

POLICY NAME: IRS Background Investigation Requirements - Access to Federal Tax Information**POLICY NUMBER: 19-01****Original Approval Date:****February 2019**

POLICY AND PROCEDURE

I. Policy:

In accordance with Internal Revenue Service (IRS) Publication 1075, Tax Information Security guidelines for Federal, State, and Local Agencies (Publication 1075), specific Lassen County employees (listed below) having access to Federal Tax Information (FTI) must undergo a background investigation prior to being permitted access to FTI, which includes a criminal conviction history screening and citizenship/residency validation. Individuals with access to FTI must undergo criminal reinvestigation at least every ten years.

II. Applicability:

This policy is applicable to current, prospective employees, volunteers, agents, contractors, and subcontractors of Lassen County having access to FTI in the following departments and/or roles as identified by the County:

1. All current or prospective employees of the Lassen County Department of Child Support Services.
2. All current or prospective employees of Lassen WORKs in the following positions:
 - a. Director of Community Social Services
 - b. Program Manager
 - c. Staff Analyst - Analyst
 - d. Administrative Services Supervisor – Administrative Assistant
 - e. Integrated Case Worker Supervisor
 - f. Integrated Case Worker I, II, III
 - g. Account Clerk II – Senior Account Clerk
 - h. Office Assistant II – Administrative Clerk
 - i. Office Assistant III – Senior Administrative Clerk
3. All current or prospective employees of Public Guardian in the following positions:
 - a. Public Administrator / Public Guardian
 - b. Deputy Public Conservator/Guardian/Administrator
 - c. Senior Account Clerk
4. All current or prospective employees in Other Administrative roles:
 - a. Director of Health and Social Services
 - b. Grants and Loans - Housing Grants Coordinator
 - c. Grants and Loans - Housing Grants Specialist

III. Authority

- IRS Publication 1075
- 26 United States Code (U.S.C.) § 6103
- Family Code § 17202
- Government Code § 1044, 12952 (if applicable upon passage of AB 1008) 19572, and 18935
- Labor Code § 432.7 and 432.9
- Title 2, California Code of Regulations (CCR) § 11017 and 11017.1
- State Personnel Board Rule 172
- Penal Code § 11105(b)
- Equal Employment Opportunity Commission (EEOC) Enforcement Guidance 915.002

IV. DEFINITIONS

Term	DEFINITION
Federal Tax Information (FTI)	Includes tax returns or return information received directly from the IRS or obtained through an authorized secondary source, such as Social Security Administration, Federal Office of Child Support Enforcement, Bureau of the Fiscal Service, or Centers for Medicare and Medicaid Services, or another entity acting on behalf of the IRS pursuant to Internal Revenue Code (IRC) 6103(p)(2)(B) Agreement. However, when a taxpayer provides his or her own tax information, or a banking institution or employer provides the information, this information is not FTI (CDSS ACL 16-106). <i>Treasure Offset Program (TOP) commonly referred to as Tax Intercept is authorized under 31 USC 3720A and is not considered FTI for the purpose of this policy.</i>
Access to FTI	Includes individuals who require access to FTI to perform their official duties and as authorized under the IRC. Pursuant to need-to-know restrictions, an individual who has the authority to access FTI information should not access such information unless it is necessary to perform their official duties and for the purposes listed in IRC 6103.
Unauthorized Access	Unauthorized access occurs when an entity or individual knowingly or due to gross negligence receives or has access to FTI without authority, as defined in IRC 6103.
Direct Access	FTI includes return or return information received directly from the IRS or obtained through an authorized secondary source, such as Social Security Administration (SSA), Federal Office of Child Support Enforcement (OCSE), Bureau of the Fiscal Service (BFS), Centers for Medicare and Medicaid Services (CMS), or another entity acting on behalf of the IRS pursuant to an IRC 6103(p)(2)(B) Agreement.
Criminal Conviction History Screening	Includes a review of Federal Bureau of Investigation (FBI) fingerprint results through the state identification bureau (California Department of Justice [DOJ]) to identify suitability for employment, and a check of local law enforcement agencies where the subject has lived, worked and/or attended school within the last five (5) years prior to the investigation.
Citizenship/Residency Validation	Validation of an individual's eligibility to legally work in the United States using the USCIS Form I-9 and USCIS E-Verify System. This requirement applies to employment candidates only.

