



DODGE COUNTY PERSONNEL POLICIES AND PROCEDURES

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Policy Title: IRS BACKGROUND INVESTIGATION POLICY (Dodge County Child Support Agency)	Effective Date: 03/21/2019
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Introduction

Dodge County committed to protecting its information including Federal Tax Information (FTI). IRS Publication 1075 requires that the Agency establish a written policy that ensures compliance with IRS standards for persons having access to FTI.

Purpose

The purpose of this policy is to define and establish procedural guidelines, background check requirements, timeframes and suitability standards for individuals within the Dodge County Child Support Agency in identified positions with access to FTI. The Agency will make this policy, procedure and sample of completed background investigations available for inspection during an on-site safeguard review.

Applicability

This policy applies to all current employees, applicants for employment, vendors, volunteers, work-study students, contractors and sub-contractors (“individuals”) who are or may be authorized by the Agency to access FTI as part of their job duties. Appendix A attached hereto identifies the Job Titles for those Agency employees to which this Policy applies.

Definitions

Background Check means all necessary checks required in order to have access to FTI. IRS Pub 1075 requires that checks must include, at a minimum, fingerprint checks (as permitted by the FBI), local law enforcement checks, and citizenship verification.

Background Check Coordinator means the Dodge County Human Resources Department.

Citizenship Requirement Check means to validate an individual’s eligibility to legally work in the United States. Utilizes Form I-9. (e.g., a United States citizen or foreign citizen with the necessary authorization).

Child Support Agency (CSA) means the Dodge County Child Support Agency.

Federal Tax Information (FTI) consists of tax returns or tax return information, or both tax returns and tax return information. FTI is any return or return information received from the IRS or an IRS secondary source, such as the Social Security Administration, Federal Office of Child Support Enforcement, Bureau of Fiscal Services, or the Center of Medicare and Medicaid Services. FTI is also shared under agreements allowed by statute or regulations.

FieldPrint means the Federal Bureau of Investigations and Wisconsin Department of Justice authorized vendor for fingerprinting.

FBI Fingerprinting (FD-258) means review of FBI fingerprint results conducted to identify possible suitability issues. A check of federal and state criminal records conducted by the FBI through an agreement with the Wisconsin Department of Justice, when authorized by federal and state law.

Identified Position are all positions that have or may have access to FTI. A list of all “FTI covered positions” within the Agency is provided in Appendix A to this Policy.

IRS Publication 1075 is a publication issued by the Internal Revenue Service that gives detail requirements for governmental agencies and their employees that have access to FTI. This publication provides guidance to ensure the policies, practices, controls, and safeguards employed by recipient agencies, agents, or contractors (including subcontractors) adequately protect the confidentiality of FTI.

Local Law Enforcement Check means a check of local law enforcement 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. This will assist agencies in identifying trends of misbehavior that may not rise to the criteria for reporting to the FBI database but is a good source of information regarding an applicant.

Suitability Standards means the criteria for determining an individual’s suitability to have access to FTI.

General Provisions

Background check requirements are conducted in conjunction with the Wisconsin Department of Justice, applicable law enforcement agencies and Wisconsin Circuit Court Access (CCAP). The Dodge County Child Support Agency and the Dodge County Human Resources Department shall work collaboratively to ensure that all requirements of this Policy have been completed before an individual is allowed access to FTI. This requirement must be noted in the employee’s Position Description Form and applicable recruitment announcements (see the Recruitment Section). The individual will not be allowed access to FTI until the individual passes all required background checks with a favorable rating under the Agency’s Suitability Standards below. All background checks must include 1) Federal Bureau of Investigation Fingerprinting (FieldPrint); 2) Citizenship Requirement Check; and 3) Local Law Enforcement Check.

A. Implementation Timeline

1. Currently Employed Individuals. Background Check Coordinator shall conduct background checks on current Agency employees whose job title is listed on Appendix A on or before September 30, 2019.
2. Candidates for Employment. This policy applies to all candidates for Agency employment at the time of a conditional offer.
3. Other Individuals. This policy applies to other individuals prior to allowing access to FTL.

