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**LEGISLATIVE RESEARCH COMMISSION**

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**MEMORANDUM**

TO: Allison Ball, Auditor of Public Accounts

FROM: Emily Caudill, Regulations Compiler

RE: Proposed Amendment or New Regulation – 045 KAR 001:090

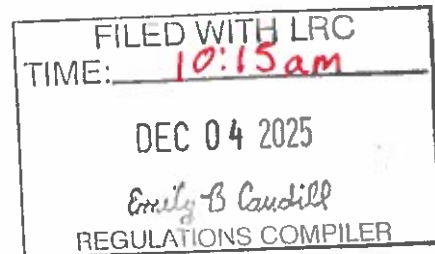
DATE: December 4, 2025

A copy of the administrative regulation listed above is enclosed for your files. This regulation is **tentatively** scheduled for review by the Administrative Regulation Review Subcommittee at its **MARCH 2026** meeting. We will notify you of the date and time of this meeting once it has been scheduled.

Pursuant to KRS 13A.280, **if** comments are received during the public comment period, a Statement of Consideration or a one-month extension request for this regulation is due **by noon on March 13, 2026**. Please reference KRS 13A.270 and 13A.280 for other requirements relating to the public hearing and public comment period and Statements of Consideration.

If you have questions, please contact us at [RegsCompiler@LRC.ky.gov](mailto:RegsCompiler@LRC.ky.gov) or (502) 564-8100.

Enclosures



1 CABINET FOR GENERAL GOVERNMENT

2 AUDITOR OF PUBLIC ACCOUNTS

3 (New Administrative Regulation)

4 45 KAR 1:090. Employee Access to Federal Tax Information (FTI).

5 RELATES TO: KRS 18A.095, 43.010, 43.032, 43.035, 43.040, 335B.010, 335B.020; 26 U.S.C. 6103; 26  
6 C.F.R. 301.6103(p)(7)-1

7 STATUTORY AUTHORITY: KRS 43.032

8 CERTIFICATION STATEMENT: This is to certify that this administrative regulation complies with the  
9 requirements of 2025 RS HB 6, Section 8.

10 NECESSITY, FUNCTION, AND CONFORMITY: KRS 43.032 requires each employee of the Auditor  
11 of Public Accounts, including contract staff, with access to or use of federal tax information (FTI) to  
12 submit to a criminal background investigation by means of fingerprint check by the Department of  
13 Kentucky State Police and the Federal Bureau of Investigation. KRS 43.032 requires the Auditor to  
14 promulgate administrative regulations to implement this requirement. This administrative regulation  
15 establishes requirements for fingerprint-based state and national criminal background checks for  
16 prospective and current employees, including contract staff whose job duties include access to or use of  
17 FTI.

18 Section 1. Definitions.

19 (1) "Auditor" is defined by KRS 43.010.

20 (2) "Disqualifying offense" means a conviction, plea of guilty, Alford plea, or plea of nolo contendere to  
21 any felony, misdemeanor during the preceding seven (7) years, or offense the nature of which indicates

1 that the employee constitutes an unreasonable and immediate risk to the security of federal tax  
2 information, as determined by the Auditor.

3 (3) “Federal tax information” or “FTI” means federal tax returns and return information that may:

4 (a) Contain personally identifiable information; and

5 (b) Include information created by the recipient that is:

6 1. Derived from federal return or return information; and

7 2. Received directly from the Internal Revenue Service (IRS) or obtained through an authorized  
8 secondary source, which may include:

9 a. Social Security Administration (SSA);

10 b. Federal Office of Child Support Enforcement (OCSE);

11 c. Bureau of the Fiscal Service (BFS);

12 d. Centers for Medicare and Medicaid Services (CMS); or

13 e. Another entity acting on behalf of the IRS.

14 (4) “Rap back service” means a notification program in which the Auditor or responsible agency, upon  
15 approval to participate in the program, will be informed if an individual who has undergone a  
16 fingerprint-based criminal background check in accordance with the requirements of this administrative  
17 regulation, and whose fingerprints are retained by the Department of Kentucky State Police or the  
18 Federal Bureau of Investigation, is subsequently arrested.

