

Sample Audit Checklist for the NIGC CHRI MOU

#	QUESTION	YES	NO	N/A	STANDARD	COMMENT
MOU with the NIGC regarding CHRI						
1.	Based on inquiry and observation, did the TGRA modify its fingerprint operating systems to meet CSP requirements and NIGC's connectivity requirements?	_____	_____	_____	CHRI MOU V. B. 1	
	If no, did the TGRA request and receive approval, prior to implementation of any exceptions, from the NIGC ISO?	_____	_____	_____	CHRI MOU V. B. 1	
	If yes, please attach the request and approval correspondence.					
	Does the TGRA process fingerprints through the NIGC via hard card submissions?	_____	_____	_____	CHRI MOU V. B. 1	
	If yes, they are exempt from this requirement.					
2.	Based on record examination, has the TGRA made reasonable efforts to ensure personally identifiable information (PII) is relevant, accurate, timely and complete before submitting it to the NIGC?	_____	_____	_____	CHRI MOU V. B. 2	
3.	Based on record examination, does the TGRA have written processes in place to notify the NIGC when it is made aware of inaccuracies in PII received from the NIGC that would impact the TGRA's ability to assess employment or licensing eligibility?	_____	_____	_____	CHRI MOU V. B. 3	
4.	Prior to taking applicants' fingerprints, does the TGRA provide applicants a copy of the Non-Criminal Justice Applicant's Privacy Rights notice, in writing ¹ ?	_____	_____	_____	CHRI MOU V. B. 4	
	If yes, was the notice identical to the version provided by the FBI? ²	_____	_____	_____	CHRI MOU V. B. 4	
5.	Prior to taking applicants' fingerprints, does the TGRA provide applicants a copy of the FBI's Privacy Act Statement, in writing?	_____	_____	_____	CHRI MOU V. B. 4	
	If yes, was the notice identical to the version provided by the FBI? ³	_____	_____	_____	CHRI MOU V. B. 4	

¹ Written notification includes electronic notification, but excludes oral notification.

² <https://www.fbi.gov/services/cjis/compact-council/guiding-principles-noncriminal-justice-applicants-privacy-rights>

³ <https://www.fbi.gov/services/cjis/compact-council/privacy-act-statement>

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6.	Based on record examination, are written TGRA policies and procedures in place to, at minimum, provide applicants an opportunity to complete or challenge the accuracy of the information in their FBI criminal history record, including:				CHRI MOU	
a.	Advising applicants in writing of the procedure for obtaining a change, correction, or update to the record as set forth in 28 C.F.R. § 16.34;	_____	_____	_____	V. B. 5(a)	
b.	Affording applicants a reasonable time to correct or complete the record (unless they explicitly decline to do so) before denying their gaming license or employment based upon the information in the record;	_____	_____	_____	CHRI MOU V. B. 5(b)	
c.	Choosing to develop written procedures for providing applicants copies of their records for review and possible challenge, correction, or update that require:	_____	_____	_____	CHRI MOU V. B. 5(c)(i)	
	(i) Verification of the applicant’s identity prior to dissemination of the copy to the applicant or an attorney working on their behalf;	_____	_____	_____	CHRI MOU V. B. 5(c)(ii)	
	(ii) Documenting the release of the copy; and	_____	_____	_____	CHRI MOU V. B. 5(c)(iii)	
	(iii) Marking the copy in some manner to distinguish it as the applicant’s copy ⁴ , not the original. (e.g., watermark).	_____	_____	_____		
d.	Or, instead of sub-section (c) above, electing not to provide applicants copies of their FBI criminal history records by developing a written policy prohibiting the release of the records for such purpose and directing applicants to the FBI’s process for obtaining a copy ⁵ .	_____	_____	_____	CHRI MOU V. B. 5(d)	

⁴ The copy must not be reused for any other purpose.

