

SSR NUMBER 04: 5.1.1 – BACKGROUND INVESTIGATIONS

Information Security Management Policy

I. Statement of Need

Certain Department of Revenue (DOR) employees, interagency transfers, contractors, and sub-contractors have potential access to or work closely with federal taxpayer information (FTI). It is imperative that the integrity of this information, held in trust by the DOR, be maintained in a confidential environment. In order to protect this obligation, the DOR, in accordance with Internal Revenue Service (IRS) Publication 1075, must conduct appropriate screening of all new employees, current employees, interagency transfers, contractors, and sub-contractors whose jobs require them to have direct or potential access to FTI.

II. Purpose

This policy provides a mechanism to: enhance the security and confidentiality of federal tax information entrusted to the DOR's care, recognize the fiduciary responsibilities of the DOR, reduce the risk of liability to the DOR and promote the trust of our stakeholders.

III. Statutory Authority

Alaska Statute 43.05.010 designates the Commissioner of the DOR with the responsibility for safeguarding FTI received from the IRS by both the Tax and Child Support Services Divisions. This responsibility is delegated to the divisions' directors or their designees.

Alaska Statute 43.05.230 specifies protections for taxpayer information.

IV. Policy Scope

This policy is applicable to the DOR. It fully integrates, modifies, and supplements any previous statewide, departmental, divisional policies concerning background investigations on employees and contractors having access to FTI.

V. Definitions

- A. "Conviction" is a formal declaration that someone is guilty of a misdemeanor or felony offense, made by the verdict of a jury or decision of a judge in a court of law. Conviction can also include a plea of nolo contendere, a plea of guilty, or a suspended imposition of sentence.

VI. Policy

- A. As a condition of employment, the DOR requires current employees, new hires, interagency transfers, contractors, and sub-contractors who may have either direct or potential access to FTI to complete an appropriate criminal background investigation administered by the State of Alaska Department of Revenue Criminal Investigation Unit (CIU).
- B. The background investigation must meet the standards of the most current IRS Publication 1075 and include at a minimum:
 - 1. Federal Bureau of Investigation Fingerprinting;
 - 2. A background investigation that includes information from local law enforcements agencies where the subject has lived, worked, and/or attended school within the last 5 years, and if applicable, of the appropriate agency for any identified arrests; and
 - 3. Checks conducted on applicants to verify their eligibility to legally work in the United States (e.g., a United States citizen or foreign citizen with the necessary authorization).
- C. The DOR will complete the background investigations in the following order. Failure to receive a favorable result for the former background investigations will negate the necessity to proceed to the next level.
 - 1. Verify eligibility to legally work in the United States; then
 - 2. Background investigation that includes information from local law enforcement agencies; then
 - 3. FBI fingerprinting.

- D. The DOR cannot be held liable for errors in the conviction record received by the CIU. If there are errors in the criminal record, it is the applicant/employee/contractor/sub-contractor's responsibility to have the record corrected. All employment/contract decisions will be made based upon the official record obtained by the CIU.
- E. Only DOR management staff with a legitimate business "need to know" will be advised by CIU staff of criminal history information that may fit the criteria for administrative separation from employment, or withdrawal of an offer of employment or contractual offer.
- F. The DOR will store background investigation information in a secure location and will dispose of this information in accordance with the State of Alaska General Administrative Records Retention Schedule.

VII. Procedures

A. Current DOR Employees and Interagency Transfers

- 1. All current DOR employees and interagency transfers who may have direct or potential access to FTI shall annually sign an agreement that specifies safeguard requirements for FTI.
- 2. All current DOR employees and interagency transfers that may have direct or potential access to FTI shall undergo a criminal background investigation as required by the latest revision of the IRS Publication 1075.
- 3. Current employees and interagency transfers who may have direct or potential access to FTI must complete the "Criminal Background Records Waiver of Liability, Disclosure, Authorization and Release" and "Background Questionnaire" forms prior to having the background investigation.
- 4. The completed forms will be submitted to CIU for processing.
- 5. Failure or refusal to complete the "Criminal Background Records Waiver of Liability, Disclosure, Authorization and Release" or the "Background Questionnaire" will be viewed as a failure to meet the qualifications of the employee's current position or the interagency transfer's new position in DOR and will result in administrative separation from employment.

B. DOR New Hires, Contractors and Sub-Contractors

- 1. All DOR new hires, contractors and sub-contractors who may have direct or potential access to FTI shall annually sign an agreement that specifies safeguard requirements for FTI.

