



**STATE OF WISCONSIN**  
**DEPARTMENT OF FINANCIAL INSTITUTIONS**

**POLICY REGARDING**  
**CONSULTATION**  
**WITH**  
**WISCONSIN'S INDIAN TRIBES**

A handwritten signature in cursive script, appearing to read "Jim Doyle".

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Governor Jim Doyle

A handwritten signature in cursive script, appearing to read "Lorrie K. Heinemann".

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Secretary Lorrie Keating Heinemann

**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 Financial Institutions (DFI) 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. It is for this purpose that this policy has been developed.

The Department of Financial Institutions is a regulatory state agency, headed by a cabinet-level secretary, which has responsibility for ensuring the safety and soundness of Wisconsin's financial institutions (e.g. banks, credit unions, securities' dealers, etc.), protecting the consumers of financial services and facilitating economic growth by efficient regulation and performing the business record-keeping functions for the state. The DFI oversees 234 state-chartered banks, 287 state-chartered credit unions and over 90,000 securities representatives in Wisconsin. Furthermore, the DFI manages over 200,000 corporate records for the state and administers the statewide centralized lien filing system under the Uniform Commercial Code.

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 Financial Institutions respects the fundamental principles that establish and maintain the relationship between Tribes and the DFI and accord Tribal governments the same respect accorded to other governments.

The DFI appreciates the opportunity to forge a new relationship of cooperation and collaboration with the Tribal governments. One of the largest barriers to economic growth in any community is access to affordable financial services. The DFI is working to promote access to and education about financial services across the State. For example, in 2005, DFI implemented two programs:

- 1) a Native American Community Development Financial Institution Conference in order to help provide the resources necessary to apply for and receive CDFI funding from the U.S. Department of the Treasury, and
- 2) the creation of the Governor's Council on Financial Literacy with representation from Wisconsin's Tribes to promote financial literacy in Tribal communities.

The DFI recognizes that this is only the beginning of a formal relationship between the agency and the Tribal governments and that cooperation and collaboration must extend in all areas of our work, which is the purpose of this consultation policy.

## **II. Objectives**

The objectives of this policy are:

- A. To create a collaborative effort (relationship) to improve economic development of tribal governments and their citizens.
- B. To formalize the process and expectations for the DFI 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 DFI decision-making process.

## **III. Guiding Principles**

The DFI 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 DFI shall utilize the following principles in consulting on policy and on program issues with Tribal governments.

- 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.
- F. It should be noted that this is an internal DFI policy that does not bind the tribes in any way.

## **IV. Purpose and Methods**

The State of Wisconsin, represented for purposes of this policy by its Department of Financial Institutions, 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 Financial Institutions, together with the Wisconsin federally recognized Tribal governments, establishes this policy requiring consultation by and between these governments on DFI policies and activities.

### *A. Annual Meetings*

The Secretary of the Department of Financial Institutions 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 Financial Institutions
- DFI 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 take into account the desirability of allowing adequate time during even numbered years for development of DFI's 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 DFI action plan (see section IV-C) and to establish mutual goals for the current year's action plan. The agenda shall also include a current DFI organizational chart.

### *B. Other Meetings*

The Secretary of the Department of Financial Institutions 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 DFI representatives.

### *C. Annual Action Plan*

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

- Programs: A list of programs and services available to Tribes, including an overview of DFI programs and a DFI 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 Financial Institution programs identified in the action plan.

#### *D. Training*

It shall be part of consultation agendas to establish regular, ongoing training sessions for appropriate DFI employees and other individuals. The purpose of this training is to educate DFI 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 services and taxation matters affecting the Tribes. The Department of Administration's Division of Intergovernmental Relations will provide training and curriculum for appropriate department staff.

### **V. Resolution of Issues**

Throughout any given year, specific issues affecting one or more Tribes and the Department of Financial Institutions will arise. These issues may be raised by either a Tribe or the DFI 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 an authorized and designated employee of either a Tribe or the DFI contacts an employee 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 DFI and Tribe for resolution. Within the DFI, a representative designated by the Secretary will facilitate contact with the appropriate staff or management if required. 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 DFI representative will make contact with representatives of all other Tribes.

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 the Secretary's Office as described in section V-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 DFI to establish committees, councils, workgroups, or similar bodies to provide advice and recommendations to the DFI. 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”.

*“CDFI”* means Community Development Financial Institution

*“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.

*“DFI”* or *“Department”* means the Wisconsin Department of Financial Institutions.

*“Division”* means a subunit of the DFI responsible for the management, administration, and provision of programs and services in specific program areas.

*“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.



# DEPARTMENT OF FINANCIAL INSTITUTIONS

