



Outsourcing Agreement Job Aid

Defining Contractor Functions and Access to CHRI Applicability

1. Obtain and review the proposed contract between the *Contractor*¹ and TRGA for *Noncriminal Justice Administrative Functions*², which include but are not limited to other authorized activities relating to the general use, handling and storage of CHRI. *Access to CHRI*³ means to view or make use of CHRI. For instance, if a TRGA would like to engage a contractor to develop or maintain a computer system for the TRGA or Tribe that contains FBI CHRI from the NIGC, the TRGA shall receive written permission from the FBI Compact Officer before executing the contract.
2. If the contractor will have direct or indirect access to CHRI, list the functions as identified in the proposed contract and the access to CHRI here:

Contractor functions: (list out all contractor functions)

Access to CHRI: (list out all direct or indirect contractor access to CHRI)

3. If the contractor will not have direct or indirect access to CHRI, do not request written permission from the FBI Compact Officer and stop here. Please contact iso@nigc.gov for additional technical assistance if needed to determine if contractor functions require access to CHRI.

¹ *Contractor* means a government agency, a private business, non-profit organization or individual, that is not itself an Authorized Recipient with respect to the particular noncriminal justice purpose, who has entered into a contract with an AR to perform noncriminal justice administrative functions requiring access to CHRI.

² Noncriminal Justice Administrative Functions means the routine noncriminal justice administrative functions relating to the processing of CHRI, to include but not limited to the following: 1. Making fitness determinations/recommendations 2. Obtaining missing dispositions 3. Disseminating CHRI as authorized by Federal statute, Federal Executive Order, or State statute approved by the United States Attorney General 4. Other authorized activities relating to the general handling, use, and storage of CHRI

³ Access to CHRI means to view or make use of CHRI obtained from the III System but excludes direct access to the III System by computer terminal or other automated means by Contractors other than those that may be contracted by the FBI or state criminal history record repositories or as provided by Title 34, United States Code (U.S.C.), Section 40314 (b), (formally cited as 42 U.S.C. § 14614(b)).

Sample Language of Contractor Functions and Contractor Access to CHRI

Instructions: Please use these examples as a job aid. The FBI Compact Officer is aware of this sample language and these examples should not be copied, word for word, in a request letter to the FBI Compact Officer. The purpose of this job aid is to document and demonstrate your knowledge of contractor functions and contractor access to CHRI.

Example 1:

Tribal IT will maintain and manage the TGRA owned computer systems that store FBI CHRI from the NIGC. The contractor access to CHRI is incidental, but necessary, as it relates to general handling and storage of CHRI on the computer system. Tribal IT will administer user accounts and privileges for the network, servers and computers where TGRA authorized personnel make use of and store CHRI.

Example 2:

Casino IT staff will maintain and manage a computer system for the TGRA. The TGRA computer system receives and stores FBI CHRI from the NIGC. The access to CHRI is incidental, but necessary, as it relates to general handling and storage of CHRI on the computer system. The TGRA owns the computer system and Casino IT staff administer user accounts and privileges for the system.

Example 3:

The live scan contractor will maintain and upgrade software, maintain hardware, troubleshoot the computer system and live scan device owned by the TGRA. The computer system resides in the TGRA facility in a physically secure location. The contractor access to CHRI is incidental, but necessary, as it relates to general handling and storage of CHRI on the computer system. TGRA staff administer user accounts and privileges for the system and will work directly with the contractor personnel.

4. Based on the contractor functions and access to CHRI identified from step 2, can the TGRA attest all the conditions exist as noted in Outsourcing Standard Sections 11.01 or 11.02⁴? If yes, the request letter should state the conditions exist and the TGRA requests further correspondence with the FBI Compact Officer prior to the disposition of the written request for FBI Compact Officer approval. The FBI Compact Officer has explained: "Section 11.01 is likely applicable for many of the TGCs in their relationship with contractors providing live scan functions when the CHRI is returned to the device/system that is updated/maintained by the contractor and the device/system is owned by the TGC."
5. List the contractor functions and the access to CHRI identified from step 2 and if applicable, attest to the conditions verified from step 4 in the request letter to the FBI Compact Officer. Template letters and a sample contract can be found at <https://www.nigc.gov/compliance/CJIS-Training-Materials>
6. Review the request letter and the proposed contract. Ensure the contractor functions and contractor access to CHRI in the contract agree with the request letter.

