




## Internal Operating Policy

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<b>Number:</b>	1.505
<b>Subject:</b>	Tribal Consultation
<b>Effective date:</b>	March 1, 2022

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<b>Adopted by:</b>	 <small>Barry Pack (Mar 1, 2022 11:13 PST)</small>
Barry Pack, director	

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**Purpose:** The purpose of this policy is to promote positive government-to-government relations between the Oregon State Lottery and federally recognized tribes in Oregon. The nine federally recognized Indian Tribes in Oregon are sovereign nations, each with unique government organizations and decision-making structures. Each tribe speaks for itself. The nine federally recognized tribes in Oregon are:

- Burns Paiute Tribe
- Confederated Tribes of Coos, Lower Umpqua and Siuslaw
- Confederated Tribes of Grand Ronde
- Confederated Tribes of Siletz Indians
- Confederated Tribes of the Umatilla Indian Reservation
- Confederated Tribes of Warm Springs Reservation
- Coquille Indian Tribe
- Cow Creek Band of Umpqua Tribe of Indians
- Klamath Tribes

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**Policy:** The Oregon State Lottery recognizes and respects the sovereign status of each federally recognized tribe in Oregon and tribal authority to conduct gaming in Oregon on tribal lands pursuant to federal and tribal law. The Lottery believes there are untapped opportunities for partnership between the Lottery and the nine federally recognized tribes in Oregon. A true partnership is a two-way street: The Lottery herein commits to proactive outreach, communication, and consultation to tribes on issues that may affect Oregon tribes. The Lottery also commits to respond openly and positively to requests from tribes for consultation.

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**Definitions.** For purposes of this policy, the following definitions apply:

- (1) **"Issues that may affect Oregon tribes"** means any Lottery initiative that may impact Tribal Land, activities, practices, or beliefs or otherwise be of interest to tribes, such as new Lottery games or changes to gambling in Oregon. Examples include:
- (a) Partnership opportunities with Oregon tribes;
  - (b) New Lottery games or new platforms on which Lottery games are available;
  - (c) Proposed legislation that would impact gambling in Oregon; or

- (d) Rule changes that authorize new Lottery games or expand platforms where Lottery games are sold.
  - (2) **"Partnership opportunities with Oregon tribes"** means a potential endeavor in which the Lottery could partner with one or more Oregon tribes for a mutually beneficial purpose. Examples include:
    - (a) Lottery retail sales opportunities by tribal entities;
    - (b) Shared jackpots or other shared gaming opportunities;
    - (c) Shared responsible gaming training; or
    - (d) Marketing of tribal projects supported with Lottery revenue.
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#### **Guiding Principles:**

- (1) Lottery must identify appropriate tribal governing bodies and individuals from whom to seek input; this may vary based on Tribal Law, and Lottery must be mindful that each tribe is unique and may have different governing bodies and consultation processes.
  - (2) Meaningful consultation requires requesting tribal input before decisions have been made.
  - (3) Tribal consultation should not occur only when a decision must be made; but rather on a regular basis in order to form a partnership capable of navigating issues that arise.
  - (4) Learning about the unique history of each tribe is a value in and of itself and is critical to respect and understanding.
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#### **Lottery Commitments:**

The Lottery is committed to promoting positive government-to-government relations:

- **Tribal Liaison**
  - The Lottery shall designate a tribal liaison responsible for identifying issues that may affect Oregon tribes and serving as a designated point of contact.
- **Lottery's Strategic Plan**
  - The Lottery's Strategic Plan is a roadmap for Lottery that must be approved by the Commission. It includes any new Lottery games or expansion/plans for current Lottery games.
  - The Lottery will engage with the tribes when Lottery considers any changes to the Lottery's Strategic Plan and will provide opportunities for tribes to provide input to the Lottery director and/or the Commission.
  - The Lottery will share its Strategic Plan with Oregon tribes prior to final approval and adoption of the plan by the Commission.

- The Lottery will provide notice about public meetings where the Strategic Plan will be discussed.
  - **Prior Notice**
    - The Lottery will ensure tribes receive notice about opportunities to comment on rules or at public meetings about issues that may affect Oregon tribes.
  - **Channels of communication**
    - The Lottery will participate in the annual Tribal-State Government-to-Government Summit.
    - The director will offer to meet with each of the nine federally recognized tribes in Oregon at least once per year. The director will prioritize personally attending such meetings, but if unable, the director may appoint a designee to represent the Lottery, such as, but not limited to, the tribal liaison.
    - Upon invitation, the director or designee will attend meetings of the Oregon Tribal Gaming Alliance or similar organizations representing Oregon tribes or Oregon tribal interests.
    - The Lottery will make every effort to engage in a manner consistent with the tribal laws and protocols unique to each tribe.
  - **Annual Report**
    - The Lottery will report annually on government-to-government activities.
    - The annual report on government-to-government activities may include highlights of initiatives funded with Lottery revenue that impacts tribal communities.
    - The Lottery shall maintain a record of each annual report.
  - **Partnerships**
    - The Lottery will consider partnership opportunities with tribes at least annually, including but not limited to, revenue-generating opportunities or responsible gaming initiatives (such as informational campaigns or sharing training resources).
  - **Training**
    - Lottery employees will be notified annually about the provisions of [ORS 182.162-182.168](#) and this policy.
  - **Recordkeeping**
    - The Lottery shall retain a permanent record of tribal consultation efforts, including communications to and from tribal representatives; communications to Lottery employees about this policy; and the Lottery's annual report on government-to-government activities.
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## **Roles and Responsibilities:**

### **Oregon State Lottery Commission:**

The Commission is responsible for receiving the annual report from the tribal liaison.

