

PROGRAM GUIDANCE

PROGRAM: Indian Housing Block Grant (IHBG)

FOR: Tribal Government Leaders and Tribally Designated Housing Entities

TDHE

FROM: Rodger J. Boyd, Deputy Assistant Secretary, PN

TOPIC: Update of NAHASDA Guidances 98-18 and 2001-01; Instructions for Obtaining FBI Criminal History Record Information

Purpose: This updates NAHASDA Guidances No. 98-18 and 2001-01, Instructions for Obtaining FBI Criminal History Record Information, issued September 24, 1998, and October 4, 2000, by adding the states of Iowa and Montana to the list of State Identification Bureaus (SIB). Also, the list of approved non-SIB channeling agents has been updated.

Guidance: The guidance is to advise Tribes and Tribally Designated Housing Entities (TDHEs) of the process for obtaining Federal Bureau of Investigation (FBI) criminal history record information for the purposes of applicant screening, lease enforcement and eviction. Gaining access involves:

- Requesting and obtaining an Originating Agency Identifier (ORI) number from the FBI; and
- Identifying and contracting with either the SIB or another approved channeling agent (CA) that will process and funnel requests from the tribe/TDHE to the FBI.

This guidance provides discussions of the different types of checks that tribes/TDHEs can do and how to do them.

This guidance also provides a list of the states in which the SIBs have agreed to channel tribes/TDHEs fingerprint submissions to the FBI, as well as a listing of FBI-approved channeling agents with which tribes/TDHEs can enter into a contract for this service.

Background: Pursuant to the Native American Housing Assistance and Self-Determination Act of 1996, Public Law (Pub. L.) 104-330, Indian tribes or TDHEs are permitted to obtain criminal history records of current and prospective tenants of housing assisted with grant amounts provided to such tribes or TDHEs under this Act for purposes of applicant screening, lease enforcement, and eviction. For purposes of this guidance, the term “tenants” includes homebuyers who are purchasing a home pursuant to a lease purchase agreement.

The law states that “the National Crime Information Center (NCIC), police departments, and other law enforcement agencies shall, upon request, provide information to Indian tribes or TDHEs regarding the criminal conviction records of adult applicants for, or tenants of, housing assisted with grant amounts provided to such tribe or entity under this Act for purposes of applicant screening, lease enforcement, and eviction.”

Confidentiality: Pub. L. 104-330 provides that each tribe or TDHE receiving information under this Act may use such information only for the purposes provided in this Act and such information may not be disclosed to any person who is not an officer, employee, or authorized representative of the tribe/TDHE or the owner of housing assisted under this Act, and who has a job-related need to have access to the information for the purposes of this Act. For judicial eviction proceedings, disclosures may be made to the extent necessary.

Applicability: This guidance applies to applicants and residents of Indian housing only.

Overview: Tribes/TDHEs wishing to check applicants and residents have several options. They can:

- a) go to the state for state records only;
- b) do a name check through their local law enforcement, which has access to limited information from the National Crime Information Center (NCIC) Interstate Identification Index. It is up to the discretion of the local law enforcement whether it will charge a reasonable fee for this service. Access for this purpose does not entitle the requesting law enforcement agency to obtain the full content of automated records through the Interstate Identification Index; or
- c) submit an applicant fingerprint card (through their channeling agent) to the FBI in order to obtain the full content of a criminal history record. The FBI and HUD have jointly agreed that every tribe/TDHE shall use a channeling agent (CA) to submit its fingerprint cards to the FBI. The FBI's processing fee for each card is currently \$24. No fees will be passed on to the family.

In order for tribes/TDHEs to have access to NCIC data through their local or state law enforcement authorities or to obtain FBI criminal history records through the submission of an applicant fingerprint card, each tribe/TDHE must be assigned a unique Originating Agency Identifier (ORI) number by the FBI. Those tribes/TDHEs that have not yet obtained an ORI number from the FBI may do so upon written request.

Some tribes/TDHEs are currently channeling fingerprint cards to the FBI through their State Identification Bureaus (SIB). Those tribes/TDHEs that wish to continue channeling fingerprint cards to the FBI through their SIB may do so, or a tribe/TDHE may choose to utilize one of the approved CAs.

A tribe/TDHE cannot utilize a SIB and an approved CA at the same time to channel fingerprint cards to the FBI.

Tribes/TDHEs will send the fingerprint cards directly to their SIB or CA. The CAs and SIBs will collect a fee to cover their own costs as well as the FBI fee and forward the tribe/TDHE's fingerprint cards to the FBI for processing. The FBI will forward the results of the criminal records search directly back to the tribe/TDHE. The FBI's current processing time is approximately three weeks, but it anticipates the time will continue to decrease.

