

Policy Statement

In accordance with the Internal Revenue Service's (IRS) Publication 1075, TDOR shall conduct fingerprint and criminal background investigations on all employees and contract workers before granting them access to Federal Tax Information (FTI).

Purpose

To ensure the integrity of state government and provide for the financial safety and security of customers and staff, TDOR conducts background checks on employees and contract workers before granting them access to FTI. The purpose of this policy is to provide guidelines and procedures for conducting fingerprint and criminal history background investigations for this purpose.

Investigation Requirements

1. A criminal background check shall be conducted on all employees and contract workers whose duties will include access to FTI.
2. Before receiving access to FTI, all employees and contract workers must consent to the following background investigation:
 - a. Federal Bureau of Investigations (FBI) fingerprint background check
 - b. Local law enforcement background check (including locations where the employee has lived, worked and/or

attended school within the last five (5) years).

3. TDOR will provide all employees and contract workers undergoing a background check under this policy with a written copy of the Noncriminal Justice Applicant's Privacy Rights and a summary of the Consumer Rights under the Fair Credit Reporting Act (FCRA) and related state laws.
4. To assist the Department in determining the suitability of a person receiving access to FTI, and for verification of the accuracy of information submitted in an application, resume or supporting documents, any employee or contract worker whose duties include access to FTI shall:
 - a. Agree to the release and disclosure to the Department of background information and records from any reputable source, including federal, state and local governments, the Tennessee Bureau of Investigation (TBI) and any private investigation company licensed by the State of Tennessee. The information requested on the IdentoGO website must be completed for release and disclosure purposes.
 - b. Provide a full set of fingerprints adequate for a criminal background check to be conducted by the TBI.

5. TDOR employees and contract workers with access to FTI must complete updated background checks at least every ten (10) years.
6. If an employee does not consent to the required background investigation, and does/will require access to FTI in order to complete his/her job duties, he/she may be deemed ineligible for continued employment with TDOR.
7. The Special Investigations section will review all pertinent information for the employee for ten (10) years prior to the date of the background application.
8. TDOR will comply with the TBI Agency Privacy Requirements for Noncriminal Justice Applicants, the TBI Noncriminal Justice Applicant's Privacy Rights, the Fair Credit Reporting Act (FCRA), and related state laws.

Offenses that Prevent Access to FTI

If a background investigation finds any **FELONY** conviction or plea of guilty or nolo contendere involving a crime of dishonesty or fraud, including but not limited to the following, the employee/contract worker will not be eligible for access to FTI within TDOR and/or by contract:

- a. Theft;
- b. Money laundering;
- c. Tax evasion;
- d. Identity theft;
- e. Counterfeiting;
- f. Bribery;
- g. Embezzlement;
- h. Forgery;
- i. Receiving stolen property;
- j. Robbery.

The Special Investigations section will review the background check results to determine whether the employee or contract worker may have access to FTI, and generate a letter to the employee/contract worker and divisional management with a cleared/not cleared access to FTI determination.

Requirement to Comply with Investigation

1. Employees **must** comply with the investigation requirement as directed by their supervisor as a basis for continued access to FTI. Revocation of access to FTI may result in reassignment or termination.
2. Employees who refuse to submit to the fingerprint background checks, or do not get fingerprinted during the allotted time, will face disciplinary action, up to and including termination.

Records of Background Check Investigations

1. Information obtained through background checks is confidential and will only be reviewed by investigative personnel. Divisional management will only be provided with the employee's cleared/not cleared letter.
2. The process for obtaining or conducting background checks required or authorized by this policy shall be in accordance with all applicable EEOC rules and guidance documents. The cleared/not cleared letters related to accessing FTI shall be maintained in an employee's official personnel file and, for contract workers, in a manner specified by the Director of Human Resources. The results of the

background checks shall be maintained in a separate, confidential file/record.

3. The performance of background checks for contract workers shall be in conformity with any applicable terms of the agreement between the contract worker or contract agency and TDOR.
4. The cost of any background check conducted pursuant to this policy shall be paid by TDOR.

Alleged Errors in Background Checks Results

1. For the purpose of challenging a not cleared result, the employee may make a written request to Special Investigations within 5 business days for a copy of the employee's FBI criminal history record or county criminal court record for review and possible challenge.
2. Upon receipt of such written request, Special Investigations will provide the employee with a copy of his/her FBI criminal history record that was obtained based on positive fingerprint identification and/or county criminal court record obtained from a consumer reporting agency.
3. An employee who wishes to challenge the accuracy or completeness of his/her FBI criminal history record may send his/her challenge to the agency that contributed the questioned information to the FBI. Alternatively, an employee may send his/her challenge directly to the FBI. The FBI will then forward the challenge to the agency that contributed the questioned information and request the agency to verify or correct the challenged entry. Upon receipt of an

official communication from the agency, the FBI will make any necessary changes/corrections to the record.

4. An employee who wishes to challenge the accuracy or completeness of his/her county criminal court history record may contact the reporting agency in the appropriate local jurisdiction that provided the questioned information.
5. Upon receipt of a corrected criminal history record from the FBI and/or local jurisdiction, TDOR will reevaluate the results to determine whether the employee may have access to FTI, and generate a new letter with a cleared/not cleared access to FTI determination.

Employee Reporting Requirement

1. An employee with access to FTI who is found guilty of a crime listed above, or who enters a plea of guilty or nolo contendere, after successfully completing a background check must report his/her conviction to the Special Investigations section.
2. The Department shall have the discretion on employee retention decisions based on the crime and circumstances of the underlying events leading to the guilty finding.
3. Failure to report criminal convictions may result in disciplinary action.

Violations of Policy

Failure to comply with this policy may result in disciplinary action, up to and including termination.

References

I.R.C. § 6103(p)(4); 5 U.S.C. § 552a(b); 28 U.S.C. § 534(b); 42 U.S.C. § 14616, Article IV(c); 15 U.S.C. § 1681; 28 CFR 20.21(c), 20.33(d) and 906.2(d); 28 C.F.R. §§ 16.30 through 16.34; 28 C.F.R. § 50.12(b); T.C.A. § 4-3-105; T.C.A. § 8-4-115; T.C.A. § 8-50-112