B. Suitability Standards

1. Suitability Standards are set forth below and include a background check by obtaining information from the FBI and local law enforcement agencies, confirmation of citizenship, review of CCAP and any other criteria the Agency determines is applicable, as stated in this policy.
2. A criminal record will not automatically disqualify an individual from employment consideration or from access to FTL. The Agency will consider various factors in evaluating whether a conviction disclosed by an applicant warrants revoking a conditional offer of employment.

C. Reinvestigation Check Requirements

IRS Pub 1075 requires that a reinvestigation of employees must be conducted within five (5) years from the date of the previous background investigation for each individual having access to FTL. Re-investigations shall encompass the full five (5) year period.

D. Recruitment

When the Agency announces openings for any covered position that requires a criminal background check by operation of state or federal law, the announcement shall state the following:

Prior to hire, a background check including criminal record history will be conducted. Information from the background check will not necessarily preclude employment but will be considered in determining the applicant's suitability and competence to perform in the position.

E. Retention of Background Check Results

The Agency will retain and store background check authorization forms, result notifications and information according to the Dodge County Record Retention/Destruction Schedule set forth in Chapter 1 of the Dodge County Code of Ordinances or for ten (10) years, whichever period is greater.

F. Confidentiality of Records

Except as otherwise required or expressly permitted by state or federal law, information gathered pursuant to this policy including criminal history obtained by the Agency shall be confidential and shall not be disclosed unless required by federal or state law or court order. Any unauthorized disclosure (intentional or unintentional) shall be reported to the Dodge County Human Resources Department immediately. Persons who release or use this information without proper authorization may be subject to disciplinary action up to and including dismissal. Disclosures that violate criminal laws may also be referred to prosecuting authorities. The Human Resources Department shall be the repository for all information gathered pursuant to this policy and shall maintain such documentation in a separate, confidential file in a secured, locked file cabinet, not the individual's personnel file.

G. Providing Background Check Results to Subject Individual

1. The Background Check Coordinator, if requested, may provide all information required by law about the results of the individual's background check. In accordance with the Fair Credit Reporting Act, an employer shall provide an individual against whom the employer intends to take adverse action with a copy of the report.
2. The Background Check Coordinator shall provide an individual for whom a background check has been conducted with timely information about the avenues for challenging or appealing the background check results that may preclude that individual from accessing FTI.

Procedure

- A. Obtain Federal Bureau of Investigations (FBI) and Wisconsin Department of Justice (DOJ) background check information by submitting individual's fingerprints to DOJ and FBI via FieldPrint and conduct Suitability Determination.

Conduct a determination based on the Suitability Standards defined herein. Consideration should be given to the Wisconsin Fair Employment Act (Wisconsin §111.31) which does not allow discrimination based on arrests, convictions, or pending charges unless a substantial relationship exists between a conviction, pending charge, and the duties of the job. As outlined below, CSAs should consider a multitude of factors when assessing returned results. A subject shall be determined suitable to have FTI access if all of the following inquiries are favorably adjudicated by the Background Check Coordinator:

1. A subject's FBI criminal background check will be favorably adjudicated if the subject has no criminal history substantially related to the position for which they are being considered, as determined pursuant to Wis. Stat. § 111.335.

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2. A subject may not be discriminated against on the basis of a pending charge and/or conviction record unless there is a substantial relationship between the circumstances of the pending charge and/or conviction and the duties and responsibilities that the position requires. If the background check reveals a pending charge and/or conviction, conduct the substantial relationship test to assess whether the subject's tendencies and inclinations to behave in a certain way within a particular context are likely to reappear later in a related context, based on the traits revealed in the test. Consider the following factors:

- a. The Position:

1. The nature and scope of public or client contact required by the position. The nature and scope of the position's discretionary authority and degree of independence in judgment relating to decisions or actions that affect the public or clients.

2. The extent to which acceptable job performance requires public or client trust or confidence.

3. The amount and type of supervision received in the position.

4. The amount and type of supervision provided by the position to subordinate staff, if any.

5. The sensitive nature of the data or records maintained.

6. Whether the position includes fiduciary responsibilities.

7. Whether the position is one that the Legislature has determined that certain offense(s) bar the subject from employment.

