

IRS Background Investigation Requirements

1.0 Background and Purpose

The purpose of this policy is to implement Internal Revenue Service (IRS) Publication 1075 background investigation requirements to determine the suitability of current and prospective County employees, volunteers and agents, for having direct access to Federal Tax Information (FTI).

2.0 Scope

This policy is applicable to current and prospective employees, volunteers, agents, contractors, and subcontractors of the County, anticipated to have direct access to FTI (“FTI Users”).

3.0 Definitions

3.1 **Background Investigation.** An investigation meeting the following minimum requirements in accordance with IRS Publication 1075.

3.1.1 A review of FBI fingerprint results that include criminal history in all 50 states.

3.1.2 A check of local law enforcement agencies where the individual requiring the background investigation has lived, worked, and attended school within the last five (5) years, and if applicable, a check of the appropriate agency for any identified arrests.

3.1.3 Citizenship and residency validation using the United States Citizenship and Immigration Services (USCIS) Form I-9 and the USCIS E-Verify system.

3.2 **Disqualification Criteria.** FTI Users whose Background Investigations reveal the following information will be deemed to have not passed their Background Investigation and are not suitable for having direct access to FTI:

3.2.1 Felony or misdemeanor convictions, either individually or in the aggregate, demonstrating fraud, dishonesty, theft, evasion, unlawful disclosure of information, unauthorized access to data, or a violation of a public trust.

3.2.2 Ineligibility or lack of authorization under federal law, to legally work in the United States.

3.2.3 In no case will the following information be used to disqualify an individual from accessing FTI or not passing a Background Information:

3.2.3.1 An arrest or detention that did not result in conviction;

3.2.3.2 Referral to or participation in a pretrial or post-trial diversion program;

3.2.3.3 A conviction that has been judicially dismissed or ordered sealed, expunged or statutorily eradicated under the law;

3.2.3.4 An arrest, detention, processing, diversion, supervision, adjudication, or court disposition that occurred while a person was subject to the process and jurisdiction of juvenile court law; and

3.2.3.5 A non-felony conviction for possession of marijuana that is 2 or more years old.

3.4 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 United States.

3.5 Federal Tax Information (FTI). Information including 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 under an Internal Revenue Code section 6103(p)(2)(B) agreement.

3.6 Reinvestigation. An additional and renewed Background Investigation based on timelines in IRS Publication 1075 or upon the receipt of new information obtained since the last Background Investigation indicating the need for a renewed investigation.

4.0 Policy, Process, and Timing

4.1 The County will identify each County position having direct access to FTI.

4.2 FTI Users must pass a Background Investigation to determine suitability for having direct access to FTI, before being permitted access to FTI. Passing the Background Investigation is a job qualification for those County positions identified as having direct access to FTI.

- 4.3 Copies of any public records acquired as a result of the Background Investigation or a subsequent Reinvestigation will be provided to the subject of the investigation within 7 days from the County's receipt unless the subject waives his or her right to a copy in accordance with California Civil Code section 1786.53.
- 4.4 In the event a FTI User does not pass the Background Investigation and is deemed not suitable for access to FTI ("Non-Suitability Finding") the FTI User will be provided a written statement with the reason for the Finding and copies of all public records used in making the finding, to the extent those records may be disclosed under the law.
 - 4.4.1 An FTI User who wants to contest a Non-Suitability Finding shall provide a Request for Reconsideration, in the form of a written statement with any supporting documentation, to the Director of Human Resources within 7 days from the User's receipt of the Finding.
 - 4.4.2 Within 10 days from the receipt of a Request for Reconsideration, the Director of Human Resources or his or her designee, shall review the Request and determine whether to sustain the Non-Suitability finding, seek further information, or make a new suitability finding.
- 4.5 FTI Users passing a Background Investigation will undergo and must pass a Reinvestigation at least every ten (10) years, or earlier if the County learns new information indicating the need for a renewed Background Investigation.
- 4.6 Individuals who do not successfully pass the Background Investigation or Reinvestigation shall not be permitted to hold a position with direct access to FTI.
- 4.7 All offers of employment and work assignments are conditional pending successful completion of these policy requirements.
- 4.8 Contractors and subcontractors shall be responsible and required under contract to ensure that their agents or employees meet all Background Investigation requirements, Reinvestigation requirements, and they are suitable to access FTI under this policy and IRS Publication 1075.