

# Human Resources Policy

Commonwealth of Pennsylvania  
Office of Administration

## Federal Tax Information Security Compliance

**Number**  
HR-TM003

**Effective Date**  
March 4, 2024

**Category**  
Talent Management

**Supersedes**  
None

**Contact**  
717.710.2939

**Scheduled Review**  
March 2026

### 1. Purpose

This Human Resources Policy ("HRP") establishes a Commonwealth-wide policy to promote public confidence and to protect the Federal Tax Information ("FTI") entrusted to various Commonwealth employees for use in carrying out the responsibilities related to their Commonwealth employment.

### 2. Scope

Except as noted in Section 7, this HRP applies to all departments, offices, boards, commissions, and councils under the Governor's jurisdiction for human resources management (collectively "agencies").

### 3. Background

Internal Revenue Service (IRS) Publication 1075, *Tax Information Security Guidelines for Federal, State and Local Agencies*, establishes the minimum background check requirements to determine an individual's suitability for access to FTI. Section 226 of The Administrative Code of 1929, Act of April 9, 1929, P.L. 177, No. 175, § 226, 71 P.S. § 86, implements the minimum background check requirements for current and prospective Commonwealth employees whose job duties or responsibilities require access to FTI. This HRP is

intended to ensure that current and prospective Commonwealth employees, whose job duties and responsibilities require, or will require, access to FTI, undergo the required background checks, so that a determination can be made regarding the individual's suitability to access FTI.

#### **4. FTI Defined**

FTI consists of federal tax returns and information derived from federal tax returns, such as estimated tax declarations or refund claims, and includes amendments, supplements, supporting schedules, attachments or lists, required by or permitted under the Internal Revenue Code, 26 U.S.C. §§ 1-9834, which are filed with the IRS by, on behalf of, or with respect to any person, that are in an agency's possession or control.

FTI also includes federal tax returns or return information received directly from the IRS or obtained through an authorized secondary source, such as the Social Security Administration, Federal Office of Child Support Enforcement, Bureau of the Fiscal Service, Centers for Medicare and Medicaid Services, or any other entity authorized to act on behalf of the IRS.

FTI includes any information created by the recipient that is derived from a federal return or return information received from the IRS or obtained through a secondary source.

#### **5. Policy**

All Commonwealth employees in positions with access to FTI, and all candidates being considered for employment in such positions, must undergo a background check, in accordance with this HRP, and must be found suitable to access FTI. If a Commonwealth employee or prospective employee is deemed not suitable to access FTI, appropriate action shall be taken pursuant to Section 226 of The Administrative Code of 1929, 71 P.S. § 86. Commonwealth employees with access to FTI must undergo a recheck within five (5) years from the date of the individual's last check.

Background checks for Commonwealth employees in positions with access to FTI, and candidates being considered for employment in such positions, shall include the following:

- a.** FBI fingerprinting;

- b.** A check of local law enforcement agencies where the individual has lived, worked, and/or attended school within the last five (5) years;
- c.** Citizenship/residency verification; and
- d.** A Pennsylvania State Police criminal background check.

Human Resources (HR) staff supporting the agency will, in conjunction with the appropriate agency personnel, identify positions requiring a background check consistent with this HRP and will add/remove positions requiring such background checks accordingly. Positions identified as having access to FTI will be marked in SAP with an appropriate indicator, which will be used to ensure that employees with access to FTI are rechecked under this HRP for suitability every five (5) years, as required by Publication 1075.

All offers of employment for positions with access to FTI will be contingent upon the completion of the background checks required under this HRP and a finding of suitability under Section 6 of this HRP. A prospective Commonwealth employee may not be given access to FTI until a determination of suitability has been made. In accordance with Section 226 of The Administrative Code of 1929, 71 P.S. § 86, an individual who refuses to comply with FTI-related background check requirements will be deemed not suitable for access to FTI.

A Commonwealth employee's access to FTI may be revoked at any time if a question regarding suitability arises during the course of their employment. Should HR staff become aware of a current Commonwealth employee's conduct, including arrests or criminal convictions, which gives reason to question the employee's suitability to access FTI, HR staff shall re-evaluate the employee's suitability in accordance with this HRP.

Nothing in this HRP shall be construed to impair or otherwise affect the authority accorded by law to an executive department, agency, or the head thereof. This HRP is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the Commonwealth of Pennsylvania, its departments, agencies, or entities, its officers, employees, or agents or any other person.

