

March 22, 2019

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

EXECUTIVE SUMMARY

ALL COUNTY LETTER NO. 19-28

This ACL provides guidance to CWDs for using interpreters when discussing Federal Tax Information (FTI) and to address finding H.11.3 from the IRS Safeguard Review January 2017. (H.11.3: "The agency has not documented restrictions regarding offshore access to FTI.")



PAT LEARY
ACTING DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY
DEPARTMENT OF SOCIAL SERVICES
744 P Street • Sacramento, CA 95814 • www.cdss.ca.gov



GAVIN NEWSOM
GOVERNOR

March 22, 2019

ALL COUNTY LETTER (ACL) NO. 19-28

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY SPECIAL INVESTIGATIVE UNIT CHIEFS
ALL COUNTY TAX INTERCEPT COORDINATORS
ALL COUNTY INCOME AND ELIGIBILITY VERIFICATION
SYSTEM COORDINATORS
ALL CALWORKS PROGRAM SPECIALISTS
ALL CALFRESH PROGRAM SPECIALISTS

SUBJECT: **FEDERAL TAX INFORMATION AND CONTRACTED
INTERPRETERS AND OFFSHORE RESTRICTION**

REFERENCE: [UNITED STATES CODE TITLE 26 - INTERNAL REVENUE CODE
SECTIONS 6103\(p\)\(4\) AND 6103\(l\)\(7\)](#)
[INTERNAL REVENUE SERVICE PUBLICATION 1075 "TAX
INFORMATION SECURITY GUIDELINES FOR FEDERAL, STATE
AND LOCAL AGENCIES" \("PUB 1075"\)](#)
[MANUAL OF POLICIES AND PROCEDURES SECTION 20-006](#)
[ACL NO. 15-56 INFORMATION SECURITY INCIDENT
REPORTING PROTOCOL FOR FEDERAL TAX INFORMATION
AND PERSONALLY IDENTIFYING INFORMATION](#)
[ACL NO. 16-106 RE-DISCLOSURE RESTRICTION OF FEDERAL
TAX INFORMATION TO CONTRACTORS](#)
[ACL NO. 19-07 SAFEGUARD REQUIREMENTS FOR VOICE OVER
INTERNET PROTOCOL AND FEDERAL TAX INFORMATION](#)

The purpose of this All County Letter (ACL) is to provide county welfare departments (CWDs) with guidance for working with contracted interpreters and the use of federal tax information (FTI), including the offshore restriction.

Background

The California Department of Social Services (CDSS) receives FTI from the Internal Revenue Service (IRS) and the Social Security Administration (SSA) under [United States Code Title 26, Internal Revenue Code \(IRC\) Section 6103\(l\)\(7\)](#). The CDSS provides this FTI to CWDs in two Income and Eligibility Verification System (IEVS) matches. These IEVS matches are the IRS Asset and the Beneficiary Earnings Exchange Record (BEER) matches. The FTI sourced from the IRS Asset and BEER matches must not be disclosed to contractors. (For more information on contractor disclosure restrictions, see [ACL No. 16-106](#), dated December 23, 2016, and [Publication 1075 Tax Information Security Guidelines for Federal, State, and Local Agencies \(Pub 1075\)](#) section 5.6 “Human Services Agencies.”)

“Federal tax information” is a term of art that refers specifically to data originally sourced from federal tax returns and is provided by federal agencies to other entities. Other data may be known as “FTI,” but not all FTI is subject to the safeguard requirements of [IRC §6103\(p\)\(4\)](#). The FTI that the CDSS provides to counties in the BEER and IRS Asset matches is subject to IRC §6103(p)(4) safeguards.

For these reasons, CWDs may disclose FTI to interpreters who are contracted by the CWD and who are not employees of the CWD only when using the protocols provided in this ACL. Any discussion between employees of the CWD and clients that includes FTI and which does *not* follow the protocols provided in this ACL should be considered an unauthorized disclosure of FTI and reported to the appropriate agencies. (See [ACL No. 15-56](#), dated August 14, 2015, for more information.)

Scope

This ACL covers the FTI the CDSS provides to CWDs under the authority of [IRC §6103\(l\)\(7\)](#) and FTI discussed with clients using interpretive services. Nothing in this ACL should imply that counties may infringe upon the civil rights of clients. No action may be taken by the CWD to impact clients’ cases based solely on the BEER and/or IRS Asset match data.

Authorized Employees

Only employees who have met the following conditions are deemed authorized to access or be able to access FTI:

- Employees of the CWD.
- Have a business need to access FTI to perform their duties or fulfill their responsibilities.
- Passed a background investigation in accordance with Pub 1075. (See [ACL No. 18-51](#), dated May 4, 2018.)

- Completed safeguard training specific to FTI.
- Signed a document certifying:
 - Their understanding of their responsibility for safeguarding FTI;
 - Their understanding of the requirement to report incidents or breaches (actual or suspected) of FTI to the appropriate federal agencies (IRS, Treasury Inspector General for Tax Administration, SSA);
 - Their understanding of the criminal penalties associated with the unauthorized access to and disclosure of FTI.

No Recording

When speaking to a client about the FTI from an IRS Asset and/or BEER match, the conversation must not be recorded for any purpose by any person or entity. Recording of conversations that may include FTI is strictly prohibited.

Client Authorization

Written authorization from clients is not required for discussing personal information or FTI with them. Verbal authorization and the documentation of the verbal authorization is required when an interpreter discusses FTI with the client. The client must acknowledge that they accept that the discussion will require that the client's personal information and FTI may be shared with the interpreter and agree to continue the discussion prior to discussing FTI. The CWD employee must notate the verbal authorization in the client's case file and the notation must include:

- The fact that the client provided verbal authorization to discuss their information.
- Date of the discussion.
- Location of the discussion or if the discussion is by telephone.
- That an IEVS match abstract or income documents prompted the need for the discussion.
- That the conversation was not recorded.

Counties are reminded to avoid disclosure of FTI in contractor-maintained systems. See [ACL No. 16-106](#), dated December 23, 2016, for more information.

Requirements for Contracted Interpreter Services and Offshore Restriction

If a county contracts for interpretation services that may cover FTI, the county must ensure the contractor completes the Sub-Contractor Certification Letter as part of the county's annual safeguard reporting for FTI.

The CWDs must not use contracted interpreter service providers located offshore when FTI is part of the discussion. No FTI may be accessed by agency employees, agents, representatives, or contractors located offshore, i.e. outside of the United States or the

United States territories, embassies or military installations. See [Pub 1075](#) Section 5.3 “Access to FTI via State Tax Files or Through Other Agencies.”

County-Employed and Other Interpreters

The CWD may allow employees to interpret for clients and discuss specific FTI if the employees have met the requirements as provided in the “Authorized Employees” section in this ACL.

The CWD may also discuss FTI with clients when clients provide their own interpreter, such as friends, family, or any other third party. Clients have the right to disclose their personal information and FTI to whomever they choose. For more information, see [Pub 1075](#) Section 1.4.4 “Information Received from Taxpayers or Third Parties.” For guidance on avoiding disclosure of FTI in conversations, see [ACL No. 19-07](#), dated January 28, 2019

If you have any questions, please contact the Fraud Bureau Safeguard Coordinator at (916) 651-1826 or FraudPrevention@dss.ca.gov.

Sincerely,

Original Document Signed By:

TODD R. BLAND
Assistant Director
Automation, Integrity, and Client Initiatives Branch