### **Director:**

The director shall designate a senior manager to serve as the Lottery's tribal liaison. The director shall consult with the designated tribal liaison no less than annually on implementation of this policy and any current or emergent issues that may affect Oregon tribes or otherwise relating to government-to-government relations.

The director shall attend the annual Government-to-Government Summit or, if unable to attend, shall appoint a designee to attend and represent the Lottery. The director shall offer to meet exclusively with each tribe at least once annually. The director shall respond positively to any meeting invitations or requests to participate from tribes or from organizations representing Oregon tribes or regarding Oregon tribal interests, such as, but not limited to, the Legislative Commission on Indian Services or the Tribal Gaming Alliance. The director will prioritize personal engagement with tribes, but when unable to personally attend, the director may designate other Lottery personnel, such as, but not limited to, the tribal liaison, to participate on behalf of the director. The director will ensure tribal representatives are notified of Commission meetings and similar opportunities to provide public input to decisionmakers at Lottery about issues that may affect Oregon tribes.

At least once annually, the director shall, with input from Executive Team members, consider partnership opportunities with Oregon tribes such as, but not limited to, revenue generating opportunities, responsible gaming initiatives, gaming security, and information campaigns about how Lottery dollars fund programs that impact tribes.

#### **Tribal Liaison:**

The tribal liaison is responsible for identifying issues that may affect Oregon tribes and serving as a point of contact at the Lottery for issues relating to this policy or other current or emergent issues relating to tribal relations. The tribal liaison shall attend the annual Government-to-Government Summit and meetings with tribal representatives whenever appropriate. (Personal attendance shall be prioritized but, when necessary, the tribal liaison may delegate someone to attend on the tribal liaison's behalf.)

The tribal liaison is responsible for the annual report described in this policy and for ensuring the report's distribution. The tribal liaison shall ensure Lottery employees are aware of the provisions of [ORS 182.162-182.168](#) and this policy. The tribal liaison may adopt procedures to carry out compliance with this policy.

#### **Executive Team:**

The Executive Team shall consider tribal partnership opportunities with Oregon tribes at least once annually.

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#### **Oversight:**

No later than December 15 of every year, the tribal liaison shall submit a report on Lottery's tribal engagement activities to the Governor, the Commission on Indian Services, the Oregon State Lottery Commission, and all Lottery employees. The report shall meet the requirements of [ORS 182.166](#) and shall be included in the meeting materials for a public meeting of the Oregon State Lottery Commission and members of the public and tribal representatives shall be invited to submit comment directly to the Commission on the Lottery's compliance with this policy.

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#### **References:**

[Appendix A: ORS 182.164-182.168](#)  
[Legislative Commission on Indian Services](#)  
Lottery Procedure – Tribal Consultation

**APPENDIX A**  
**Relationship of State Agencies with Indian Tribes, ORS 182.162-182.168**

**182.162 Definitions for ORS 182.162 to 182.168.**

As used in ORS 182.162 to 182.168:

- (1) “State agency” has the meaning given that term in ORS 358.635.
- (2) “Tribe” means a federally recognized Indian tribe in Oregon.

[2001 c.177 §1]

**182.164 State agencies to develop and implement policy on relationship with tribes; cooperation with tribes.**

- (1) A state agency shall develop and implement a policy that:
  - (a) Identifies individuals in the state agency who are responsible for developing and implementing programs of the state agency that affect tribes.
  - (b) Establishes a process to identify the programs of the state agency that affect tribes.
  - (c) Promotes communication between the state agency and tribes.
  - (d) Promotes positive government-to-government relations between the state and tribes.
  - (e) Establishes a method for notifying employees of the state agency of the provisions of ORS 182.162 to 182.168 and the policy the state agency adopts under this section.
- (2) In the process of identifying and developing the programs of the state agency that affect tribes, a state agency shall include representatives designated by the tribes.
- (3) A state agency shall make a reasonable effort to cooperate with tribes in the development and implementation of programs of the state agency that affect tribes, including the use of agreements authorized by ORS 190.110.

[2001 c.177 §2]

**182.166 Training of state agency managers and employees who communicate with tribes; annual meetings of representatives of agencies and tribes; annual reports by state agencies.**

- (1) At least once a year, the Oregon Department of Administrative Services, in consultation with the Commission on Indian Services, shall provide training to state agency managers and employees who have regular communication with tribes on the legal status of tribes, the legal rights of members of tribes and issues of concern to tribes.

- (2) Once a year, the Governor shall convene a meeting at which representatives of state agencies and tribes may work together to achieve mutual goals.
- (3) No later than December 15 of every year, a state agency shall submit a report to the Governor and to the Commission on Indian Services on the activities of the state agency under ORS 182.162 to 182.168. The report shall include:
  - (a) The policy the state agency adopted under ORS 182.164.
  - (b) The names of the individuals in the state agency who are responsible for developing and implementing programs of the state agency that affect tribes.
  - (c) The process the state agency established to identify the programs of the state agency that affect tribes.
  - (d) The efforts of the state agency to promote communication between the state agency and tribes and government-to-government relations between the state and tribes.
  - (e) A description of the training required by subsection (1) of this section.
  - (f) The method the state agency established for notifying employees of the state agency of the provisions of ORS 182.162 to 182.168 and the policy the state agency adopts under ORS 182.164.

[2001 c.177 §3]

**182.168 No right of action created by ORS 182.162 to 182.168.**

Nothing in ORS 182.162 to 182.168 creates a right of action against a state agency or a right of review of an action of a state agency.

[2001 c.177 §4]