19 (5) “Responsible agency” means an office or division of the Auditor, or an entity under contract with the  
20 Auditor, that employs or offers a job to an individual in a position for which the job duties include  
21 access to or use of FTI.

22 Section 2. Requirement for Criminal Background Checks.

23 (1) As a condition of initial application for employment or continued employment either directly or by  
24 contract in a position for which the job duties include access to or use of FTI, the Auditor or responsible

1 agency shall require a prospective or current employee, including contract staff, to submit to a fingerprint-  
2 based state and national criminal background check:

3 (a) After the individual is offered a job but before he or she begins working; and

4 (b) At least one (1) time during each five (5) year period for a current employee or contract staff.

5 (2) The responsible agency that requests a fingerprint-based state and national criminal background check  
6 on behalf of a prospective or current employee shall incur all fees included in the actual cost of each  
7 background check requested, including the rap back service.

8 (3) The Auditor or responsible agency shall not employ directly or by contract an individual in a position  
9 for which the job duties include access to or use of FTI if the individual:

10 (a) Refuses to consent to a fingerprint-based state and national criminal background check; or

11 (b) Is found to have a disqualifying offense.

12 (4) The Auditor or responsible agency shall notify each prospective or current employee determined to  
13 have a disqualifying offense.

14 Section 3. Disqualification of Other Criminal Offenses or Factors. The Auditor or responsible agency shall  
15 not be obligated to employ or offer employment to an individual with a criminal offense not specifically  
16 listed in Section 1(2) of this administrative regulation or other factor that bears upon the fitness of the  
17 individual to work in a position for which the job duties include access to or use of FTI.

18 Section 4. Challenges to Criminal History Record Information. An individual subject to a criminal  
19 background check required by KRS 43.032 and this administrative regulation shall have the right to  
20 request and inspect his or her criminal history record and to request correction of any inaccurate  
21 information.

22 Section 5. Rehabilitation Review.

- 1 (1) A prospective or current employee of the Auditor found to have a disqualifying offense upon  
2 completion of the criminal background check shall be eligible for consideration of rehabilitation under an  
3 independent review process.
- 4 (2) A prospective or current employee of the Auditor may submit a written request for a rehabilitation  
5 review to the Division of Human Resource Administration no later than fourteen (14) calendar days from  
6 the date of notice of a disqualifying offense issued pursuant to Section 2(4) of this administrative  
7 regulation.
- 8 (3) A current employee of the Auditor who requests a rehabilitation review may be retained on staff if the  
9 employee is assigned duties that do not include access to or use of FTI.
- 10 (4) The request for a rehabilitation review shall include the following information:
- 11 (a) A written explanation of each disqualifying offense, including:
- 12 1. A description of the events related to the disqualifying offense;
- 13 2. The number of years since the occurrence of the disqualifying offense;
- 14 3. The age of the offender at the time of the disqualifying offense;
- 15 4. Evidence that the individual has pursued or achieved rehabilitation with regard to the disqualifying  
16 offense; and
- 17 5. Any other circumstances surrounding the offense;
- 18 (a) Official documentation showing that all fines, including court-imposed fines or restitution, have been  
19 paid or documentation showing adherence to a payment schedule, if applicable;
- 20 (b) The date probation or parole was satisfactorily completed, if applicable; and
- 21 (c) Employment and character references, including any other evidence demonstrating the ability of the  
22 individual to perform the employment responsibilities and duties competently.
- 23 (5) A rehabilitation review shall be conducted by a committee of three (3) employees of the Division of  
24 Human Resource Administration or the Office of Legal and Records Services.

1 (6) The committee shall consider the information required under subsection (4) of this section, and shall  
2 also consider mitigating circumstances including:

3 (a) The amount of time that has elapsed since the disqualifying offense  
4 (b) The lack of a relationship between the disqualifying offense and the:

5 1. Position for which the prospective employee has applied; or  
6 2. The employee's current position; and

7 (c) Evidence that the prospective or current employee of the Auditor has pursued or achieved rehabilitation  
8 with regard to the disqualifying offense.

9 (7) No later than thirty (30) calendar days from receipt of the written request for the rehabilitation review,  
10 the Division of Human Resource Administration shall send the committee's determination on the  
11 rehabilitation waiver to the prospective or current employee.

