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May 16, 2011

Via Electronic Mail: consultation.policy@nigc.gov

Kathy Zebell
National Indian Gaming Association
1441 L Street, NW, Suite 9100
Washington, D.C. 20005

RE: Comments on draft NIGC Tribal Consultation Policy

Dear Ms. Zebell:

The Mississippi Band of Choctaw Indians (MBCI) appreciates the opportunity to review and comment on the draft National Indian Gaming Commission (NIGC) Tribal Consultation Policy. A tribal consultation policy designed to guide the process for interaction and communication between the NIGC and Indian Tribes is a vital foundational document that will set the tone for how the NIGC will work with Tribes on Indian gaming issues. We are hopeful that NIGC will carefully consider the tribal input and comments on the Tribal Consultation Policy.

Pursuant to the March 8, 2011 letter to Tribal Leaders, the MBCI offers the following comments on the draft NIGC Tribal Consultation Policy:

1. We appreciate that the Consultation Policy traces its roots back to the “centuries-old, special relationship between the Federal government and the Tribes.” (Section I). This foundational statement reflects the long-standing history of governmental interactions between the Federal Government and Tribes. These interactions have not always been positive and have not always been meaningful or productive. There are many instances in the past where the NIGC has simply dictated its policies to the Tribes without meaningful tribal input or consultation. Thus, it is important that this policy reflect and follow through with the current Commission’s stated “renewed” commitment to regular, meaningful and timely consultation with Tribes on gaming issues.

2. The MBCI welcomes the tenor of Section III. Consultation General Principles which recognizes the Tribes’ sovereign authority to make their own laws and govern their own territory, and that this includes gaming activities. The MBCI fully supports Section III.F. which encourages Tribes to develop their own policies for gaming activities and, when possible, to defer to Tribes to establish their own standards. The willingness to defer to those who actually implement and enforce tribal policies and standards makes sense since it allows tribes to develop standards based on their particular situations and needs.

We also agree that NIGC should consult with Tribes on the need for federal standards and other alternatives that preserve the authority and autonomy of the Tribes over their gaming activities. A good example is the Facility Licensing Standards established by the NIGC. There were likely other alternatives that limited the scope of the federal standards to allow more localized tribal standards to be developed.

3. One of the more common failures of previous tribal consultation efforts was the inability or unwillingness to engage Tribes early on in the process and simply letting the Tribes know of a proposed policy or change when it was too late to have meaningful input. As a result, we strongly agree with the language at Section IV.A. that recognizes that meaningful consultation “must happen early and often” and encourage the NIGC to engage Tribes in conversations, even informally, when considering issues affecting tribal gaming. This includes the other forms of interactions that can be used to receive and evaluate tribal comments as described in Section V.B.

4. Something as simple as seating arrangements, agenda and dialogue opportunities can have an impact on successful communication and consultation efforts as discussed at Section IV.G. Past meetings where NIGC representatives were at the head of the room talking to a large audience of tribal leaders and representatives did not encourage open and free-flowing discussions. We appreciate the recognition of this and how this reflects upon the government-to-government interaction between NIGC Commissioners and staff and Tribal leadership and staff when conducting a consultation meeting.

5. We also feel it is important that the Consultation Policy recognize the need for NIGC to be as flexible as possible to allow sufficient time for Tribes and tribal entities to adequately review and analyze matters that could or will impact tribal gaming activities and interests. It is important to allow as much time as possible and depending on the circumstances, be flexible in time periods and deadlines for consultation and submission of comments. Often tribal input and authorization for comments or position statements may be delayed because of Tribal Council schedules and traditional tribal activities. We support NIGC’s commitment in Section IV.J. to be as flexible as possible to allow Tribes enough time to review and comment on matters that could have tribal implications.

6. It is a welcome change to see language at Section V.C. that allows a Tribe to request a consultation with the NIGC when a Tribe believes the NIGC may be taking actions with tribal implications. This option, along with the mandated time for NIGC to confirm receipt of the request and reply, create the sense that Tribes can initiate dialogue with NIGC and that there will at least be a response back from NIGC. In the past, Tribes would not get any response back from NIGC on submitted comments or suggestions on proposed NIGC actions.

7. The ability of Tribes to review transcripts of consultation meetings as well as comments submitted by other Tribes is very helpful, especially if a Tribe is not able to participate or attend

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a consultation meeting. We encourage NIGC to continue the practice as described in Section V.E.

8. The fact that the Consultation Policy contains specific provisions in Section IV. to hold NIGC Tribal Consultation Officers accountable internally to the NIGC Chair and accountable externally to the Tribes shows a commitment to taking tribal consultation seriously. It also shows the commitment to try and improve the consultation process. We applaud the NIGC Commission for taking this step.

Overall, the MBCI believes that the NIGC's proposed Consultation Policy is a strong commitment by the current NIGC Commission to improve communications and consultation practices with Tribes. Such a Consultation Policy will benefit our Tribe, our gaming operations and our gaming commission.

Thank you again for the opportunity to comment on this important Policy.

Sincerely,



Miko Beasley Denson

cc: Choctaw Gaming Commission