Outsourcing Agreement and FBI Permission Aid

The intent of this job aid is to assist the Tribe/TGRA in the steps necessary to document and submit the request for permission to execute an outsourcing agreement with a contractor[1] for the performance of noncriminal justice administrative functions[2]. For instance, if a Tribe/TGRA would like to engage a contractor to develop or maintain a computer system for the Tribe/TGRA that contains FBI CHRI[3] from the NIGC, the Tribe/TGRA shall receive written permission from the FBI Compact Officer before executing the contract.

Defining Contractor Functions and Access to CHRI Applicability
1. Identify if a contractor will have access to CHRI[4]. Specifically, describe in the space below each contractor function allowing them access to CHRI. In doing so, refer to the proposed contract for services to determine whether access to CHRI will occur. CHRI access includes the ability to view CHRI or the general use or handling or storage of CHRI, or a combination thereof.

2. If the contractor will not have access to CHRI, do not request written permission from the FBI Compact Officer and stop here. Please contact cau@nigc.gov for additional assistance if needed to determine if contractor functions involve access to CHRI.

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[1] Contractor means a government agency, a private business, non-profit organization or individual who has entered into a contract or agreement with the TGRA.

[2] Noncriminal Justice Administrative Functions mean routine functions relating to the processing of CHRI, including 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 Undertaking other authorized activities relating to the general handling, use, and storage of CHRI.

[3] CHRI means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release. But, CHRI does not include identification information such as fingerprint records, if such information does not indicate involvement of the individual with the criminal justice system.

[4] Access to CHRI means to view or make use of CHRI obtained from the III System.

3. If the contractor will have access to CHRI, use the proposed outsourcing agreement to assist in the composition of a request letter to the FBI Compact officer. Template letters are found at CJIS Resource Materials | National Indian Gaming Commission (nigc.gov). Review Step 1 to aid in listing the contractor functions in the letter that involve access to CHRI.

4. Compare the request letter and the proposed contract. Ensure the contractor functions that involve access to CHRI in the outsourcing agreement mirror the request letter[5].

5. Send only the request letter to the FBI Compact Officer, Chasity S. Anderson, at csanderson@fbi.gov and iso@nigc.gov or mail to:

Mrs. Chasity S. Anderson Compact Officer
FBI Module D3 1000 Custer Hollow Road
Clarksburg, WV 26306

Sample Language of Contractor Functions and Contractor Access to CHRI

Instructions: Please review these examples to assist in the evaluation of contractor access to CHRI and as guidance for language in the outsourcing request letter.

These are only examples and should not be copied verbatim in a request letter to the FBI Compact Officer.

Example 1:

Tribal IT will maintain and manage the Tribe/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 Tribe/TGRA authorized personnel make use of and store CHRI.

Example 2:

Casino IT staff will maintain and manage a computer system for the Tribe/TGRA. The Tribe/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 Tribe/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 Tribe/TGRA. The computer system resides in the Tribe/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. Tribe/TGRA staff administer user accounts and privileges for the system and will work directly with the contractor personnel.

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[5] For NIGC CAU assistance, email the draft request letter and proposed outsourcing agreement to cau@nigc.gov for NIGC staff review. NIGC staff will review the request letter for clarity and consistency with the proposed outsourcing agreement before the TGRA sends the request letter to the FBI Compact Officer.

<u>Example 4</u>:

The licensing software vendor (the contractor) will store electronic licensing files that contain CHRI, and maintain and upgrade software. The files are stored in a cloud environment. The contractor access to CHRI is incidental, but necessary, as it relates to general handling and storage of CHRI on the computer system and in the cloud environment.

Note: This example requires separate outsourcing agreements for each contractor. One agreement with the software contractor and one agreement with the cloud storage provider. For instance, if the contractor (licensing software vendor) subcontracts services (cloud storage) that would result in the subcontractor having access to CHRI, written permission for the execution of outsourcing agreements will be required for both the contractor and the subcontractor.