

Little River Band of Ottawa Indians

375 River Street
Manistee, MI 49660
(231) 723-8288

Resolution # 04-0303-94

*Acceptance of Background Investigation Policy for the Tribal Government and
Superseding All Prior Background Investigation Policies*

WHEREAS, the status of the *Gaá Čhíng Ziibi Daáwaa Aníshinaábek* (Little River Band of Ottawa Indians) as a sovereign and Treaty-making power is confirmed in numerous treaties, from agreements with the initial colonial powers on this land, to various treaties with the United States; and

WHEREAS, the Little River Band of Ottawa Indians (Tribe) is descended from, and is the political successor to, the Grand River Ottawa Bands, signatories of the 1836 Treaty of Washington (7 Stat. 491) with the United States, as reaffirmed by federal law in P.L. 103-324, enacted in 1994; and

WHEREAS, the Tribe adopted a new Constitution, pursuant to a vote of the membership on May 27, 1998, which Constitution became effective upon its approval by the Assistant Secretary-Indian Affairs on July 10, 1998; and

WHEREAS, the Tribal Council is authorized under Article IV, Section 7(a) to provide for the public health, peace, morals, education and general welfare of the Little River Band and its members; and

WHEREAS, the Tribal Council is authorized under Article IV, Section 7(j) to take legislative actions consistent with delegated powers; and

WHEREAS, the Tribal Council adopted resolution # 03-0423-105 which contained three directives:

- a. authorization to engage consultant to conduct a comprehensive review and revision of the Tribe's employment practices, processes, documents and salary structure;
- b. freezing the status of all current employees during the review and allowing exceptions to be requested by the Ogema and approved by the Tribal Council; and
- c. prohibiting new hires during the review and allowing exceptions to be requested by the Ogema and approved by the Tribal Council; and

WHEREAS, the Tribal Council engaged a consulting firm to provide revised personnel policies which have been submitted and reviewed; and

WHEREAS, the Ogema has requested his management team to review the information and make final recommendations; and

WHEREAS, the Ogema has determined that the background investigation policies of the Tribe should be brought forward for approval and that this action will not unduly hinder or interfere with the comprehensive revisions being conducted by the management team; and

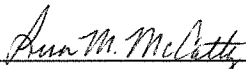
WHEREAS, the Ogema has reviewed the submission to the Tribal Council regarding the *Background Investigation Policy* of the Tribe and recommends its adoption;

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians does hereby accept the attached *Background Investigation Policy* for the Tribal government for immediate implementation.

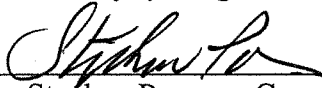
IT IS FURTHER RESOLVED THAT the Section 2.7(A) of the *Government Operation Personnel Manual* are hereby superseded by adoption of this resolution.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 8 FOR, 0 AGAINST, 0 ABSTAINING, and 1 ABSENT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on March 3, 2004, at the Little River Band's Dome Room in Manistee, Michigan, with a quorum being present for such vote.



Lisa M. McCatty, Acting Council Recorder



Stephen Parsons, Council Speaker

Attest:

Distribution: Council Records
Tribal Ogema
Tribal Court



LITTLE RIVER BAND OF OTTAWA INDIANS

Background Investigation Policy SOP-600-01:HR-06

Purpose: To clearly identify the processes by which the Tribe reviews applicants and employees to maintain a safe working environment for employees, clients and other visitors.

Policy: It is the policy of the Tribe to identify employment background investigation levels based on the activities of the individual job description and location of work. The Tribe also manages multiple grants received from the federal government to which the Tribe has agreed to the requirement of specific levels of background investigations and prohibitions on employment. Finally, the Tribe has determined that specific levels, and positions, require a higher level of background investigation simply because of the nature of those positions.

Standard: The standard or character requires that no person that has been found guilty or, or entered a plea of nolo contendere or guilty to, any felonious offense, or any of two or more misdemeanor offenses, under Federal, State, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact or prostitution; crimes against persons; or offenses committed against children shall be employed by the Tribe.

