



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

JOHN D. CHERRY, JR.
LT. GOVERNOR

EXECUTIVE DIRECTIVE
No. 2004 – 5

TRIBAL-STATE RELATIONS

WHEREAS, the state of Michigan is home to twelve Native American communities that have been acknowledged by the Secretary of the United States Department of Interior to exist as Indian tribes pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 USC 479a;

WHEREAS, federally acknowledged Indian tribes are sovereign governmental entities that possess the right to self-governance and self-determination and the authority to exercise jurisdiction over their respective lands and citizens;

WHEREAS, federally acknowledged Indian tribes enjoy a unique trust relationship with the United States as set forth in the United States Constitution, treaties, statutes, executive orders, court decisions, and the general course of dealings of the United States with the Indian nations;

WHEREAS, the state of Michigan is bound under federal law to respect the sovereignty and rights of the federally acknowledged Indian tribes within the borders of the state;

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the state of Michigan in the Governor;

WHEREAS, under Section 8 of Article V of the Michigan Constitution of 1963, each principal department of state government is under the supervision of the Governor unless otherwise provided by the Constitution;

WHEREAS, under Section 8 of Article V of the Michigan Constitution of 1963, the Governor is responsible to take care that the laws be faithfully executed;

WHEREAS, the respective governments of the state of Michigan and of the federally acknowledged Indian tribes share a responsibility to provide for and protect the health, safety, and welfare of our common constituents and can benefit greatly from increased cooperation in addressing these concerns;

WHEREAS, the state and the tribes have far more in common than they have differences but, nevertheless, inevitably will face occasional disagreements or misunderstandings over specific issues;

WHEREAS, mutually beneficial cooperation and the appropriate resolution of occasional disagreements or misunderstandings can best be achieved if there is a commitment to regular consultation on issues of mutual concern;

WHEREAS, on October 28, 2002, the state of Michigan entered into a Government to Government Accord with the federally acknowledged Indian tribes in Michigan and wishes to affirm its commitment to that Accord and to its full implementation;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the state of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law direct the following:

I. FUNDAMENTAL PRINCIPLES REGARDING FEDERALLY ACKNOWLEDGED INDIAN TRIBES

A. The state of Michigan recognizes the following fundamental principles concerning Indian tribes, bands, and communities that the Secretary of the United States Department of Interior has acknowledged as Indian tribes pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 USC 479a:

1. Federally acknowledged Indian tribes are sovereign governmental entities.
2. Federally acknowledged Indian tribes possess authority to exercise jurisdiction over their respective lands and citizens.
3. Federally acknowledged Indian tribes possess the right to self-governance and self-determination.
4. The United States has a unique trust relationship with federally acknowledged Indian tribal governments as set forth in the United States Constitution, treaties, statutes, executive orders, court decisions, and the general course of dealings of the United States with the Indian nations.

B. Based on the principles outlined in Section I.A, the state of Michigan reaffirms its government-to-government relationship with all federally acknowledged Indian tribes located within Michigan's borders.

II. PURPOSE AND OBJECTIVES

The purpose of this Executive Directive is to carry out the commitments made by the state of Michigan in its October 28, 2002, Government to Government Accord with the federally acknowledged Indian tribes in Michigan and to ensure that all executive departments, agencies and programs adhere to the fundamental principles stated in Section I regarding government-to-government relations with the federally acknowledged Indian tribes located in Michigan.

III. CONSULTATION WITH TRIBES

A. The Governor's Deputy Legal Counsel for Tribal-State Affairs or such other individual as the Governor may designate, shall serve as the Governor's Advisor on Tribal-State Affairs and shall be responsible for monitoring the implementation of the 2002 Government to Government Accord and this Directive. The Governor's Advisor on Tribal-State Affairs shall also serve as the Governor's representative to the Tribal-State Forum formed under the Accord and, together with the tribal representatives to the Forum, shall:

1. Monitor the implementation of the Accord.
2. Organize an annual meeting or summit between the Governor and the tribal chairs.
3. Foster improved government-to-government communications between the executive office of the Governor and tribal governments.

