-style-type: none"> <li>a. Findings of abuse or neglect of a client or misappropriation of a client's property in WI</li> <li>b. Findings of abuse or neglect of a client or misappropriation of a client's property in another state (if known)</li> <li>c. Denials or revocations of operating licenses for adult programs</li> <li>d. Denials or revocations of operating licenses for child programs</li> <li>e. Rehab Review</li> <li>f. Status of professional credentials, licenses or certifications from Department of Safety and Professional Services (DSPS)</li> <li>g. List of Exclusions from DHHS-OIG</li> </ol> </li> </ol> <p>The contractor must complete a WI caregiver background check and provide the entity with the actual DOJ criminal history response and the DHS/DCF/DSPS response (IBIS</p>

## Responses to Question about Criminal & Abuse Background Checks

	<p>letter);</p> <p style="text-align: center;"><b>Or</b></p> <p>The contractor must complete a WI caregiver background check and certify in writing to the entity that the caregiver has no offenses on the Offenses List and advise the entity of any convictions the person has so that the entity may consider whether any convictions are substantially related to the duties of the job. At a minimum, the contracted agency must provide the entity with a letter that includes:</p> <ul style="list-style-type: none"><li>· Each caregiver's name;</li><li>· Their social security number, if available;</li><li>· Any convictions; *from the DOJ report</li><li>· Any findings of misconduct; *from the IBIS letter</li><li>· Any licensure denials or restrictions; *from the IBIS letter</li><li>· Other credential limitations; *from the IBIS letter</li></ul>
<b>WV</b>	<p>WV utilizes a web based service provided through the state OIG (a one stop shop). For details, please go to <a href="http://www.wvdhhr.org/oig/wvcares.html">http://www.wvdhhr.org/oig/wvcares.html</a>.</p>

### Q1 Please identify the industry for which you use SING.

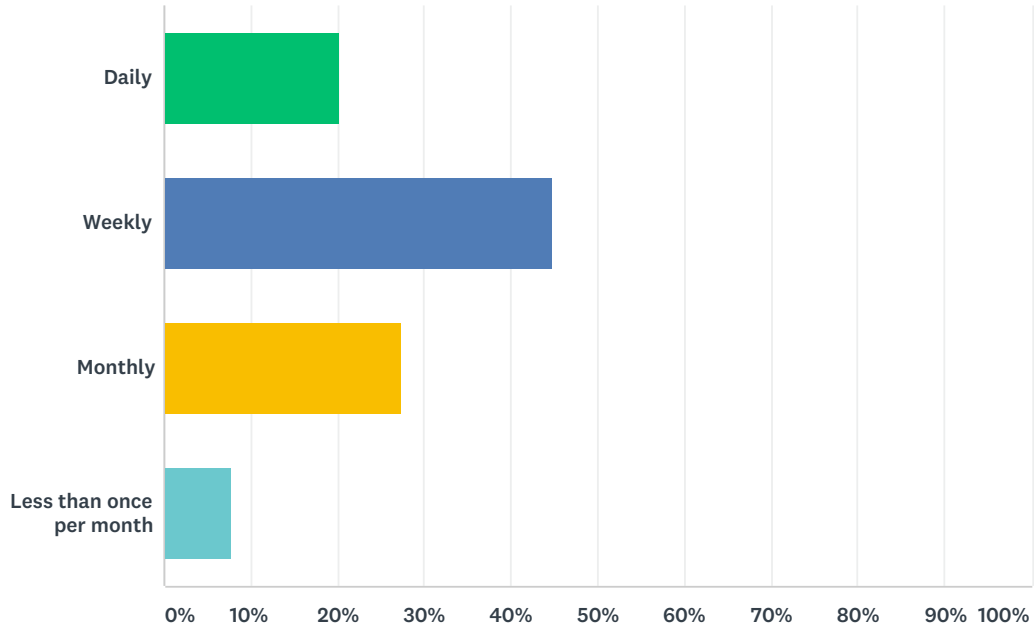
Answered: 340 Skipped: 0



ANSWER CHOICES	RESPONSES	
Care Facility	24.41%	83
Child Care	16.18%	55
Health Care	29.71%	101
Other	29.71%	101
TOTAL		340