COUNTY OF LASSEN

Page 3 of 7

Custodian of Records	Individual designated by an agency as responsible for the hiring decisions, for the security, storage, dissemination, and destruction of the criminal records furnished to the agency, and who serves as the primary contact for DOJ for any related issues.
Reinvestigation	Includes a redetermination of the criminal conviction history screening, based on new information obtained since the last screening, including local arrest information if the employee has lived, worked, or attended school in another state/county. At a minimum, reinvestigations will occur within 10 years from the date of the previous investigation. Subsequent arrest notifications shall be requested as required under Government Code section 1044(d).
Criminal History Information	Information obtained through the screening process, excluding criminal history prohibited for consideration by state and federal statutes, rules, and regulations (e.g. conviction judicially dismissed).
E-Verify	A USCIS internet-based system that compares information from Employment Eligibility Verification (Form I-9) to government records to confirm an individual is authorized to work in the US.
Internal Revenue Service Office of Safeguards	Monitors safeguard measures utilized by agencies receiving FTI.
Department of Justice	Process fingerprint and applicant data information requests and transmit information to the requesting agency.

V. GUIDELINES

Lassen County is responsible for identifying each position that provides individuals with access to FTI. Identified individuals must undergo and pass a background investigation prior to being permitted access to FTI and are subject to reinvestigation thereafter.

The minimum requirements of the background investigation include:

- Review of FBI fingerprint results that include criminal history in all 50 states (FD-258).
- Review of California Department of Justice (DOJ) fingerprint results
- Check of local Law Enforcement (LE) agencies where the subject of the background investigation has lived, worked, and/or attended school outside of California for any portion of the last five (5) years, and if applicable, a check of the appropriate agency for any identified arrests.
- Reinvestigate each individual with access to FTI within 10 years from the date of the previous background investigation.

Validation of citizenship/residency for employment candidates shall include the following:

- Validate citizenship/residency to confirm the subject's eligibility to legally work in the United States.
- Utilization of Form I-9 and supporting documents.
 - Within three days of completion of Form I-9, verify employment status through the E-Verify System.
- Ongoing monitoring for expired employment eligibility, if applicable.

FTI access includes, but is not limited to, the IRS Asset and Beneficiary Earnings Exchange Record (BEER) matches produced as part of the Income and Eligibility Verification System (IEVS). No contractors may access BEER or IRS Asset match FTI (ACL 16-106), hard copy documents, reports, forms, and any other paper or

electronic media that contains FTI. When a taxpayer provides his or her own tax information, or a banking institution or employer provides the information, this information is not FTI (CDSS ACL 16-106).

Criminal history screening for employment purposes, including reinvestigation screening, will be conducted in accordance with Federal EEOC Enforcement Guidance, California Department of Fair Employment and Housing (DFEH) rules and regulations and applicable California Labor Code provisions.

Fingerprint and criminal conviction history screening must be reflected on each position duty statement and job posting/announcement for each position with access to FTI.

Individuals who do not successfully pass the background investigation shall not be permitted to hold a position with access to FTI.

All offers of employment and work assignments are conditional pending successful completion of the policy requirements.

VI. ROLES AND RESPONSIBILITIES

Responsibility for maintaining the Lassen County IRS Background Investigation Requirements Policy and Procedures resides with the Lassen County Human Resources office. Departments shall be responsible for conducting background investigations for prospective employees and reinvestigations for current employees. The successful implementation of the background investigation process depends upon the cooperation of all parties involved as follows:

ROLE	RESPONSIBILITY
Prospective Employees (upon contingent job offer)	<ul style="list-style-type: none"> • Complete an authorization to allow the County to conduct the background investigation in accordance with IRS Publication 1075 and this policy • Complete an FTI Safeguards Background Investigation Questionnaire identifying locations lived, worked and/or attended school within the last five (5) years • Submit fingerprints by LiveScan for background investigation • Complete a Form I-9 to validate authority to legally work in the United States and submit supporting documentation
Current Employees	<ul style="list-style-type: none"> • Complete an authorization to allow the County to conduct the background reinvestigation in accordance with IRS Publication 1075 and this policy • Complete an FTI Safeguards Background Investigation Questionnaire identifying locations lived, worked and/or attended school within the last five (5) years • Submit fingerprints by LiveScan for recurring background reinvestigations

