Internal Revenue Code and subject to its safeguarding requirements, including IRS oversight.

**FTI Suitable** (no reports)—an employee, contractor or subcontractor who is suitable to access federal tax information in the performance of his duties, function or service at the department.

**FTI Suitable** (with reports)—an employee, contractor or subcontractor where information was received during the criminal history record check process that indicated there were criminal cases, convictions, arrests or serious misconduct but a determination was made based upon compelling reasons, to allow access to FTI in the performance of his duties, function or service at the department.

**FTI Unsuitable**—an employee, contractor or subcontractor who is not suitable to access federal tax information in the performance of his duties, function or service at the department.

D. General Provisions for Criminal History Record Checks

1. Every current employee, prospective employee, contractor or subcontractor identified as having or who will have access to FTI, shall sign a written authorization to have the fingerprinting and criminal history record check performed.

2. Criminal history record checks will include, at minimum, a national check through the use of fingerprints that are sent to the FBI, a state check, through the use of fingerprints sent to the Louisiana Bureau of Criminal Identification and Information along with a local check, through various local law enforcement agencies.

3. Criminal history record checks will be completed, at minimum, every 10 years.

4. Criminal history record checks will only be done on prospective employees after a conditional offer of employment is signed by the prospective employee.

5. Background checks on prospective contractors must be done prior to the contractor beginning work on the contract.

E. Suitability Standards

1. Whether a current or prospective employee, contractor or subcontractor is deemed to be “FTI suitable (no reports),” “FTI suitable (with reports),” or “FTI unsuitable” is determined by the factors contained in the following table.

<table>
<thead>
<tr>
<th>Designation</th>
<th>Criminal History Record Check Results</th>
</tr>
</thead>
<tbody>
<tr>
<td>FTI Suitable (No Reports)</td>
<td>No reports of open criminal cases, convictions, arrests or serious misconduct</td>
</tr>
</tbody>
</table>
| FTI Suitable (With Reports) | • No reports of open criminal cases, convictions, arrests or serious misconduct with relevance to the duties of the position or access to FTI  
• Reports of open criminal cases, convictions, arrests or serious misconduct relevant to the duties of the position or access to FTI: but, compelling mitigating documentation has been provided  
• Reports of criminal cases, convictions, arrests or serious misconduct that occurred 10 or more years prior to the date of the criminal history record check  
  - The criminal case, conviction, arrest or serious misconduct cannot be one or of the nature discussed in the FTI Unsuitable category.  
  - The current or prospective employee, contractor and/or subcontractor shall submit a detailed explanation.  
  - The detailed explanation will be reviewed to determine FTI suitability. |
| FTI Unsuitable | Reports of criminal cases, convictions, arrests or serious misconduct that includes but is not limited to: |
2. Any criminal history record check that does not result in a determination of FTI suitable (no reports) will be reviewed on a case by case basis.

3. The case by case assessment of all open criminal cases, convictions, arrests, or reports of misconduct shall take into consideration all the items/factors below:
   a. the nature of the offense;
   b. the relation of the offense to the duties of the employee, contractor or subcontractor;
   c. any aggravating or mitigating circumstances, including the passage of time; and
   d. any evidence of rehabilitation of the subject or the lack thereof.

F. Impact of Suitability Determination

1. Prospective and current employees as well as contractors and subcontractors who have been deemed FTI suitable (no reports) or FTI suitable (with reports) will be able to exercise one of the options below that is applicable to their status:
   a. continue to or be allowed to access FTI in the performance of job duties;
   b. continue to or be allowed to access FTI in the performance of job duties with special restrictions or caveats; or
   c. be considered for a vacant position with FTI access.

2. If a current or prospective employee, contractor or subcontractor has been deemed FTI unsuitable, the department will exercise one of the options below:
   a. access or use of FTI will immediately be denied, suspended or prevented;
   b. the job offer may be rescinded;
   c. the contract may be terminated; or
   d. the contractor or subcontractor’s employee may be removed or prohibited from performing work on the contract.

3. A determination of FTI unsuitable may be appealed using the procedures outlined in Subsection G of this Section.

4. A successful appeal is the only mechanism in which the impact of a FTI unsuitable determination can be avoided.

G. Appeal Procedures

1. In the event the criminal history record check reveals information that leads to a determination of FTI unsuitable for a current or prospective department employee, contractor or subcontractor, the impacted person will be notified. This notification will also inform the impacted person of their right to challenge the accuracy of the criminal history record check.

2. The impacted person will have 30 days to present documentation to refute or mitigate the determination.

3. The department will review the documentation and notify the impacted person of its determination. The department may also use this information to request a new or updated criminal history record check, if allowed by the national, state and/or local law enforcement agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.5, R.S. 47:1504.1 and R.S. 47:1511

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 44:000 (January 2018).

Kimberly Lewis Robinson
Secretary