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2. All DOR new hires, contractors and sub-contractors who may have direct or potential access to FTI shall undergo a criminal background investigation as required by the latest revision of the IRS Publication 1075.
3. New hires, contractors and sub-contractors who may have direct or potential access to FTI must complete "Criminal Background Records Waiver of Liability, Disclosure, Authorization and Release" and "Background Questionnaire" forms prior to having the background investigation.
4. The completed forms will be submitted to CIU for processing. Access to FTI for new hires, contractors and sub-contractors will not be granted until the completion and passage of a background investigation obtained by the CIU.
5. Refusal by a new hire to complete the "Criminal Background Records Waiver of Liability, Disclosure, Authorization and Release" or "Background Questionnaire" will be viewed as a failure to meet the qualifications of the position and will result in administrative separation from employment.
6. Failure or refusal by a contractor or sub-contractor to complete the "Criminal Background Records Waiver of Liability, Disclosure, Authorization and Release" or "Background Questionnaire" will be viewed as a withdrawal from performing contractual work for DOR

C. Recruitment

1. All DOR recruitment announcements for positions that have the potential access to FTI shall contain a statement informing applicants of the requirement to complete and pass a background investigation as part of the application process.
2. The hiring manager is responsible for informing the job applicant who will have potential access to FTI of the requirement to undergo a background investigation no later than the formal interview.
3. New and rehired employees whose jobs have direct or potential access to FTI must complete the "Criminal Background Records Waiver of Liability, Disclosure, Authorization and Release" and "Background Questionnaire" forms during the online application process.
4. Interagency transfers who will have direct or potential access to FTI must complete "Criminal Background Records Waiver of Liability, Disclosure, Authorization and Release" and "Background Questionnaire" forms.
5. The completed forms will be submitted to CIU for processing. Access to FTI will not be granted until the completion and passage of a background investigation obtained by the CIU.

6. Failure or refusal to complete the “Criminal Background Records Waiver of Liability, Disclosure, Authorization and Release” or the “Background Questionnaire” will be viewed as failure to meet the qualifications of the position and would result in withdrawal of the conditional employment offer.

D. Right of Access Background Investigations

This type of background investigation is required of all new hires, current employees, rehires, interagency transfers, contractors and sub-contractors who have direct or potential access to FTI.

1. Right of access background investigations include information gathered by the CIU.
2. No new/current employee or contractor/sub-contractor will have access to FTI until the background investigation has been completed and passed.
3. Background investigations shall be completed not more than 10 years from the date of the previous background investigation for all employees and contractors/sub-contractors.
4. In accordance with 2 AAC 07.416, employees and contractors/sub-contractors are obligated to inform management by the end of the following business day if they receive a citation requiring a court appearance or if they are involved in criminal activity that resulted in arrest or conviction.

E. Results and Consequences

1. It is imperative that the FTI held in trust by the DOR be maintained in a confidential environment staffed by employees and contractors/sub-contractors who have been stringently screened. Therefore, any history of convictions or suspended imposition of sentence for financial crimes including but not limited to fraud, theft, bribery, robbery, embezzlement or other such crimes involving dishonesty, such as perjury, false pretense, false statements, or breach of trust are directly related to the employee’s or contractor’s/sub-contractor’s duties can be considered sufficient cause for administrative separation, withdrawal of an offer of employment, or cancellation of a contract. However, the following criteria will be considered when evaluating any criminal history:
 - a. misdemeanor convictions within the past 5 years;
 - b. on probation or parole within the last 5 years for a misdemeanor;
 - c. felony convictions within the past 10 years;
 - d. on probation or parole within the last 10 years for a felony;
 - e. status as a fugitive from justice;

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- f. convictions for crimes involving domestic violence (Child Support Services Division only); and
 - g. past or present requirements to be registered as a sex offender (Child Support Services Division only).
- 2. If a background investigation reveals criminal history that meets the above criteria, the director or designee shall consult with Human Resources staff to discuss the prospects of withdrawing an employment offer, administrative separation from employment, or withdrawal/termination of a contract. Factors that will be considered are:
 - a. whether the crime is related to the employee's current duties or might reasonably be expected to prevent the employee from performing the duties of the position;
 - b. the nature of the crime and number of convictions;
 - c. the recentness of the conviction(s);
 - d. false or misleading verbal or written statements made by an applicant, employee or contractor about his or her criminal record; and
 - e. other relevant factors depending on unique circumstances.
- 3. Before adverse action is taken against an applicant, employee, contractor, or sub-contractor as a result of a failed background investigation, DOR will provide a notice that includes a copy of the background investigation findings used to make the determination.
- 4. In accordance with 2 AAC 07.416, employees and contractors/sub-contractors who fail to inform the director or deputy director by the end of the following business day of an arrest or conviction shall be subject to disciplinary action up to and including dismissal from employment or withdrawal of a contract.

F. Right of Appeal

- 1. An applicant, employee, contractor, or sub-contractor who fails a background investigation has the right to appeal this decision. The basis for the appeal is limited to mistake of fact. The appeal shall be submitted in writing to the department's Commissioner who will issue a final decision within 30 days after receipt of the appeal.

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