

## TRIBALLY APPROVED HOMES (TAHS)

### FREQUENTLY ASKED QUESTIONS (FAQs)

#### Approval of Tribal Homes

1. Can counties pre-approve and live scan homes for potential placement of children who fall under ICWA? For example, if a tribe holds a recruitment event, can we live scan families and have the tribe can send us an approval letter once child comes into care?

**Tribes can approve tribal homes before there is a specific child needing placement. This allows the tribes to recruit and build a pool of foster and adoptive homes.**

2. Can counties accept a verbal approval from the tribe and obtain written verification at a later point? If so, do we need verbal confirmation that a home and grounds is done?

**The county may accept a verbal approval from a tribe or tribal agency in order to place an Indian child into a tribally approved home (TAH). However, the county would need written documentation of the TAH, which includes a signature and date, for purposes of funding.**

**The approval from the tribe would need to indicate that the home meets all tribal approval standards and, if the tribe conducts its own criminal background checks, the approval would need to include certification from the tribe that the criteria set forth in [Welfare and Institutions Code \(W&IC\) section 10553.12](#) are met.**

3. Tribally Approved Homes (TAHs) are not subject to state standards, e.g. Resource Family Approval (RFA). TAHs may be approved by the tribe or tribal agency based on their own socially and culturally appropriate standards, including sleeping arrangements and unfenced pools or open ponds. If the county has concerns regarding the health and safety of a child based on the needs and age of the child, can the county have discussions with the tribe around ways to safeguard the home environment? For example, suggesting alarms and safety/door locks high up on the doors exiting to any bodies of water for a four-year-old child placed in the home.

What if the home is both a TAH and a Resource Family Home? Which standards must the home meet?

**Although the county may not impose RFA standards on the TAH, the county should make attempts to work in collaboration with the tribe in order to protect the health and safety of a child. The county should keep in mind, however, that cultural and social standards may be very different. As an example, although the county may have concerns that a child can drown in three feet of water, being around bodies of water may be the norm for a river tribe.**

**If a TAH is also being approved under RFA, the home would need to meet RFA standards. However, there will further discussions around integrating Indian Community Standards into the RFA process in the future.**

4. What are the requirements around annual reassessments or annual updates for a Tribally Approved Home (TAH)?

**There is no annual reassessment or annual update requirement for a TAH. The TAH just needs to continue meeting the tribe's approval standards, as well as any federal requirements, for purposes of foster care funding.**

### **Criminal Background Checks**

5. Who is required to fingerprint for a Tribally Approved Home (TAH)?

**Once a tribe/tribal agency is approved through the California Department of Justice (CDOJ) to conduct their own criminal background checks, it has the authority to conduct a criminal record and child abuse background check on the following individuals:**

- **Prospective foster or adoptive parents;**
- **Any adult who resides or is employed in the home of an applicant;**
- **Any adult who has a familial or intimate relationship with a person living in the home of the applicant or foster or adoptive parent; and**
- **An employee of the tribal agency who may have contact with children.**

**If a tribe/tribal agency does not have the authority to conduct their own background checks, they may request the CDSS or a County to complete that component on their behalf.**

6. When does the county have to cancel subsequent arrest notifications (i.e., rap backs) for a Tribally Approved Home (TAH)? Do we cancel immediately if the placement is ended?

**Subsequent arrest notifications are canceled once an individual is no longer associated to the TAH or if the tribe/tribal agency terminates the approval of the TAH.**

7. If the county is completing the criminal background check on behalf of a tribe/tribal agency that is not currently authorized to conduct their own, can the county live scan the family under the RFA applicant (app) type?

**No, the family may not be fingerprinted under the RFA applicant (app) type. Tribal families must be fingerprinted under: TRIBAL HOME PC 11105.08.**

**An All County Information Notice (ACIN) is forthcoming with instructions on how counties can request access to the tribal app type through DOJ.**

8. If the county is completing the criminal background check on behalf of a tribe/tribal agency, can the tribe/tribal agency have access to view all the criminal history documents?

**The county may not share criminal history documents received from the Department of Justice (i.e., RAP sheets) pursuant to [Penal Code \(PC\) section 11142](#). These are confidential and may not be shared with anyone other than the subject of the RAP sheet. However, the county may share a summary of the criminal history, or any exemption analysis and decision documents relevant to the background check that was conducted.**

### **Due Process**

9. If a county is conducting the criminal background check on behalf of a tribe/tribal agency, are counties able to provide RFA or Harris due process to applicants/individuals who are denied a criminal record exemption? If so, can the tribe/tribal agency request a hearing on behalf of the tribal family?

**If a county is completing the criminal background check on behalf of a tribe or tribal agency and has made a determination that an exemption will not be granted, the county must offer a process for the family to grieve that decision. Tribal families may be provided with an opportunity to grieve their disagreement with the counties' procedures or actions and request a reconsideration of the counties' decision regarding denial of an exemption request for exemptible convictions or denial based on a non-exemptible conviction. This can be accomplished by following the Grievance Procedures outlined in [Manual of Policies and Procedures \(MPP\) 31-020](#).**

**Counties may not issue a Notice of Action (NOA) for denied exemptions, as tribal families are not subject to RFA State or Administrative hearings or Relative Approval State hearings (i.e., Harris).**

**A tribe/tribal agency may request a grievance review on behalf of the tribal family.**

## Complaints

10. If someone voices a complaint about a child's rights being violated, who should address this with the caregiver?

**Tribes/tribal agencies are encouraged to establish a process to address any complaints against a TAH. The county and tribe/tribal agency must work collaboratively to address any complaints expressed by the tribe, county, court, child's attorney, and/or the child's parents. If there are concerns rising to the level of abuse or neglect where there is a potential risk to the health or safety of a child, a cross-report to Child Welfare Services (CWS) shall be made. The county child welfare and probation departments have no authority to terminate a tribe's approval of a home, but they must investigate issues of safety and well-being based on their responsibility as a placing agency of the child.**

## Tribally Specified Homes (TSHs)

11. For Tribally Specified Homes (TSHs), counties have been told that they can provide a copy of the Resource Family Approval (RFA) Written Report (WR) to a tribe or tribal agency upon their request with or without the applicant's consent. Does this also apply to information in the WR regarding associated individuals, e.g. adults who are residing or regularly present in the home?

**A tribe or tribal agency may request a copy of the Resource Family Approval (RFA) Written Report for any tribally specified home (TSH) or any resource family home in which an Indian child is placed pursuant to [Welfare and Institutions Code \(W&IC\) § 16519.555](#). Each Resource Family applicant and adult residing in or regularly present in the home must complete the [RFA 01B Criminal Record Statement](#), which informs the individual that personal information, including criminal history information, collected in the course of completing the background check will be included in a Written Report and that the Written Report may be shared for specific purposes as allowed by law.**

## Adoption

12. Does a TAH need to go through the resource family approval (RFA) process in order to complete the home study process for purposes of a tribal customary adoption (TCA)?

**A TAH does not need to complete the RFA process. The TCA home study can be conducted by the tribe/tribal agency, or the tribe/tribal agency can designate the county adoption agency, the State Department of Social Services when it is acting as an adoption agency, or another California licensed adoption agency to complete the TCA home study.**