12 (8) The prospective or current employee may appeal the results of a rehabilitation review to the Personnel  
13 Board in accordance with KRS 18A.095.

14 Section 6. Pardons and Expungement. An applicant or current employee who has received a pardon for a  
15 disqualifying offense or has had the record expunged may be employed in a position with job duties that  
16 include access to or use of FTL.

*Allison Ball*

Allison Ball, Auditor of Public Accounts

*12/4/25*

Date

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on February 23, 2025, at 10:00 a.m. Eastern Time at the office of the Auditor of Public Accounts, 209 St. Clair Street, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through February 28, 2025. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact person: Jeremy J. Sylvester, Principal Deputy General Counsel, Auditor of Public Accounts, 209 St. Clair Street, Frankfort, KY 40601; Tel. 502-564-5841; Fax 502-564-2912; E-mail: [Jeremy.Sylvester@ky.gov](mailto:Jeremy.Sylvester@ky.gov).



## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

45 KAR 1:090: Employee Access to Federal Tax Information (FTI).

Contact Person: Jeremy J. Sylvester

Phone: 502-564-5841

Email: Jeremy.Sylvester@ky.gov

Subject Headings: Audits and Auditors; Background Checks; Taxation

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes requirements for fingerprint-based state and national criminal background checks for prospective and current employees of the Auditor, including contract staff whose job duties includes access to or use of Federal Tax Information (FTI).

(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with the fingerprint-based background check requirement established by IRS Publication 1075 (Rev. 11-2021) and KRS 43.032.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by promulgating uniform requirements for fingerprint-based state and national criminal background checks for prospective and current employees of the Auditor, including contract staff whose job duties includes access to or use of FTI.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of federal and state law by, in accordance with the mandates of federal and state law, establishing uniform requirements and procedures for fingerprint-based state and national criminal background checks for prospective and current employees of the Auditor, including contract staff whose job duties include access to or use of FTI.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Not applicable.

(b) The necessity of the amendment to this administrative regulation: Not applicable.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes. This administrative regulation implements legislation enacted in 2025, 2025 Ky. Acts ch. 117, sec. 27.

(4) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects prospective and current employees of the Auditor, including contract staff, whose job duties include access to or use of FTI and are therefore subject to fingerprint-based state and national background checks in accordance with IRS Publication 1075 (Rev. 11-2021) and KRS 43.032.

(5) Provide an analysis of how the entities identified in question (4) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (4) will have to take to

comply with this administrative regulation or amendment: The persons identified in question (4) will not be materially impacted by the promulgation of this administrative regulation because they are already required to have background checks under IRS Publication 1075 (Rev. 11-2021) and will not bear the cost of these background checks. The regulation defines crimes which may disqualify a prospective or current employee of the Auditor from having access to or using FTI. The regulation also provides a mechanism or the current or prospective employees to challenge the disqualification.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4): The Auditor will bear the cost for conducting the fingerprint-based state and national background checks required under IRS Publication 1075 (Rev. 11-2021) and KRS 43.032.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4): The Auditor can ensure that it complies with current state and federal requirements governing the security of FTI by determining the suitability of current and prospective employees.

(6) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Under statute, the fee charged by the Kentucky State Police or the Federal Bureau of Investigation to the Auditor for each background check and enrollment in the back rap system shall be an amount no greater than the actual cost of processing the request and conducting the background check. The Auditor estimates approximately 90 staff members will be subject to fingerprint-based state and national criminal background checks, resulting in approximately \$5600 in costs to the Auditor.

(b) On a continuing basis: The Auditor's expenditures on a continuing basis are indeterminable but anticipated to be less than costs incurred during the first year of implementation.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment: The source of funding to be used for implementation and enforcement of this administrative regulation is State Funds.

(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The Auditor can absorb the additional cost associated with implementing this administrative regulation.

(9) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish or increase any fees.

(10) TIERING: Is tiering applied? Tiering is not applicable to this administrative regulation because it applies equally to all individuals or entities regulated by it.

## FISCAL IMPACT STATEMENT

45 KAR 1:090: Employee Access to Federal Tax Information (FTI).

Contact Person: Jeremy J. Sylvester

Phone: 502-564-2912

Email: Jeremy.Sylvester@ky.gov

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 43.032, IRS Publication 1075 (Rev. 11-2021).