⁵ <http://www.fbi.gov/about-us/cjis/background-checks>

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7.	Based on inquiry and record examination, is FBI CHRI received from the NIGC used for IGRA and NIGC regulatory purposes ⁶ ? Such purposes are backgrounding and licensing key employees and primary management officials. Based on inquiry, observation and record examination, is FBI CHRI received from the NIGC used for any other purpose?	___	___	___	CHRI MOU V. B. 6	
8.	Based on inquiry and record examination, has the TGRA established procedures to comply with the Next Generation Identification ⁷ (NGI) Re-use standard ⁸ ? Does the TGRA comply with such procedures?	___	___	___	CHRI MOU V. B. 7	CSP 5.1.1.1
9.	Based on inquiry and record examination, has the TGRA established procedures and controls to comply with the NGI Residual Access standard ⁹ ? Does the TGRA comply with such procedures?	___	___	___	CHRI MOU V. B. 8	CSP 5.1.1.1
10.	Based on inquiry and record examination, does the TGRA set forth on the Notice of Results (NOR), the job title or position of the KE or PMO so the NIGC may confirm the job title/position comes within the perimeters for the NIGC to request CHRI from the FBI?	___	___	___	CHRI MOU V. B. 9	

⁶ Pursuant to the FBI-NIGC Memorandum of Understanding re: noncriminal justice fingerprint submissions (January 17, 2020) (hereinafter FBI-NIGC MOU), provision I, the NIGC will accept fingerprint submissions that are properly and adequately completed for purposes of 25 C.F.R. §§ 502.14(a) – (c) and 502.19(a) – (c). If the NIGC amends its regulations to permit the fingerprinting of new or additional categories of primary management officials and/or key employees, this MOU will apply to the NIGC’s acceptance of their fingerprints and the resulting CHRI upon the regulations’ effective date.

⁷ NGI Audit, Noncriminal Justice Access to CHRI, Policy Reference Guide (April 6, 2020).

⁸ This standard prohibits sharing it with applicant’s spouse, household, other family members, tribal leadership, tribal agencies not involved in employing or licensing KEs or PMOs, human resource departments, potential employers, and state gaming or licensing agencies. Even if the use of CHRI may be necessary to satisfy state licensing requirements, CHRI from the NIGC cannot be used for such purpose – a new record request to the FBI through a non-NIGC process must be made in such instance.

⁹ This standard limits residual access to CHRI “to only the minimum level necessary to accomplish oversight responsibilities” by a state gaming agency (such as access to CHRI as part of an audit or review of licensing during a regulatory inspection) or by an inspector general’s office.

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11.	Has the TGRA provided the NIGC representative access to CHRI that was obtained through this MOU for purposes of inspection and/or audit to ensure compliance with it?	___	___	___	CHRI MOU V. B. 10	
	Is this Tribe self-regulated?	___	___	___	CHRI MOU V. B. 11	
	If yes, does the TGRA provide NIGC representatives access to its Class II background investigation and licensing files for which CHRI was obtained through the MOU?	___	___	___	CHRI MOU V. B. 11	
12.	Has the TGRA cooperated to schedule and conduct the NIGC audits of CHRI compliance?	___	___	___	CHRI MOU V. B. 12	
13.	Based on inquiry and record examination, does the TGRA have an auditable process to notify the NIGC, on a monthly basis, of the following licensing information associated with the dissemination of CHRI for a fingerprinted applicant that does not result in the submission of a NOR:				CHRI MOU V. B. 13	
	a) the reason for the fingerprint submission and b) if the submission was in error, the steps taken to correct the process that created the error.	___	___	___	CHRI MOU V. B. 13	
14.	Based on record review, does the TGRA's processes, procedures and controls comply with the CSP ¹⁰ and all annual updates to it?	___	___	___	CHRI MOU V. B. 14	
15.	Based on record review, does the TGRA comply with the NGI ¹¹ requirements and all annual updates to it?	___	___	___	CHRI MOU V. B. 15	
16.	Has the Tribe or TGRA designated someone as the Local Agency Security Officer (LASO)?	___	___	___	CSP 3.2.2(2)(e)	

¹⁰ <https://www.fbi.gov/services/cjis/cjis-security-policy-resourcecenter>

¹¹ <https://www.nigc.gov/images/uploads/NGI-audit-policy-reference-noncriminal-justice-access-CHRI-031021.pdf>

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17.	Based on inquiry and record examination, does the TGRA have an auditable process to ensure that if and when the TGRA’s LASO changes, the new LASO will review a copy of the MOU within ten business days of assuming the position as well as notify the NIGC Information Security Officer (ISO) (iso@nigc.gov) of their name and contact information within that timeframe?	_____	_____	_____	CHRI MOU V. B. 16	
18.	Based on record review, does the TGRA comply with the MOU as to new or additional categories of primary management officials and/or key employees that were added to NIGC regulations? If NIGC regulations have not been modified to add new categories of primary management officials or key employees, please disregard this question.	_____	_____	_____	CHRI MOU V. B. 17	