



**RESOLUTION OF THE GOVERNING BODY
OF THE
THREE AFFILIATED TRIBES
OF THE
FORT BERTHOLD INDIAN RESERVATION**

A Resolution Entitled: *Adoption of Supplemental Policies and Procedures Governing Background Investigations of All Law Enforcement Personnel Hired by the Three Affiliated Tribes*”

WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act and having adopted a Constitution and By-laws pursuant to said Act; and

WHEREAS, Article III of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council is the governing body of the Tribes; and

WHEREAS, The Constitution of the Three Affiliated Tribes authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof; and

WHEREAS, Article VI, Section 5 (l) of the Constitution of the Three Affiliated Tribes provides that the Tribal Business Council has the power to adopt resolutions regulating the procedure of the Tribal Business Council and other Tribal agencies and Tribal officials on the Reservation; and

WHEREAS, The Tribe has entered into separate Public Law 93-638 Self determination Contracts with the Bureau of Indian Affairs for the purpose of developing and administering a Law Enforcement Program on the Fort Berthold Indian Reservation, for the purpose of operating a Detention Facility on the Reservation and for the purpose of administering a Criminal Investigation Program on the Reservation and will assume responsibility for law enforcement services from the Bureau of Indian Affairs on the Reservation on or about December 1st, 2007; and;

WHEREAS, The Tribe will or has employed law enforcement personnel and correctional officers under these contracts who are required by the terms of the contracts to undergo



background investigations no less stringent than those required of federal officers performing the same duties; and

WHEREAS, All three self-determination contracts require compliance with various federal laws, regulations and policies including: The Indian Child Protection and Family Violence Prevention Act and its implementing regulations set out in 25 CFR Part 63; 25 CFR Part 12, the Indian Country Law Enforcement regulations; and the BIA Law Enforcement and Corrections Handbook; which all require that law enforcement officers in Indian Country including criminal investigator detention and uniformed police officers and dispatchers undergo stringent background investigations and be determined suitable for employment in these positions; and

WHEREAS, The Indian Child Protection and Family Violence Prevention Act, Public Law 101-630 and its implementing regulations requires that individuals employed in positions that require regular contact with or control over Indian children including law enforcement and corrections personnel, undergo a thorough background investigation and meet the minimum character standards for suitability as set out in the Act and its regulations; and

WHEREAS, In order to ensure compliance with The Indian Child Protection and Family Violence Prevention Act , the Tribal Business Council adopted the MHA Nation Public Law 101-630 Background investigation Policy and Procedure which provides in part that background investigations on covered employees be performed internally by the Tribe's Human Resources Department; and

WHEREAS, 25 CFR 63.16 provides that Tribes may conduct their own background investigations, contract with private firms, or request the Office of Personnel Management to conduct an investigation that covers the past five years of the individual's employment, education, etc in performing background investigations under the Indian Child Protection and Family Violence Prevention Act:

WHEREAS, 25 CFR Part 12.32 provides that law enforcement authority in Indian Country is only entrusted to personnel possessing adequate education and/or experience; training, aptitude, and high moral character; and

WHEREAS, 25 CFR Part 12.32 further provides that all Indian Country law enforcement programs receiving federal funds and /or authority must ensure that all law enforcement officers successfully complete a thorough background investigation no less stringent than that required of



a federal officer performing the same duties and the background investigation of applicants and employees must be adjudicated by trained and qualified security professionals; and

WHEREAS, 25 CFR Part 12.32 further provides that all background investigations be documented and made available for inspection by the Bureau of Indian Affairs; and;

WHEREAS, The BIA Law Enforcement Handbook, Volume 3, Chapter 2, Section 3-2-2 further provides that a background investigation must be conducted on each candidate [for employment] prior to appointment to probationary status; If operated by the BIA the background investigation is conducted according to the Office of Personnel Management guidelines and if operated by the Tribe an equivalent background investigation must be conducted by personnel trained in conducting background investigations;

WHEREAS, in order to ensure compliance with above referenced contracts, laws rules and regulations in the administration of the contracted programs and to ensure the public that only qualified individuals who meet the federal standards are employed in law enforcement positions with the Tribes , the Tribal Council has determined that a supplemental Policy for conducting background investigations for law enforcement personnel including police and correctional officers and criminal investigators should be adopted that requires that background investigation and adjudications be conducted externally by trained and qualified security professionals;

NOW, THEREFORE BE IT RESOLVED, that the Tribal Business Council hereby adopts the following attached Supplemental Background Investigation Policy:

BE IT FURTHER RESOLVED, that upon adoption of this Resolution by the Tribal Business Council, the Human Resources Department shall immediately solicit proposals from at least three qualified outside private companies to perform adjudications according to this policy and present those to the Tribal Council for selection and approval.