7. If NIGC technical assistance is needed, email the draft request letter and proposed contract to iso@nigc.gov for NIGC staff review. NIGC staff will review the request letter and proposed contract for clarity and consistency before the TGRA/LASO sends the submission to the FBI Compact Officer.
8. On March 4, 2021, FBI Compact Officer Chasity Anderson communicated a temporary approval process for specific types of outsourcing requests.

If a TGRA has submitted an outsourcing request for “necessary equipment/system upgrades” that requires access to CHRI, the TGRA may proceed with the upgrades while it awaits formal written approval of the outsourcing request from the FBI Compact Officer.

This temporary approval for these types of outsourcing requests is the result of coordination between the National Indian Gaming Commission and the FBI Compact Officer. Such temporary approval from the FBI Compact Officer does not change the TGRA’s responsibility to ensure contractor compliance with the Security and Management Control Outsourcing Standard for Non-Channelers and the CJIS Security Policy.

If a TGRA has submitted an outsourcing request eligible for this temporary approval and NIGC assistance is required to complete the upgrade, please contact iso@nigc.gov

⁴ 11.01 An Information Technology (IT) contract need only include Sections 1.0, 2.01, 2.02, 2.03, 3.01, 6.0, 8.0, and 9.0 of this Outsourcing Standard for Non-Channelers when all of the following conditions exist:

1. Access to CHRI by the IT contractor's personnel is limited solely for the development and/or maintenance of the Authorized Recipient's computer system;
2. Access to CHRI is incidental, but necessary, to the duties being performed by the IT contractor;
3. The computer system resides within the Authorized Recipient's facility;
4. The Authorized Recipient's personnel supervise or work directly with the IT contractor personnel;
5. The Authorized Recipient maintains complete, positive control of the IT contractor's access to the computer system and CHRI contained therein; and

6. The Authorized Recipient retains all of the duties and responsibilities for the performance of its authorized noncriminal justice administrative functions, unless it executes a separate contract to perform such noncriminal justice administrative functions, subject to all applicable requirements, including the Outsourcing Standard.

11.02 An Authorized Recipient's contract where access to CHRI is limited solely for the purposes of: (A) storage (referred to as archiving in some states) of the CHRI at the Contractor's facility; (B) retrieval of the CHRI by Contractor personnel on behalf of the Authorized Recipient with appropriate security measures in place to protect the CHRI; and/or (C) destruction of the CHRI by Contractor personnel when not observed by the Authorized Recipient need only include Sections 1.0, 2.01, 2.02, 2.03, 3.01, 4.0, 6.0, 8.0, and 9.0 of this Outsourcing Standard for Non-Channelers when all of the following conditions exist:

1. Access to CHRI by the Contractor is limited solely for the purposes of: (A) storage (referred to as archiving in some states) of the CHRI at the Contractor's facility; (B) retrieval of the CHRI by Contractor personnel on behalf of the Authorized Recipient with appropriate security measures in place to protect the CHRI; and/or (C) destruction of the CHRI by Contractor personnel when not observed by the Authorized Recipient;
2. Access to CHRI is incidental, but necessary, to the duties being performed by the Contractor;
3. The Contractor is not authorized to disseminate CHRI to any other agency or contractor on behalf of the Authorized Recipient;
4. The Contractor's personnel are subject to the same criminal history record checks as the Authorized Recipient's personnel;
5. The criminal history record checks of the Contractor personnel are completed prior to work on the contract or agreement;
6. The Authorized Recipient retains all other duties and responsibilities for the performance of its authorized noncriminal justice administrative functions, unless it executes a separate contract to perform such noncriminal justice administrative functions, subject to all applicable requirements, including the Outsourcing Standard; and
7. The Contractor stores the CHRI in a physically secure location.