



Chapter 7: Agency Management

Section 7.13 Tribal Relations

Resource Contact: Agency Director

Effective: 10/20/2003

References: Centennial Accord (August 4, 1989) www.goia.wa.gov

Revised: 11/15/2018

Millennium Agreement (November 4, 1999)

Indian Gaming Regulatory Act, 25 U.S.C. §2701 (1988)

RCW 9.46.360, Indian tribes—Compact negotiation process.

RCW 43.376, Government-to-Government relationship with Indian tribes

Applies To: This policy applies to all Washington State Gambling Commission (WSGC) employees.

I. PURPOSE

This policy establishes the foundation of the Washington State Gambling Commission's (WSGC) respect-based program which recognizes its government-to-government relationship with the federally-recognized American Indian Tribes (Tribe) in Washington State.

II. BACKGROUND

Tribes are recognized by the federal government and the state of Washington as sovereign, self-governing nations. Tribal sovereignty predates the United States and is recognized within the text of the Constitution of the United States, by treaties, federal statutes, court decisions, and executive orders of the President. Tribal governments are sovereign with primary self-governing authority and responsibility in Indian Country for the protection of the health, safety, education, natural resources, and welfare of their citizens.

The 1989 Centennial Accord Agreement (Accord) between Washington State and the signator Tribes memorialized an important relationship between Tribes and the State, which was reaffirmed in the Millennium Agreement by Governor Locke in 1999 and codified in RCW 43.376 in 2012. The Accord states the State and Tribes' commitment to implement a government-to-government relationship. The core purpose of the Accord is to strengthen State relationships with federally-recognized Tribal governments and to jointly resolve policy and protocol issues of mutual concern.

Those federally recognized Tribes within Washington State who are not signators to the above-referenced documents have a government-to-government relationship with the state of Washington. Those government-to-government relationships shall be recognized and honored according to the protocol of each sovereign Tribal government.

The WSGC will promote respect for Tribal self-government and seek meaningful and timely input by Tribal officials in the development of regulations and policies that have Tribal implications. The WSGC will continue to strengthen government-to-government relationships with each Washington Indian Tribe consistent with the Accord, the protocol of each sovereign and Tribal-State Class III Gaming Compacts (Compacts).

III. POLICY

A. Guiding Principle

The WSGC recognizes the importance of communication, collaboration, and cooperation with Tribes and seeks to understand each Tribe's self-governing authority, perspective, values, and culture.

When working with Tribes, WSGC staff must understand and adhere to the WSGC's government-to-government philosophy as outlined in this policy and recognize and respect the sovereign status of each of the Tribes.

B. Compact Negotiation and Oversight

1. The Director is responsible for the negotiation of Compacts on behalf of the State (RCW 9.46.360). The terms of the Tribal-State gaming relationship are governed by the Compacts between the State and the individual Tribes and the federal Indian Gaming Regulatory Act (IGRA).
2. The WSGC will negotiate with each Indian Tribe in good faith to enter into or amend their Compact.
3. The WSGC will cooperatively work with the Compacted Tribes and their Tribal Gaming Agencies (TGA). The WSGC recognizes the TGAs are the primary regulators, and the WSGC works with each TGA to ensure Class III gaming activities are conducted in accordance with the Compacts.
4. The WSGC's monitoring functions are performed primarily by the Tribal Gaming Unit (TGU), the Electronic Gambling Lab (EGL), and Licensing Unit. In addition to our monitoring functions and certification/suitability determinations of Class III employees, the WSGC offers or provides at the Tribe's request gambling regulatory training and advice to the Tribe, TGA, and employees.
5. The WSGC participates as a member of impact mitigation committees when required in the Compact.

C. Communication

1. The WSGC is committed to communicating with Tribes on all gambling-related issues that affect our respective governments, including formal or informal communication plans established at the direction of the Tribal Leadership that address the concerns and unique governmental structure of each Tribe.
2. Communication may be in person, by phone, mail, email, My Account, or any combination thereof.
3. Requests for public disclosure of Tribal records will be processed as agreed to in the Compacts and per WSGC Policy 10.1.

4. The dispute resolution process for Class III gaming issues is set forth in the Compacts between the individual Tribes and the State and includes several options for informal and non-judicial dispute resolution. Whenever possible, the WSGC strives to resolve disputes informally. Judicial resolution is available when either the Tribe or the State is dissatisfied with the informal or non-judicial resolutions.