## **6. Determination of Suitability**

Suitability of a current or prospective Commonwealth employee whose job duties or responsibilities require access to FTI will be determined on a case-by-case basis, with the primary focus being on the individual's level of risk for unauthorized release or misuse of FTI. The risk-level assessment shall include consideration of the following:

- a.** Whether the individual has ever been convicted of a misdemeanor or felony offense involving dishonesty, fraud, forgery, falsification, deceit, theft, larceny, burglary, bribery, embezzlement, extortion, false statements, abuse of fiduciary capacity, or conspiracy to commit any such crimes; and
- b.** Whether the individual has any other misdemeanor or felony conviction of a serious nature that would raise concerns regarding access to FTI. Such consideration should include a review of the following:
  - 1) the nature and seriousness of the offense;
  - 2) the circumstances surrounding the offense;
  - 3) the length of time that has passed since the offense;
  - 4) the age of the individual at the time of the offense;
  - 5) whether the individual completed the sentence imposed;  
and
  - 6) the relationship between the offense and access to FTI.
- c.** For current employees, consideration will also be given to years of service, work history, and job performance with the Commonwealth.
- d.** For purposes of Section 6.a. of this HRP, crimes for which a misdemeanor or felony conviction may result in an employee or candidate being deemed not suitable for access to FTI include, but are not limited to:
  - 1) Theft by unlawful taking or disposition (18 Pa.C.S. § 3921);
  - 2) Theft by deception (18 Pa.C.S. § 3922);

- 3) Theft by extortion (18 Pa.C.S. § 9323);
- 4) Theft by failure to make required disposition of funds received (18 Pa.C.S. § 3927);
- 5) Retail theft (18 Pa.C.S. § 3929);
- 6) Organized retail theft (18 Pa.C.S. § 3929.3);
- 7) Theft from a motor vehicle (18 Pa.C.S. § 3934);
- 8) Forgery (18 Pa.C.S. § 4101);
- 9) Fraudulent destruction, removal or concealment of recordable instruments (18 Pa.C.S. § 4103);
- 10) Tampering with records or identification (18 Pa.C.S. § 4104);
- 11) Bad checks (18 Pa.C.S. § 4105);
- 12) Access device fraud (18 Pa.C.S. § 4106);
- 13) Unlawful device-making equipment (18 Pa.C.S. § 4106.1);
- 14) Deceptive or fraudulent business practices (18 Pa.C.S. § 4107);
- 15) Commercial bribery and breach of duty to act disinterestedly (18 Pa.C.S. § 4108);
- 16) Defrauding secured creditors (18 Pa.C.S. § 4110);
- 17) Fraud in insolvency (18 Pa.C.S. § 4111);
- 18) Securing execution of documents by deception (18 Pa.C.S. § 4114);
- 19) Insurance fraud (18 Pa.C.S. § 4117);
- 20) Washing vehicle titles (18 Pa.C.S. § 4118);
- 21) Identity theft (18 Pa.C.S. § 4120);
- 22) Possession and use of unlawful devices (18 Pa.C.S. § 4121);

- 23) Crimes (sales and use tax) (72 P.S. § 7268)
- 24) Crimes (personal income tax) (72 P.S. § 7353)
- 25) Sales of unstamped cigarettes (72 P.S. § 8272)
- 26) Possession of unstamped cigarettes (72 P.S. § 8273)
- 27) Counterfeiting (cigarette tax stamps) (72 P.S. § 8274)
- 28) Sales or possession of tobacco product when tax not paid (72 P.S. § 8207-A)
- 29) Violations (liquid fuels and fuels tax) (75 Pa.C.S. § 9018)
- 30) Offenses (Workers' Compensation insurance fraud) (77 P.S. § 1039.2)
- 31) Equivalent offenses under the laws of this Commonwealth or other jurisdictions, including Federal law.

## **7. Effective Date**

The Effective Date of this HRP is March 4, 2024. NOTE: The initial requirement to comply with this HRP will be phased in for agencies with access to FTI. Please check with your agency HR office if you have questions about when this HRP may apply to your agency.

## **8. Related References**

Management Directive 515.15 Amended, Employment-Related Verification and Background Checks and IT Policy SEC 009, as amended.

## **9. Publication Version Control**

It is the user's responsibility to utilize the latest version of this publication, which appears on <http://hrm.oa.pa.gov> for Commonwealth personnel and on the Office of Administration public portal: <http://www.oa.pa.gov/Policies/Pages/default.aspx>. Questions regarding this publication are to be directed to 717.710.2939.

This chart contains a history of this publication's revisions:

Version	Date	Purpose of Revision
Original	3/4/2024	Base Document