



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION

POLICY REGARDING
CONSULTATION
WITH
WISCONSIN'S INDIAN TRIBES

A handwritten signature in cursive script, appearing to read "Jim Doyle", written over a horizontal line.

Governor Jim Doyle

A handwritten signature in cursive script, appearing to read "Marc J. Marotta", written over a horizontal line.

Secretary Marc Marotta

June 28, 2005

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I. Introduction

The various states have a unique legal relationship with sovereign American Indian Tribal governments, as affirmed and described in federal law. This relationship is set forth in the Constitution of the United States, treaties, statutes, laws and court decisions. Wisconsin Executive Order #39, issued in February 2004, affirms the government-to-government relationship between the State of Wisconsin and American Indian Tribal governments located within the State of Wisconsin.

Government-to-government relations involve respectful and cooperative communication and dealings that are designed to achieve a consensus, to the extent possible, before a decision is made or an action is taken, and to implement programs in a collaborative manner. The Wisconsin Department of Administration (DOA) is committed to such government-to-government relations with the federally recognized Tribal governments of Wisconsin (Tribes). The State will employ its best efforts to achieve positive outcomes from its consultation and collaboration. The intent of this policy is to improve the planning and delivery of state services to Tribal governments, Tribal communities, and Tribal members by developing principles and a process for consultation on these service policies in Wisconsin. It is for this purpose that this policy has been developed.

The Department of Administration is a comprehensive state agency, headed by a cabinet-level secretary, which has responsibility for formulating departmental policies and supervising the implementation of duties assigned to the department under Chapter 16 of the Wisconsin Statutes. The Secretary also works closely with the Governor to direct all Executive Branch agencies to develop and implement statewide goals, especially in the areas of financial and program management.

Each of the federally recognized sovereign Tribes in the State of Wisconsin is recognized by the state for its unique status and its right to self-government and self-determination. The Department of Administration respects the fundamental principles that establish and maintain the relationship between Tribes and the DOA and accord Tribal governments the same respect accorded to other governments. To further this cooperative relationship between the state and Tribal governments, the DOA has established a State-Tribal Relations Team within the Division of Intergovernmental Relations to ensure that all Executive Branch agencies carry out their duties pursuant to the tenets of Wisconsin Executive Order #39 and to serve as a facilitator between the Executive Branch and Tribal governments.

This agreement also serves as recognition that there is tremendous potential for the DOA and Tribes to work collaboratively for the benefit of both governments. Both state and Tribal governments share the goal of providing services to their citizens in the most cost-effective manner practicable. The DOA possesses a tremendous amount of experience in streamlining and economizing the provision of state government services. The DOA believes that there is great value to both the State of Wisconsin and Tribal governments in sharing this expertise to the greatest extent possible. As residents of the State of Wisconsin, Tribal members are equally entitled to those services afforded to all residents of the state. As members of a sovereign Tribal nation, Tribal members are entitled to those services afforded to all members of that Tribal nation. Whether the services are provided through Tribal agencies or directly through the DOA or county agencies, it is critical that the Department of Administration administrators and Tribal leadership and their representatives consult with one another to assure that needed services are provided and received in a manner that is both efficient and effective.

II. Objectives

The objectives of this policy are:

- A. To create a collaborative effort (relationship) to improve the structure through which the Executive Branch of the State of Wisconsin and Tribal governments communicate on matters of shared concern.
- B. To formalize the process and expectations for the DOA to implement a government-to-government relationship and to seek consultation with and participation of representatives of Tribal governments in policy development and program activities.
- C. To promote and develop methods of obtaining consultation on issues from Tribal governments and to involve their representatives in the DOA decision-making process.

III. Guiding Principles

The DOA is committed to improving and maintaining effective government-to-government relations with the Tribes. The development of mutual understanding, with cultural awareness and sensitivity, is necessary to effective consultation on policy and collaboration on program operations. Toward achieving this goal, the DOA shall utilize the following principles in consulting on policy and on program issues with Tribal governments. Integration of these principles into DOA planning and management activities will help produce positive and desired outcomes for Tribal community members.

- A. It is important to recognize the uniqueness of each Tribe's culture, governmental structure and processes, demographics and geography (i.e., where Tribal members are located), and other factors.
- B. Consultation involves respectful and timely communication with Tribal governments in a cooperative process that strives to achieve a consensus before a decision is made or an action is taken.
- C. Working directly with American Indian Tribes in a government-to-government manner will result in an effective, efficient, and sustainable consultation process.
- D. Consultation with Tribal governments when developing and implementing budgets, policies and programs, legislative initiatives, regulations, and other activities that are anticipated to directly affect American Indian Tribes or their members is necessary and respectful. This includes issues presented by the Tribes on which they would like consultation.
- E. Promotion of cooperation among affected parties is the best way to resolve issues of mutual concern.

IV. Purpose and Methods

The State of Wisconsin, represented for purposes of this policy by its Department of Administration, with the concurrence of the Tribes as sovereign nations, will diligently seek to maintain an ongoing and meaningful process for communicating general concerns, program and funding priorities, respective roles in the provision of services to Tribal community members, and other high-level matters of mutual concern.

The Wisconsin Department of Administration, together with the Wisconsin federally recognized Tribal governments, establishes this policy requiring consultation by and between these governments on DOA policies and activities.