## Q2 How frequently do you use SING?

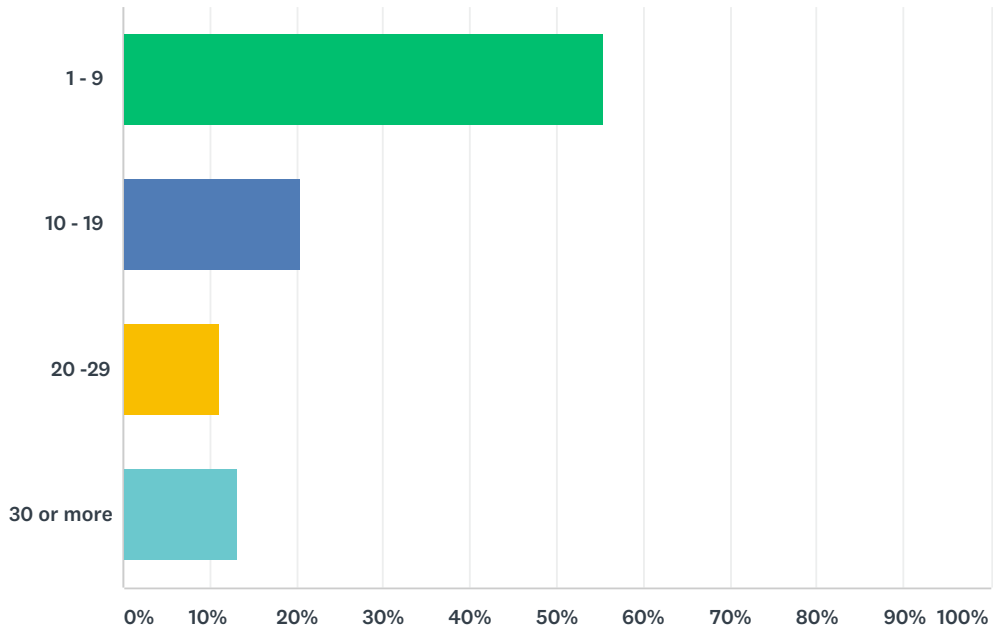
Answered: 340 Skipped: 0



ANSWER CHOICES	RESPONSES	
Daily	20.29%	69
Weekly	44.71%	152
Monthly	27.35%	93
Less than once per month	7.65%	26
TOTAL		340