Steps:

A. Background Investigation Requirements in General

1. In general, each job description will have an assigned background investigation based on the following rules.
 - a. Level 1 through Level 4(non-exempt) – basic background investigation.
 - b. Level 4 (exempt) through Level 8 – extensive background investigation.
 - c. Level 0 – is an elected position and not subject to a background investigation under Tribal employment law.
2. The Tribal Manager, Human Resource Director and supervisor of the proposed new job position shall determine if an exception to the basic background investigation to increase to an extensive background investigation is needed. Such determinations may be made as a result of
 - a. grant requirements;
 - b. working around or with children or elderly;
 - c. working around or with access to financial activities of the Tribe; or
 - d. working around or with access to confidential material.

B. Types of Background Investigations

1. *Basic Background Investigation.* A basic background investigation requires research of criminal records in all prior residences for the past 10 years, and a driver's license check if a license is required qualification for the position.
2. *Extensive Background Investigation.* An extensive background investigation includes the elements of the basic background investigation in addition to a review of the civil actions, residential references, and consumer credit records.
 - a. State public records review;
 - b. FBI fingerprint check;
 - c. Credential check based on public records;
 - d. Credit check through consumer credit firm; and
 - e. Driver's license check of a license is required qualification for the position.
3. *Federal Grant Requirements.* Acceptance of a federal grant requires the Tribe as an employer to conduct background checks on employees that work with, or around, children and elders to have a background check that meets the requirements of the "Indian Child and Family Violence Prevention Act," 25 U.S.C. s. 3207. Applicants or employees that have the following criminal activities are prohibited from working in departments or in positions that, "involve regular contact with, or control over, Indian children," the Tribe has chosen to include elders within this requirement.
 - a. Individuals that have been found guilty of, or entered a plea of nolo contendere or guilty to, any felonious offense, or any of two or more misdemeanor offenses, under Federal, State, or tribal law involving crimes of violence;
 - b. sexual assault, molestation, exploitation, contact or prostitution;
 - c. crimes against persons; or
 - d. offenses committed against children.

C. Suitability Determinations

1. *Criteria for Suitability Determinations.* Each background investigation and reference check is reviewed against the following suitability determination factors regarding potential behaviors which would interfere with, prevent, or otherwise impact adversely on:
 - a. The performance of the person in the position applied for or employed with;
 - i. Delinquency or misconduct in prior employment;
 - ii. Criminal, dishonest, infamous, or notoriously disgraceful conduct;
 - iii. Intentional false statement, deception, or fraud in examination or application;
 - iv. Habitual use of intoxicating beverages or excess; or
 - v. Abuse of narcotics, drugs or other controlled substances;
 - b. The accomplishment of the duties and responsibilities of others in the Tribe; or
 - c. The ability of the department to fully and effectively carry out the program responsibilities:
 - i. The kind of position for which the person is applying or in which the person is employed, including its trust risks;

- ii. The nature and seriousness of the conduct;
 - iii. The circumstances surrounding the conduct;
 - iv. The recentness of the conduct;
 - v. The age of the applicant or environmental conditions; or
 - vi. The absence or presence of rehabilitation or efforts toward rehabilitation.
2. *Tribal Manager; Human Resource Director; Director.* The background investigation shall be forwarded to a conference with the Tribal Manager, Human Resource Director and the Director of the department for a suitability determination. Based on the criteria set forth in section 1 above, the Tribal Manager, Human Resource Director and the Director of the department shall, by consensus, identify whether the applicant is suitable for employment based on the standard set by the Tribe and the criteria in section 1.
- a. If the parties are unable to reach a consensus, the Tribal Manager shall make the final determination.
 - b. If the suitability determination is negative, the parties shall draft a memo indicating why the applicant was determined to be unsuitable, and what, if any, action can be taken to change this determination.
 - c. The Human Resource Department may create appropriate forms for this purpose.
3. *Appeal.* A negative suitability determination may be appealed, within 3 days of receiving notice, to the Ogema. The Ogema shall meet with the applicant and the Tribal Manager, discuss the decision and background investigation results, and make a final determination. Such determination shall be final and in writing.

Approved –

Ogema – February 24, 2004

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