File #: 18-0607, **Version:** 1

Human Resources Department recommending the Board adopt the Background Investigation for Individuals with Access to Federal Tax Information Policy (Policy E-9).

FUNDING: Individual Departments.

DEPARTMENT RECOMMENDATION

Human Resources Department recommending the Board adopt the Background Investigation for Individuals with Access to Federal Tax Information (FTI) Policy.

DISCUSSION / BACKGROUND

Changes in Internal Revenue Service (IRS) Publication 1075 require that employees, volunteers, contractors, subcontractors, or agents of the County of El Dorado (County) who have access to Federal Tax Information (FTI) complete a background investigation that includes a Federal Bureau of Investigation (FBI) Criminal Background Live Scan; a review of local law enforcement where the applicant lived, worked, or attended school within the previous five (5) years; a comprehensive re-investigation at least every ten (10) years; and are screened for eligibility to work in the United States by using E-Verify. Although California does not require the use of E-Verify to validate an applicant's eligibility, the Human Resources Department has decided to implement the use of E-Verify for all County hires to maintain one consistent practice.

Prospective employees who will be in positions that have access to FTI will be required to be investigated under these new requirements of IRS Publication 1075.

Results from the background investigation could affect current employees who, prior to the new requirements under IRS Publication 1075, had not been Live Scanned in accordance of the new requirements. If the results of the background investigation show prior convictions that have a nexus to their current position and would make them ineligible to have access to FTI, the Human Resources Department will work with the department to determine the appropriate course of action, which may include reassignment to the same positions that are not required to access FTI, voluntary demotions into other positions that are not required to access FTI where the employee meets the minimum qualifications, or non-punitively separate the employee in cases where there are no vacant positions available to move the employee into.

Candidates in positions that require accessing FTI who have been given a conditional offer of employment and do not pass the background investigation may have their conditional offer rescinded if the past convictions have a nexus to the position as well.

All employees, volunteers, contractors, subcontractors, agents of the County, or candidates who are negatively affected by the results of this new requirement will have an appeal process available to them.

Classification specifications for classifications that will be required to pass a background investigation in accordance with this policy will be updated with the following statement:

"Consistent with the Board of Supervisor's policy E10, Some positions in this classification shall require a mandatory FBI background investigation in order to perform the required duties of the job and will be noted so in prospective job announcements".

Job announcements for non-Merit positions that require candidates to pass a background investigation according to this policy will have the following statement added:

"Conditional offers of employment for this position will require the candidates to submit to an FBI background investigation".

The Human Resources Department reached out to departments who have employees who have access to FTI and unions for their review and feedback of the proposed policy. County Counsel also reviewed the policy.

ALTERNATIVES
The Board could choose not to adopt the proposed Background Investigation for Individuals with Access to Federal Tax Information Policy and request revisions; however, doing so will put the County at risk of being out of compliance with the law.

OTHER DEPARTMENT / AGENCY INVOLVEMENT
Health and Human Services Agency, Child Support Services, Treasurer/Tax-Collector, Information Technologies, Local 1, and Managers' Association.

CAO RECOMMENDATION
It is recommended that the Board approve this item.

FINANCIAL IMPACT
Directly, the total cost to departments will depend on the number of employees and candidates checked under this new requirement. It is estimated that the cost of the investigation is $50 for each candidate or employee. The Treasurer-Tax Collector's office has three classifications with this background check requirement, the Health and Human Services Agency has 55 classifications, and Child Support Services has 45 total classifications, however, CSS currently requires this level of background check. The cost would be approximately $3,000 this fiscal year, and the cost would be less in future years as investigations are needed only for new employees and existing employees' re-investigations.

Indirectly, the County could realize savings in potential litigations derived from actions of County employees, volunteer, or interns who should have not otherwise been employed or assigned to County activities and acting on the County's behalf.

CLERK OF THE BOARD FOLLOW UP ACTIONS
Upon adoption, please post the new policy in Section E - Personnel and Payroll of the Board of Supervisors Policy Manual and notify all department heads that the policy has been adopted.

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CONTACT
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