### Q3 Monthly, how many criminal history record checks do you submit to SING?

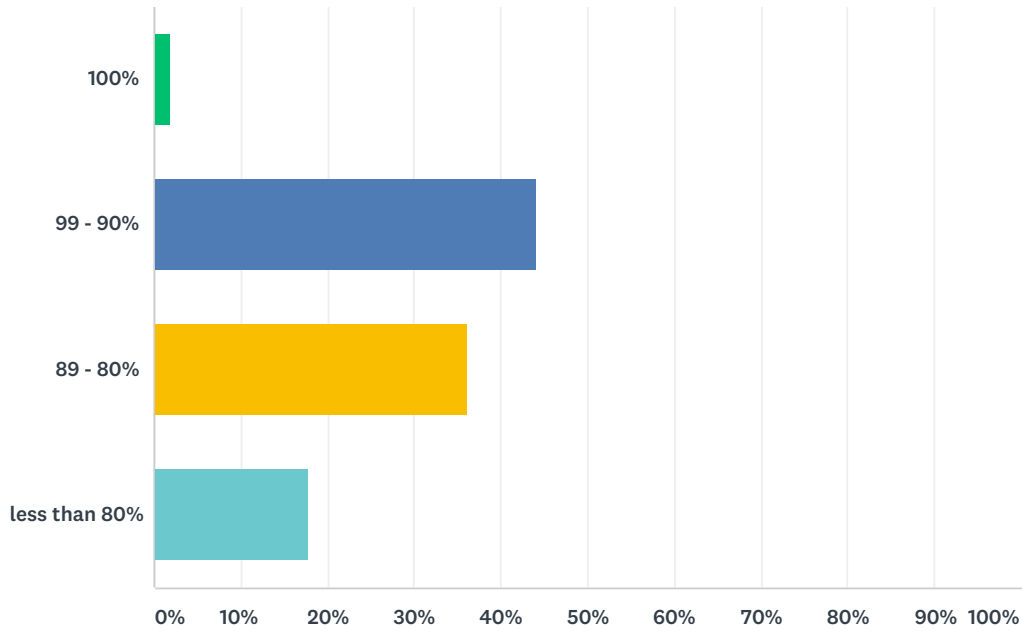
Answered: 336 Skipped: 4



ANSWER CHOICES	RESPONSES	
1 - 9	55.36%	186
10 - 19	20.54%	69
20 - 29	11.01%	37
30 or more	13.10%	44
TOTAL		336

### Q4 On average, what percentage of your criminal history checks received an instantaneous response (indicating "no record found")?

Answered: 337 Skipped: 3

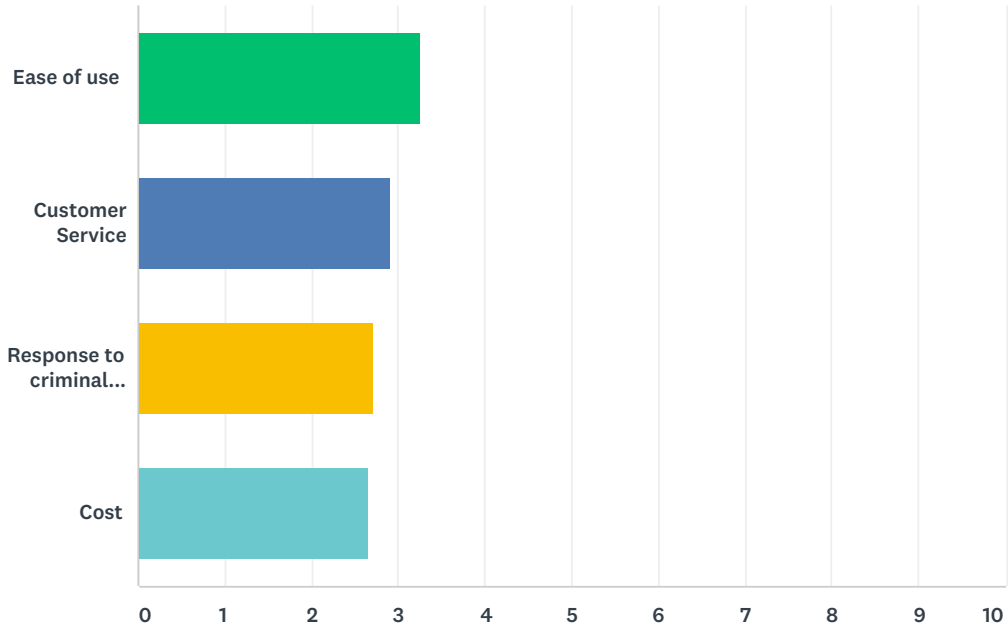


ANSWER CHOICES	RESPONSES	
100%	1.78%	6
99 - 90%	44.21%	149
89 - 80%	36.20%	122
less than 80%	17.80%	60
<b>TOTAL</b>		<b>337</b>



Q5 Please rate your experience with SING in the following areas:

Answered: 340 Skipped: 0



	NOT AT ALL SATISFIED	SOMEWHAT SATISFIED	SATISFIED	MOSTLY SATISFIED	COMPLETELY SATISFIED	TOTAL	WEIGHTED AVERAGE
Ease of use	0.29% 1	4.42% 15	15.34% 52	28.32% 96	51.62% 175	339	3.27
Customer Service	1.19% 4	8.96% 30	26.57% 89	24.78% 83	38.51% 129	335	2.90
Response to criminal history record checks	4.72% 16	14.45% 49	19.76% 67	26.84% 91	34.22% 116	339	2.71
Cost	2.98% 10	13.69% 46	28.87% 97	23.21% 78	31.25% 105	336	2.66