8. The nature and scope of the position, including key access to facilities, access to cash, or access to vulnerable populations.

- b. The Offense:

1. Whether intent is an element of the offense.

2. Whether the elements of the offense are substantially related to the job duties.

3. Whether the circumstances of the pending charge or conviction arose out of an employment situation.

4. Whether the offense is one that under Federal or State law is a bar to employment for the specific job.

5. The elements of the offense.

- c. The Person:

1. Consider the recency of the offense.

2. Whether there are patterns or reoccurrences of offense(s).

3. Whether the person completed a rehabilitation program.

4. The seriousness and nature of the violation in relation to the duties and responsibilities of the position.

- B. Check with local law enforcement agencies for any identified arrests or convictions.
 1. For subjects who have lived, worked, or attended school **only** in Wisconsin for the past five years, information obtained through the WI-DOJ criminal background check will be considered, along with information obtained from the FBI background check and any supplemental information obtained by the Background Check Coordinator and/or Human Resource representative in determining whether there is a substantial relationship between the circumstances of a pending charge and/or conviction and the duties and responsibilities of the position.
 2. For subjects who have lived, worked or attended school in states **other than** Wisconsin during the past five years, the Background Check Coordinator and/or Human Resource representative must check with local law enforcement agencies that are the equivalent of DOJ, in each state where the candidate has lived, worked or attended school or obtain that information from a third party vendor. Information obtained about arrests with pending charges or convictions in other states will be considered along with information obtained from the FBI background check and any supplemental information obtained by the Background Check Coordinator and/or Human Resource Personnel in determining whether there is a substantial relationship between the circumstances of a pending charge and/or conviction and the duties and responsibilities of the position.
 3. Only information about arrests related to currently pending charges and/or convictions may be considered.
 4. **See Suitability Determination and Substantial Relationship Test above.** Utilize criteria above if arrests or convictions are revealed.
- C. Determine eligibility to work in the United States.
 - a. For new hires only, validate the individual's eligibility to legally work in the United States by:
 - i. Completion of USCIS Form I-9
 - ii. Within three (3) days of completion of Form I-9, process the individual through E-Verify.

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- b. For new contractors, subcontractors, vendors, the contracting Agency shall provide documentation validating its employees' eligibility to legally work in the United States.

Authority and References

- 26 U.S. Code §6103
- 2017 Wisconsin Act 154
- DCL-15-10 Dear Colleague Letter dated July 9, 2015
<https://www.acf.hhs.gov/css/resource/irs-background-investigation-requirements>
- Executive Order 16-05, Building safe and strong communities through successful reentry.
http://www.governor.wa.gov/sites/default/files/exe_order/eo_16-05.pdf
- IRS Publication 1075, September 2016 Revision.
<https://www.irs.gov/pub/irs-pdf/p1075.pdf>
- U.S. Equal Employment Opportunity Commission.
https://www.eeoc.gov/eeoc/publications/background_checks_employers.cfm

Appendix A: Covered Positions for FTI

<i>Account Clerk I, II, III</i>	0 (updated 7/1/2021)
Financial Specialist	1 (updated 7/1/2021)
Child Support Director	1
Child Support Attorney	2 (updated 7/1/2021)
<i>Child Support Assistant Attorney</i>	0 (updated 7/1/2021)
<i>Child Support Lead Worker</i>	0 (updated 7/1/2021)
Child Support Specialist – Lead	1 (updated 7/1/2021)
<i>Child Support Specialist Initiation I and II</i>	0 (updated 7/1/2021)
Child Support Specialist – Paternity/Establishment	1 (updated 7/1/2021)
<i>Child Support Specialist Enforcement I and II</i>	0 (updated 7/1/2021)
Child Support Specialist - Enforcement	4 (updated 7/1/2021)
<i>Child Support Services Aide</i>	0 (updated 7/1/2021)
Child Support Assistant	1 (updated 7/1/2021)
Document Scan Clerk	1 (updated 6/1/2021)