B. Each executive branch department having substantial interaction with tribal governments shall designate an individual serving in the executive office of the department to be responsible for department-wide coordination of the department's interactions with the governments of the federally acknowledged Indian tribes in Michigan. This coordinator shall regularly report departmental interaction to the Governor's Advisor on Tribal-State Affairs. This provision is not intended to supplant existing effective relationships with tribal governments nor is it intended to displace ongoing cooperative efforts and lines of communication between the state and the tribes.

C. When formulating and implementing laws, regulations, or policies that have tribal implications, as defined in Section III.G below, state

executive branch departments, agencies, and officers shall adhere to the fundamental principles set forth in Section I and shall also take into consideration the following criteria:

1. Respect for Indian tribal self-government, sovereignty, and treaty rights.

2. The obligation of the state to meet the responsibilities that arise from its unique government to government relationship with federally acknowledged Indian tribes and to assure that its laws and regulations are applied in a manner that does not conflict with federal laws and regulations designed to protect and assist tribal governments and tribal members.

D. When proposing legislation, promulgating regulations, or formulating policies that have tribal implications, state executive branch departments, agencies, and officials shall, upon the written request of a federally acknowledged Indian tribe, consult with the tribe in a meaningful and timely manner as to:

1. The need for the legislation, regulations, or policies.
2. Any alternatives that would limit the scope of the legislation, regulations, or policies.
3. The feasibility of achieving program objectives through laws, regulations, or policies established by the Indian tribes.

E. Whenever reasonably possible, the consultation provided under Section III.D shall occur prior to the time the executive branch entity takes final action upon the proposed legislation, regulations, or policies.

F. Each executive branch department and agency shall establish guidelines to accommodate requests for meaningful and timely consultation with Indian tribes prior to the enactment of legislation, promulgation of regulations, or adoption of policies that have tribal implications. Within thirty (30) days after the effective date of this Directive, the head of each department or agency shall designate an official with principal responsibility for the implementation of this Directive. Within ninety (90) days of the effective date of this Directive, the designated official shall submit to the office of the Governor a description of the agency's consultation process.

G. In transmitting any legislative proposal, draft final regulation, or proposed policy that may have tribal implications, each agency shall ensure that the requirements of this Executive Directive have been met in a meaningful and timely manner. In accordance with the State-Tribal Accord and this Directive, the Governor's Deputy Legal Counsel on State-Tribal

Affairs, or such other individual as the Governor may designate, shall confer with the Indian tribes at least annually, through the Tribal-State Forum or other appropriate mechanism, to ensure that this Directive is being properly and effectively implemented.

H. For the purposes of this Executive Directive, the term “tribal implications” shall mean an express reference to Indians, Indian tribes, bands or groups, or Indian organizations, or a direct effect on their collective or individual treaty rights, natural resources or environmental interests, economic or commercial interests, civil jurisdiction, or other rights or benefits secured under Michigan or federal law by virtue of their status as Indians.

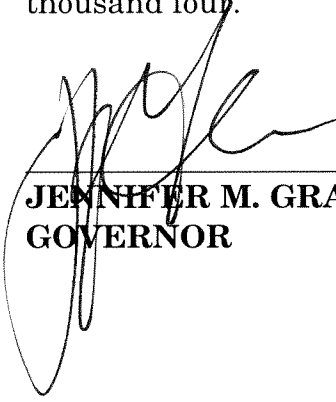
I. The obligation to consult with tribes concerning proposed legislation under this Directive does not replace or supersede the requirements of Executive Directive 2003-04 which remain in full force and effect.

J. Executive Directive 2001-2 is rescinded in its entirety.

This Directive is effective May 12, 2004.

The assistance of all state departments and agencies in implementing this Directive and the continued hard work of state employees is appreciated.

Given under my hand this 12th day of
May, in the year of our Lord, two
thousand four.



JENNIFER M. GRANHOLM
GOVERNOR