	<ul style="list-style-type: none"> • Complete a Form I-9 to validate authority to legally work in the United States and submit supporting documentation
Department HR	<ul style="list-style-type: none"> • Notify individual of obligations as it pertains to background investigations • Obtain FTI Safeguards Background Investigation Questionnaire and authorization to conduct the background investigation from prospective and current employees • Forward Background Investigation Questionnaire and authorization to Background Investigator • Request Human Resources conduct LiveScan and E-Verify • Notify necessary parties of successful background clearance decisions following determination from Department Manager • Schedule individuals for fingerprinting upon notification from department • Obtain I-9 Form and supporting documents from individuals • Verify employment status utilizing E-Verify system; document eligibility to work in U.S. as verified, maintain all documents associated with the verification in a confidential manner • Receive LiveScan fingerprinting results • Inform Background Investigator of LiveScan and E-Verify results
Background Investigator	<ul style="list-style-type: none"> • Receive FTI Safeguards Background Investigation Questionnaire and authorization to conduct the background investigation from department • Check with local law enforcement agencies for all location's individual lived, worked and/or attended school within the last five (5) years • Receive LiveScan and E-Verify results from Custodian of Records/Human Resources • Prepare documentation of background investigation results and forward to Department Manager
Department Manager	<ul style="list-style-type: none"> • Receive background investigation/reinvestigation results from Background Investigator • If background clearance is granted, record the official decision and maintain all documents associated with the background investigation in a confidential manner; inform Department HR Generalist to send notification of clearance to individual • If background clearance questionable or denied, forward background results to Department Appointing Authority and Director of Human Resources • Make job offer contingent upon satisfactory completion of a background investigation
Director of Human Resources	<ul style="list-style-type: none"> • Review unfavorable background results for job-relatedness and in accordance with applicable federal and state law • Notify prospective or current employee of disqualifying results in writing and give individual ten (10) calendar days to provide additional information or clarification; forward information received from individual to department Appointing Authority for final decision

	<ul style="list-style-type: none"> • Notify individual in writing following final decision of Appointing Authority (rescind job offer for prospective employee, Notice of Proposed Termination for current employee)
Department Appointing Authority	<ul style="list-style-type: none"> • Receive additional information from prospective or current employee • Make final determination on background clearance

VII. CRITERIA FOR WITHDRAWAL OF EMPLOYMENT OFFER OR INITIATION OF DISQUALIFICATION PROCEEDINGS

Disqualification Criteria

The felony and misdemeanor crimes listed below are offenses that may render any individual's background unsuitable for employment in positions that involve access to FTI. The list does not attempt to specify every unacceptable criminal conviction or questionable background.

- Fraud: welfare, insurance, financial, theft, or bribery
- Misuse of data
- Inappropriate access to data
- Theft/Burglary

Criminal background investigation results will be considered utilizing an individual assessment with any basis for denial being job-related and consistent with business necessity. The factors that are relevant in assessing whether an exclusion is job related for the position in question and consistent with business necessity are:

- The nature and gravity of the offense or conduct;
- The time that has passed since the offense or conduct and/or completion of the sentence; and
- The nature of the job held or sought.

Although an arrest record standing alone may not be used to deny an employment opportunity, an employer may make an employment decision based on the conduct underlying the arrest if the conduct makes the individual unfit for the position in question. The conduct, not the arrest, is relevant for employment.

Individuals subject to criminal conviction screening will have the opportunity to provide additional information within a specified timeframe in the event the background investigation results in an unfavorable outcome or requires clarification. Discrepancies in information provided in the Background Investigation Questionnaire, or the Lassen County Criminal Record Supplemental Questionnaire and the results of the investigation may be clarified by the applicant. Final decisions resulting in a denial will be provided in a written statement of the reason for denial.

With respect to employees, the use of information received as a result of the required subsequent 10-year reinvestigation of employees is limited to convictions that will disqualify an individual from accessing or having access to FTI in course and scope of their employment. The decision to initiate the disciplinary process will be based on factors that include, but are not limited to, the seriousness of the offense committed, the nature and background of the offense, the length of time which has passed since the conviction, and whether or not the facts that constituted a conviction are still a crime under current statutes and guidelines.

The decision to withdraw an employment offer (applicant) or begin the disqualification process (employee) will be done on a case-by-case basis after review of the documents and completion of the background investigation. Decisions made under this policy and in accordance with state and federal regulations and policies are final and not subject to review or appeal when pertaining to prospective employees.

Employees will be allowed to provide additional information that may clarify the results of the investigation. The **Director** will request a review of the recommendation for termination to the **County Personnel Director**.