



# COUNTY OF EL DORADO, CALIFORNIA

## BOARD OF SUPERVISORS POLICY

Subject:  BACKGROUND INVESTIGATION REQUIREMENTS FOR INDIVIDUALS WITH ACCESS TO FEDERAL TAX INFORMATION	Policy Number:  E-9	Page Number:  1 of 6
	Date Adopted: 04/24/2018	Revision Date: 05/10/2022

### I. PURPOSE

The purpose of this policy is to:

- A. Ensure that individuals having access to Federal Tax Information (FTI) have been thoroughly vetted through a Federal Bureau of Investigation (FBI) criminal background screening and local law enforcement agency background investigation.
- B. Validate citizenship/residency status using United States Citizenship and Immigration Services (USCIS) Form I-9 and E-Verify.
- C. Reinvestigate individuals with access to FTI within 5 years from the date of the previous background investigation.

### II. POLICY

- A. In accordance with Internal Revenue Service (IRS) Publication 1075, Tax Information Security Guidelines for federal, state, and local agencies (Publication 1075), individuals having access to 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 reinvestigation at least every 5 years.
- B. This policy is applicable to all current and prospective employees of the County of El Dorado (County), volunteers, agents, contractors, and subcontractors having access to FTI.
- C. This policy does not apply to a position for which a state or local agency is otherwise required by law to conduct a conviction history background investigation.

### III. PROCEDURE

#### A. GUIDELINES

Procedures for implementing this policy will be established and maintained by the Human Resources Department.

The County is responsible for identifying each position that provides individuals with access to FTI, including employee, volunteer, agent, contractor, and subcontractor positions. Identified individuals must undergo and pass an FBI background investigation prior to being permitted access to FTI and are subject to reinvestigation thereafter.



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The minimum requirements of the background investigation include:

- Review of FBI fingerprint results that includes criminal history in all 50 states (Live Scan, FD-258 Applicant Fingerprint Card).
- Check of local law enforcement agencies where the subject of the background investigation has lived, worked, and/or attended school within 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 5 years from the date of the previous background investigation.

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

- Utilization of USCIS Form I-9 and supporting documents.
- Within three days of completion of USCIS Form I-9, verify employment status through the E-Verify system.
  - Departments must forward the USCIS Form I-9 to the Human Resources Department no later than the second day of employment to ensure the County is compliant with the three-day E-Verify submission requirement.
- Ongoing monitoring for expired employment eligibility, if applicable.

Criminal history screening for employment purposes, including reinvestigation screening, will be conducted in accordance with Federal Equal Employment Opportunity Commission 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.

Contractors and subcontractors with access to FTI are subject to this policy and are fully responsible for ensuring all IRS Publication 1075 requirements are met prior to permitting individuals' access to FTI.



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### B. CRITERIA FOR WITHDRAWAL OF EMPLOYMENT OFFER

Conditional employment offers may be withdrawn based on the results of the background investigation and/or eligibility to be employed in the United States.

#### Disqualification Criteria

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

- Fraud: welfare, insurance, financial, theft, or bribery
- Physical: assault, sexual, murder, homicide, manslaughter, kidnapping, false imprisonment, or domestic violence
- Misuse of data
- Inappropriate access to data
- Drug and/or alcohol
- Stalking
- Theft/Burglary
- Evasion of law enforcement
- Crimes of moral turpitude

Criminal background investigation results will be considered utilizing an individual assessment with any basis for denial being job-related and consistent with business necessity. Individuals whose offer is rescinded due to their conviction history may appeal the decision within five (5) business days from the date the notice is sent. The individual will have five (5) business days, from notifying the County, to produce evidence to dispute the accuracy of the conviction history report. If the individual establishes that the record is factually inaccurate, then that record cannot be considered in the employment decision. Once the evidence is considered, the decision is final. Final decisions resulting in a denial will be provided in a written statement.

### C. CURRENT EMPLOYEES REQUIRED TO BE SCREENED

Employees hired prior to the implementation of this policy, which under this policy are required to undergo any or all parts of the background investigation, must pass a background investigation in order to continue to have access to FTI. Employees who fail the background investigation may be reassigned, or voluntarily demoted to similar positions in which they meet the minimum qualifications, to positions without access to FTI within the department, or non-punitively separated in cases where no position exists. Employees will be given the same opportunity to present evidence that the information used for separation is factually



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inaccurate as stated above. If the employee establishes that the record is factually inaccurate, then that record cannot be considered in the employment decision.

#### IV. REFERENCES

##### PUBLICATIONS

- 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

##### 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.
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.



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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.
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 5 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.



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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.
Reassigned	The movement of an employee to another position in the same classification within the department that does not have access to FTI
Similar positions	Positions that perform like duties and require like knowledge, skills, and abilities
Non-punitively separated	A separation due to the inability to reassign the employee to a non-FTI position, or to a lower similar position in which the employee meets the minimum qualifications.

**V. RESPONSIBLE DEPARTMENT**

Human Resources Department

**VI. DATES ISSUED AND REVISED; SUNSET DATES:**

<b>Date Adopted:</b>	04/24/2018	<b>Sunset Review Date:</b>	05/10/2024
<b>Revision Date:</b>	05/10/2022	<b>Next Review Date</b>	05/10/2024