Question: Does the contracted worker background check mandate apply to all Texas State contracts for services?

Answer: The 3 criteria which determine if contracted workers background checks are required are identified in The Texas State University System (TSUS) [“Rules and Regulations”](http://www.tsus.edu/publication/2009.11.06%202009%20Rules%20and%20Regulations%20_3_.pdf), Chapter III, Section 10, Subsection 10.3 (revised 07/31/09). The criteria are:

* It is a contract to a “Vendor of Service”;
* The contract scope of work includes placing contracted workers “permanently” on campus to perform the work; and,
* The contract workers will be working with, or around, students in performing the work.

During The TSUS Regent’s discussion of the proposed rule, prior to its adoption, the following examples were cited as service contracts which will require The TSUS mandated background checks:

* A component’s Food Service Company;
* Any contracted Bookstore employees; and,
* Contracted Custodial Services providers.

Specific examples cited of contractors NOT subject to the TSUS Rule were:

* Construction companies;
* Armored car service; and,
* Vending delivery men

Question: Does it apply to service contracts regardless of value or source of funds?

Answer: Yes, if it meets all 3 of the criteria mentioned above.

Question: Are “Guest Lecturer”, “Visiting Artist” or “Entertainer” contracts included in the mandate?

Answer: Generally, no. This type of contracted service is usually of a short duration or term.

Question: Are faculty contracts included in the mandate?

Answer: No. When background checks are required on full-time faculty, the appropriate chair's assistant works with the faculty member to get this done. For additional information on faculty contracts please contact the Director of Faculty Records.

Question: We want to contract with a company to provide custodial workers to clean our campus offices. They would work in our offices 5 days each week.  Are we required to comply with The TSUS contracted worker background check requirements?

Answer: The answer is yes if the contract requirements meet The TSUS mandated background check criteria, mentioned above.

However, if the contracted workers only work when students are not around (i.e. “after hours”) or do not perform the work with, or around, students, the background check mandates should not apply. A written determination that the mandate does not apply needs to be included as part of the contract’s supporting documentation.

Question: We are looking into executing an Interagency Cooperation Contract (IAC) with another State university or agency for contracted workers who will work directly with our students in our office.  Do we still need to require background checks?

Answer: Yes, if the contract “permanently” places the contracted workers on the Texas State campus.

If it is verified that the other university’s or agency’s employment policy is to do background checks on their employees this may suffice. We would need to make sure we document their policy as part of this IAC’s supporting documentation.

Question: Does this mandate apply to construction or remodeling contracts?

Answer: Referring to the examples above, no. Construction contracts normally do not “permanently” place contracted workers on campus.

Question: What does it mean that the “vendor permanently places contracted workers on campus”?

Answer: The TSUS “Rules and Regulations” do not define the term “permanently”. It is generally recognized that the mandate applies to any long term contract or agreement (i.e. longer than 1 year) and meets the other TSUS contracted worker background check criteria, mentioned above.

Question: If we are not mandated by the TSUS [“Rules and Regulations”](http://www.tsus.edu/publication/2009.11.06%202009%20Rules%20and%20Regulations%20_3_.pdf) to require contracted worker background checks, do we need to require any?

Answer: The TSUS “Rules and Regulations” only specify when contracted worker background checks are mandated. If not mandated, it is up to the head of the Texas State department, or the responsible individual requiring the contracted services, to determine if the nature, scope, location or sensitivity of the work to be performed by the contracted workers requires some sort of background or security check. Requiring the appropriate background or security checks helps to avoid, reduce or mitigate any identified actual or potential risk exposure to Texas State.

Question: If I have a current contract that meet all 3 criteria of The TSUS contracted employee background check mandates, what do I need to do?

Answer: Contact the Office of Contract Compliance (x5-2550 or rm01@txstate.edu ) for assistance in determining the best plan of action to attempt to bring the current contract into compliance with The TSUS mandates. Renewals or new contracts that meet The TSUS criteria for mandated background checks must include the required contract provisions and requirements.

Question: Where can I find more information about the contracted worker background check requirements?

Answer: The Office of Contract Compliance has a form on its website that is to be included as part of any solicitation where The TSUS mandated contracted worker background checks apply. This form can be found at:

 <http://www.fss.txstate.edu/FinancialServices/departments/contract/forms.html>

 This form also includes a list of required contract provisions and requirements that must be included in any resulting contract where background checks are mandated.

 When The TSUS contracted worker background check mandates do not apply, [UPPS 04.04.17 “Background Checks”](http://www.txstate.edu/effective/upps/upps-04-04-17.html) may be used as a guide to help a department determine the appropriate types of background or security checks necessary for a contracted worker performing the same or similar tasks as a Texas State employee.

Note: The following questions relate specifically to sponsored programs:

Question: Does the background check policy apply to research contracts?

Answer: Most of the time, the answer is no. Research contracts are typically not service contracts and do not place a vendor’s employees on campus permanently.

Question: What if the contracted/contracting entity is placing employees on campus?

Answer: If the employee is working around or with students and will be on campus long-term, a background check should be performed.