A. Annual Meetings

The Secretary of the Department of Administration shall assume the responsibility for scheduling, in consultation with Tribal leadership, an annual consultation session at which the Secretary will be present,

which must include invitations to, at a minimum, the following individuals (who may designate another individual with appropriate authority to attend):

- Chairperson, Bad River Band of Lake Superior Tribe of Chippewa Indians
- President, Ho-Chunk Nation
- Chairperson, Lac Courte Oreilles Band of Lake Superior Chippewa Indians
- President, Lac du Flambeau Band of Lake Superior Chippewa Indians
- Chairperson, Menominee Indian Tribe of Wisconsin
- Chairperson, Oneida Tribe of Indians of Wisconsin
- Chairperson, Forest County Potawatomi Community
- Chairperson, Red Cliff Band of Lake Superior Chippewa Indians
- Chairperson, Sokaogon Chippewa Community
- Chairperson, St. Croix Chippewa Indians of Wisconsin
- President, Stockbridge-Munsee Band of Mohican Indians
- Tribal Administrators and program staff as determined by the Tribal Leadership
- The Secretary of the Wisconsin Department of Administration
- DOA administrators and other staff as determined by the Secretary

The agenda, date, and location of the consultation session shall be determined jointly by the secretary and Tribal chairpersons and presidents. The schedule will allow adequate time during even numbered years for development of DOA Tribal biennial budget initiatives.

It shall be part of the consultation agenda for at least one meeting to review and evaluate the accomplishments and effectiveness of the previous year's DOA action plan (see Section IV-B) and to establish mutual goals for the current year's action plan. The agenda shall also include a current DOA organizational chart.

B. Other Meetings

The Secretary of the Department of Administration shall assume the responsibility for scheduling, in consultation with Tribal leadership, additional consultation sessions at his or her discretion. In addition, any Tribal Chairperson or President may request meetings or other consultation with the Secretary or other DOA representatives.

C. Annual Implementation Plan

The DOA shall establish an annual implementation plan by which this government-to-government consultation policy shall be implemented. The implementation plan shall include:

- Programs: A list of programs and services available to Tribes, including an overview of DOA programs and a DOA organizational chart.
- Policy and Program Development: Description of new or potential initiatives, programs, and policies affecting Tribes.
- Priorities: Priority issues for resolution in conjunction with the Tribes.
- Consultation Process: The procedures to be used to consult with Tribes on existing and new policies and programs.
- Evaluation Process: The process to determine the effectiveness of the action plan with respect to the consultation process and to the programmatic, fiscal, and other aspects of applicable programs identified in the action plan, in addition to evaluating the effectiveness of existing

consultation agreements between all other applicable Executive Branch agencies and Tribal governments.

D. Training

It shall be part of consultation agendas to establish regular and ongoing training sessions for appropriate DOA employees and other individuals. The purpose of this training is to educate DOA employees regarding the requirements of a meaningful government-to-government relationship, including historical and cultural perspectives from the Tribes, and information about the importance of consensus building, Tribal sovereignty, Tribal government, and Tribal service delivery systems.

V. Resolution of Issues

Throughout any given year, specific issues affecting one or more Tribes and the Department of Administration will arise. These issues may be raised by either a Tribe or the DOA and may occur at various levels within either party. The following process is to be used when such issues arise.

A. Initial Discussion

When an issue arises and a designated and authorized representative of either a Tribe or the DOA contacts a representative of the other entity, they will discuss the issue and attempt to resolve it in a timely manner. If higher level involvement is required, the process described in Section V-B will be followed.

If resolution or non-resolution of the issue would affect a Tribe or Tribes other than the Tribe involved, then further discussion must occur as described in Section V-C.

B. Issues Requiring Higher Level Involvement

If higher level involvement is needed, the issue will be raised to the Secretary's office in the DOA for resolution. Within the DOA, the State-Tribal Relations Team will facilitate contact with the Secretary's office. Communication between those parties shall occur as soon as reasonably possible to determine if the issue can be resolved. If the issue is resolved, no further action is required. If the issue cannot be resolved, the involved parties will determine if a process can be established for resolving the issue. It is recognized that some issues may not be able to be resolved to the satisfaction of all parties.

C. Issues Affecting More Than One Tribe

If it is determined that resolution or non-resolution of the issue will affect more Tribes than just the Tribe presently involved in the discussion, the DOA representative will make contact with representatives of all other Tribes. Communication involving all of the potentially affected parties will occur and will be facilitated by a DOA representative.

If the issue is resolved through agreement of the involved parties, no further action is required. If the issue cannot be resolved, then the issue shall be raised to higher level authorities as described in Subsection B.

VI. Outreach to Tribal Governments by Committees and Workgroups

The focus of this consultation policy is with individual Tribal governments. During the normal course of business, it is often necessary for the DOA to establish committees, councils, workgroups, or similar bodies to provide advice and recommendations to the DOA. Such committees, councils, workgroups or

similar bodies, when dealing with policies or programs affecting Tribal governments, shall inform Tribal Chairs/Presidents, in writing, of the proposed policy or program in order to solicit Tribal input.

Appendix A GLOSSARY

For purposes of this consultation policy, the following terms and definitions will apply:

“American Indian Tribal government” means a sovereign government of a Native American people, embracing and occupying lands and territory, and having jurisdiction over same, lying within the geographical boundaries of the State of Wisconsin, which sovereignty is recognized by the Government of the United States of America and subject to the Constitution, laws and treaties of the United States of America, which also may be known as a “federally recognized Indian Tribe”.

“Consultation” references a tool used to facilitate communication and interaction between the state government entity and all of the federally recognized Tribes in Wisconsin.

“Cultural awareness and sensitivity” means having due knowledge of and regard for the behavior patterns, civilization, customs, arts, beliefs, institutions and all other achievements and manifestations of human work and thought as expressed in a particular community.

“DOA” or *“Department”* means the Wisconsin Department of Administration.

“Government-to-government” means communication and dealings between sovereign governments, their agencies and other official entities.

“Sovereign” means a state in which supreme authority is vested.

WISCONSIN DEPARTMENT OF ADMINISTRATION