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This administrative regulation is expressly authorized by 2025 Ky. Act. ch. 117, sec. 27, which is now codified as KRS 43.032.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: The administrative regulation affects the Auditor's Office of Planning and Management, Division of Human Resource Administration, which will administer the requirements for prospective and current employees of the Auditor, including contract staff, whose job duties include access to or use of FTI and are therefore subject to fingerprint-based state and national background checks under IRS Publication 1075 (11-2021) and KRS 43.032. The Department of the Kentucky State Police (KSP) must facilitate the background checks required by this administrative regulation but will be reimbursed by the Auditor for its costs. KSP charges approximately \$25 for a state criminal background check, including rap back, and approximately 90 employees of the Auditor are expected to submit to fingerprint checks during the first year. Therefore, this administrative regulation will generate approximately \$ 2250 of additional funds for KSP initially.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: \$5600

For subsequent years: Subsequent years will have lower expenditures until the five-year mark is reached for employees and contract staff still employed since their last background check. With only about a 0.45 % attrition and turnover rate currently experienced, the cost will be negligible in between renewal years. New employees and contract staff cost is \$65.25 for the initial background check. Assuming 4 new employees per year, the cost for background checks for new employees will be around \$260 per year.

2. Revenues:

For the first year: None.

For subsequent years: None.

3. Cost Savings:

For the first year: None.

For subsequent years: None.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts):  
None.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: Not applicable.

For subsequent years: Not applicable.

2. Revenues:

For the first year: Not applicable.

For subsequent years: Not applicable.

3. Cost Savings:

For the first year: Not applicable.

For subsequent years: Not applicable.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year: Not applicable.

For subsequent years: Not applicable.

2. Revenues:

For the first year: Not applicable.

For subsequent years: Not applicable.

3. Cost Savings:

For the first year: Not applicable.

For subsequent years: Not applicable.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a):

(a) Fiscal impact of this administrative regulation: The Auditor will absorb the cost associated with the required fingerprint-based background checks.

(b) Methodology and resources used to reach this conclusion: Approximately 90 current employees may have access to or use FTI as part of their job duties. All these employees will receive another background check during the first year of this administrative regulation. At \$65.25 per employee rate, the cost to the Auditor is approximately \$5600 for this initial round of background checks. Assuming around a 0.45% turnover rate based on historical averages, 4 prospective employees per year would have an initial background check at the \$65.25 rate. This results in an approximate cost of \$260 per year.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a “major economic impact”, as defined by KRS 13A.010(14): This administrative regulation will not have an overall negative or adverse major economic impact.

(b) The methodology and resources used to reach this conclusion: Not applicable.

## FEDERAL MANDATE ANALYSIS COMPARISON

45 KAR 1:090: Employee Access to Federal Tax Information (FTI).

Contact Person: Jeremy J. Sylvester

Phone: 502-564-2912

Email: Jeremy.Sylvester@ky.gov

(1) Federal statute or regulation constituting the federal mandate. IRS Publication 1075 (Rev. 11-2021); 26 C.F.R. § 301.6103(p)(7)-1; 26 U.S.C. § 6103.

(2) State compliance standards. KRS 43.032.

(3) Minimum or uniform standards contained in the federal mandate. IRS Publication 1075 (Rev. 11-2021) requires an FBI fingerprint check for any individual granted access to FTI. 26 C.F.R. § 301.6102(p)(7)-1 allows the Internal Revenue Service (IRS) to terminate or suspend disclosure of returns and return information to any authorized recipient if the IRS determines that: (1) the authorized recipient has allowed an unauthorized inspection or disclosure of returns or return information and the authorized recipient has not taken adequate corrective action to prevent the recurrence of an unauthorized inspection or disclosure; or (2) the authorized recipient does not satisfactorily maintain the safeguards for protecting returns and return information, and has made no adequate plan to improve its system to maintain the safeguards satisfactorily. 26 U.S.C. § 6103 pertains to the confidentiality and disclosure of returns and return information.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation does not impose stricter requirements than those required by federal mandate.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.