Issuance of ORI Numbers: The first step in obtaining criminal history data through the NCIC is for the tribe/TDHE to obtain an ORI number from the FBI. This number identifies the tribe/TDHE in NCIC transactions as an entity authorized to receive criminal history records through the submission of fingerprint cards and enables those submissions to be tracked and billed appropriately.

Requests for ORI numbers should be sent directly to the FBI at the following address:

Chief
Programs Support Section
Module E3
FBI Complex
1000 Custer Hollow Road
Clarksburg, WV 26306

The request should include the full name of the tribe/TDHE, the complete mailing address, the county in which its main office is located, the number of fingerprint cards the agency will initially need (a minimum of 100 cards will be sent initially), the name and phone number of a contact person, and which SIB or other approved CA (see below) the tribe/TDHE will utilize. The FBI will assign an ORI number to the tribe/TDHE and furnish applicant fingerprint cards to the tribe/TDHE bearing that ORI number. A reorder form will be included with each supply of fingerprint cards so that the tribe/TDHE can reorder when necessary.

Instructions for Obtaining Criminal History Records: Once the tribe/TDHE has its own ORI number, it is eligible to obtain criminal history records on Indian housing applicants and tenants. The following procedures have been developed to facilitate the process:

- A. The tribe/TDHE submits a name check request to the local/state law enforcement agency. The name check request must include the name, date of birth, and social security number of the applicant/tenant (if he/she has one). Using the ORI number assigned to the tribe/TDHE, the law enforcement agency will access the Interstate Identification Index (III) through the NCIC for the purpose of determining whether an applicant/tenant for Indian housing may have a criminal history record indexed in the III.

B. The law enforcement agency will advise the tribe/TDHE that either:

1. the information provided by the tribe/TDHE did not match any criminal record in the index to the national database, or
2. the information may match a criminal record indexed in the national database. This statement means only that, based on the information provided, the record may belong to the applicant/tenant, but is inconclusive without a positive fingerprint comparison. The results of an inconclusive name check cannot be used to deny an applicant admission to housing.

C. If the local/state law enforcement agency indicates to the tribe/TDHE that there is a criminal history record indexed in the III that may belong to the applicant/tenant, the tribe/TDHE must submit an applicant fingerprint card to the FBI, through either the SIB or an approved CA, in order to verify whether the criminal record is in fact the applicant's. This step would of course be unnecessary if the individual chooses to withdraw his/her application.

When a fingerprint check is necessary, the FBI recommends that tribes/TDHEs use trained local law enforcement personnel to do the actual fingerprinting. Although the process appears simple, many fingerprints are rejected as unreadable, even when taken by qualified personnel.

D. The applicant's fingerprints will be compared with criminal fingerprints maintained in FBI files, and if found to be identical, a copy of the corresponding criminal history record will be provided to the tribe/TDHE. Applicant fingerprint card submissions not identified with a criminal record will be destroyed, and automated responses indicating that no record was found will be generated in lieu of returning the fingerprint cards to the tribe/TDHE.

Channeling To The FBI Through an SIB: The FBI conducted a survey of all the states' Criminal Justice Information Services Control Terminal Officers (CTOs), to determine whether the SIBs would agree to channel tribe/TDHE fingerprint submissions to the FBI. The following is a list of the states and territories that have agreed to channel fingerprint card submissions for Indian housing applicants/tenants to the FBI and be the responsible billing agent:

Alabama	Iowa	Ohio
Alaska	Michigan	Oklahoma
Colorado	Missouri	Oregon
Connecticut	Montana	South Carolina
District of Columbia	Nebraska	Texas
Florida	Nevada	Utah
Hawaii	New Jersey	Virgin Islands
Illinois	New York	Virginia
Indiana	North Dakota	Washington

Tribes/TDHEs in the above-listed states and territories may either:

- use the SIB to channel their fingerprint cards to the FBI (these tribes/TDHEs will be provided the name and telephone number of a contact in their states for instructions on channeling procedures and applicable state processing fees along with the assignment of their ORI numbers), or
- choose to procure services through one of the other approved CAs (see following).

Channeling to the FBI Through A Non-SIB Channeling Agent:

The FBI has approved the following channeling agents, whose points of contact are listed below in alphabetical order of the company name:

- A. Ms. Nora Colbert
Senior Administrative Assistant
American Bankers Association
1120 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 663-5397

- B. Ms. Carrie Curtis
Senior Accountant
U.S. Investigations Services, Inc.
1137 Branchton Road
Annandale, Pennsylvania 16020
888-794-8747 X824
(724) 794-0018 - Fax

Each tribe/TDHE not choosing to channel through a SIB must competitively select a CA in accordance with its own procurement standards and HUD regulations at 24 CFR 85.36.

If there are any questions regarding this guidance, please contact your Area ONAP.