

TRAINING AND EMPLOYMENT NOTICE	NO. 5-17
	DATE July 31, 2017

TO: STATE WORKFORCE AGENCIES
STATE WORKFORCE ADMINISTRATORS
STATE WORKFORCE LIAISONS

FROM: BYRON ZUIDEMA /s/
Deputy Assistant Secretary

SUBJECT: Required Background Investigations for Employees and Contractors Who Access Federal Tax Information

1. **Purpose.** To advise State Unemployment Insurance (UI) agencies of the need to conduct background investigations on agency or contract staff that use or plan to use Federal Tax Information (FTI) in the performance of their jobs. This Internal Revenue Service (IRS) requirement is designed to ensure appropriate safeguards are in place to protect FTI to the greatest extent possible.

2. **Background.** Section 6103 of the Internal Revenue Code outlines the confidentiality and disclosure requirements for federal tax returns and the information contained therein. In September, 2016, the IRS issued Publication 1075, which provides additional guidance on the methods and requirements that are to be employed to safeguard FTI. The latest revision to Publication 1075 specifies elements that require state UI agencies to implement procedures to comply with the IRS Safeguards requirements related to the use of FTI. Specifically, Sections 5.1.1 and 5.1.2 outline minimum requirements for background investigations for all employees, contractors, and subcontractors (if authorized) who access or will require access to FTI within state agencies, including the UI agency, in the performance of their work duties. These safeguard requirements pertain to current employees and contractors and newly hired employees and contractors. The requirements do not mandate that state and local agencies perform background investigations on all applicants prior to an offer of employment; however, a background investigation meeting the minimum requirements set out in the attachment below must be completed before a newly hired employee is allowed access to FTI.

The background investigations component of the IRS Safeguards requirements became effective September 30, 2016. IRS Safeguards staff communicated the summary of new Safeguards requirements via conference calls with designated UI agency FTI point(s) of contact. FTI data recipients were instructed to review the updated version of IRS Publication 1075 for complete details related to the new Safeguards requirements. Effective October 1, 2017, states that have not implemented the background investigations requirement will be subject to an IRS Safeguards Corrective Action Plan to remediate this IRS Safeguards requirement.

Generally, state UI agency staff that access FTI include staff working in Tax Operations, but may also include staff working in Benefit Payment Control, Appeals, Internal Security, and Information Technology. States should coordinate efforts with their human resources department to identify all program areas and staff that may access FTI and develop policies and procedures to ensure compliance with the IRS Safeguard requirements. Further, states with centralized, consolidated or inter-agency organizational units that include UI staffing and UI functions will need to communicate these IRS Safeguard requirements to all appropriate parties and ensure the background investigations component is applied uniformly.

3. **Action Requested.** State UI agencies are required to access FTI to perform federally-mandated UI program integrity initiatives. Accordingly, State UI agencies must ensure the background investigations component is implemented by September 30, 2017 and that it meets the minimum requirements outlined in IRS Publication 1075. An excerpt of Publication 1075 regarding the minimum requirements and implementation procedures for background investigations is attached.
4. **Inquiries.** Questions related to IRS Publication 1075 IRS Safeguards regarding background minimum requirements or implementation procedures should be emailed to SafeguardReports@irs.gov. Questions related to the guidance in this memorandum, or its attachment, may also be directed to the appropriate Regional Office.
5. **Attachment.** Excerpt – Publication 1075, Sections 5.0 – 5.1.2