BE IT FINALLY RESOLVED, that the terms of this Supplemental Policy shall be amended and incorporated into the Tribes' Public Law 101-630 Background Investigation Policy.

SUPPLEMENTAL BACKGROUND INVESTIGATION POLICY FOR LAW ENFORCEMENT OFFICERS

- A) Purpose and Application:** The Purpose of this Supplemental Policy is to provide procedures in addition to those set out in the Tribe's Public Law 101-630 Background Investigation Policy for conducting background investigation on personnel employed in positions under the Tribe's Detention Services, Law Enforcement and Criminal Investigations Self-Determination Contracts with the Bureau of Indian Affairs in order to ensure that the tribal standards for employing individuals in these positions meet or exceed the federal standards for federal officers performing the same duties and to ensure strict compliance with federal laws regulations, policies and standards for law enforcement officers in Indian Country. This Policy shall apply to all tribal law enforcement officers which term is defined as including, uniformed officers, correctional Officers criminal investigators and dispatchers hired by the Tribe pursuant to the Tribe's Detention Services, Law Enforcement and Criminal Investigations Self-Determination Contracts with The Bureau of Indian Affairs. It is intended to supplement and be in addition to the Tribe's current Public Law 101-630 Background investigation Policy and is not intended to repeal or replace any provision of that Policy.
- B) Minimum Standards of Character:** all tribal law enforcement officers shall meet the qualifications and minimum standards of character, set out in 25 CFR Part 63.12 and 25 CFR Parts 12.31 and 12.32 and the rules and standards set out in Section VI of the Tribes Background Investigation Policy.
- C) Supplemental Procedures for Background Investigations:** the following supplemental procedures shall apply to conducting background investigations on all law enforcement officers as defined above:
1. The background investigation, suitability determination and adjudication required by Section V of the Tribes Background Investigation Policy shall be performed by a private contractor selected by the Human Resources Department with the approval of the Tribal Business Council, provided that such contractor must be a trained and qualified security professional.
 2. Except as otherwise provided in this supplemental Policy, the background investigation shall be conducted according to the applicable provisions of the Tribe's Background Investigation Policy.
 3. The Human Resources Department will be responsible for processing all paperwork necessary for conducting the background investigation and forwarding that information on to the selected adjudicator. Information for conducting the background investigation will be obtained on forms provided by the Bureau of Indian Affairs for that purpose.
 4. Upon completion of the adjudication by the contracted adjudicator, the adjudicator shall forward his/her written determination to the Human Resources Department.

5. If the adjudicator determines the individual unsuitable for employment the Tribe shall accept that determination and follow the adjudicator's recommendation and a final determination of suitability will be entered by the Human Resources Department based on the adjudicator's recommendation and determination. The Human Resources Department shall issue a written notice of the determination to the applicant or employee with a copy to their immediate supervisor.
6. If an employee or applicant is determined suitable by the adjudicator then he or she will be selected for hire in the position for which he/she has applied.
7. If unfavorable information is obtained on an applicant or employee during the investigation the applicant or employee shall have the right to refute that information as set out in Section VII of the Tribes Background Investigation Policy prior to a final determination being made.
8. If an applicant or employee is determined unsuitable for employment, he or she shall have right to appeal that decision through the Tribe's grievance procedure as set out in the Tribe's Personnel Policies and Procedure Manual provided that a final determination based on substantiated evidence of a disqualifying criminal conviction may not be overturned by the hearing officer.
9. Upon adoption of this Policy and Resolution all current law enforcement officers and applicants for a law enforcement position with the Tribe shall be required to undergo a background investigation pursuant to the terms of this policy, provided that any law enforcement officer who successfully completed a back ground investigation and has been determined suitable within the last five years may be hired into a law enforcement position or retain their current position pending completion of a new investigation pursuant to this policy
10. All tribal law enforcement officers shall be required to undergo an updated background investigation every five years from the date of the last investigation.
11. The Human Resources Department shall maintain all records regarding background investigations in accordance with the Confidentiality provisions of the Tribes Background Investigation Policy, subject to the Bureau of Indian Affairs right to review those records as set out in 25 CFR 12.32.




CERTIFICATION


I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 5 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 22nd day of October 2007; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 5 members, 0 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Chairman [] voting. [] not voting.

Dated this 22nd day of October 2007.

ATTEST:


Tribal Secretary, V. Judy Brugh
Tribal Business Council
Three Affiliated Tribes


Tribal Chairman, Marcus Wells Jr.
Tribal Business Council
Three Affiliated Tribes