D. Consultation

Consultation with each sovereign Tribe shall be the established protocol for government-to-government consultation as directed by the Tribe and communicated to the WSGC. It shall emphasize trust, respect, and a shared responsibility to open and timely exchange of information to develop a mutual understanding of gambling topics. Consultation provides the WSGC an opportunity to make better decisions by soliciting input on gambling and related policy topics from Tribes. This process encourages better cooperation between the Tribes and the WSGC including the following principles.

1. In order for Tribal consultation to be effective and meaningful, it must be conducted before taking action that impacts Tribes. The WSGC is committed to identifying WSGC actions that may have Tribal implications including policy or rule development, program implementation, broad-impact adjudications, or similar items.
2. The WSGC will implement a proactive outreach effort of notice as defined by the Tribal sovereigns and their Compact regarding current and proposed actions affecting Tribes. The WSGC recognizes that its decisions with respect to non-Indian gaming may have an impact on Tribes and, therefore, will ensure to analyze and consult on such issues.
3. There are many opportunities for WSGC staff to communicate informally and formally with individual Tribes or as a group. None of these communications shall be considered consultation, and may not necessarily be initiated by the Tribal Liaison. WSGC staff will notify the Tribal Liaison of each communication to ensure appropriate communication, coordination and continuity of Tribal issues. The Tribal Liaison will notify appropriate WSGC staff of such communications. Meetings with individual Tribes will follow the process and protocols outlined in their Class III Gaming Compact and by each Tribal sovereign.
4. Formal consultation meetings concerning all Tribes will be scheduled as needed but not less than annually. Such consultation is not considered satisfied by attendance at the Centennial Accord.
5. Although consultation topics are generally proposed by the WSGC, Tribes may request topic(s) to be discussed by notifying the Director and Tribal Liaison.
6. Notice and request or formal consultation will be provided to Tribal Chairs and their authorized designee as soon as possible, but at least 30 calendar days in advance. When sufficient time or resources are not available to consult on an emerging issue, the WSGC will initiate the request for consultation as soon as possible.

IV. RESPONSIBILITIES

A. Tribal Liaison Responsibilities

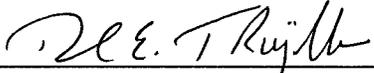
1. Report directly to the Director and assist in resolving gaming issues between Tribal governments and the WSGC.
2. Promote State-Tribe interactions, assist the WSGC in understanding tribal issues and identify consultation topics, develop and implement agency policies that enhance communication and collaboration.
3. Serve as an additional point of contact for Tribal governments and maintain communication between Tribal governments and the WSGC as appropriate. Direct questions from Tribal governments to appropriate WSGC staff.
4. Coordinate communication with WSGC staff that work with Tribes and be a resource for WSGC staff questions.
5. Communicate Tribal related information to appropriate WSGC staff.
6. Coordinate training of WSGC staff who interact with Tribes in accordance with this policy.
7. Ensure internal Tribal contact list is regularly updated for use by WSGC staff.
8. Coordinate the WSGC's annual report on the activities and WSGC involvement with Tribes and submit the report to the Governor pursuant to RCW 43.376.

B. Training

1. Director, Deputy Director, all Assistant Directors, all Administrators, all Agents in Charge, all Managers, and Supervisors and WSGC staff assigned to work with any Tribe are required to attend the following:
 - a. Governor's Office of Indian Affairs' Government-to-Government class before working with a Tribe (If the class is not available prior to working with a Tribe, WSGC staff must attend within the first six months of working with a Tribe);
 - b. Tribal Gaming Unit's course on Tribal history, Compacts and IGRA that is part of New Agent Training as soon as possible after being assigned to work with a Tribe; and
 - c. Formal or informal government-to-government refresher training course at least annually to include IGRA, Compacts, Tribal-related law or court decisions and/or culture, history, or governmental structure about a federally recognized Tribe in Washington.

2. Supervisors or agency staff that may work with any Tribe are required to attend the following:
 - a. Governor's Office of Indian Affairs' Government-to-Government class;
 - b. Tribal Gaming Unit's course on Tribal history, Compacts and IGRA overview; and
 - c. Formal or informal government-to-government refresher training course at least once every five years that includes IGRA, Compacts, Tribal-related law or court decisions and/or culture, history, or governmental structure about a federally recognized Tribe in Washington.
3. Supervisors and Managers will ensure that their staff attend the required training.

Approved:



David Trujillo, Director
Washington State Gambling Commission

Date: 11/15/2018