

Title 13 – Indian Employment and Contracting Preferences  
**Chapter 4. Business Licensing, Registration; Employment Preference; and Work Permits**

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**Sec. 401. Indian employment preference.**

Every covered entity is required to give preference to qualified Indians resident on or near the Reservation in hiring, promotion and training of employees on trust land within the Reservation. The provisions of this Chapter apply to all such hiring, promotion and training.

**Sec. 402. Index of Indian applicants.**

TERO shall maintain an index of Indians seeking employment, and their qualifications. The index shall be maintained and cross-referenced so that TERO can easily and efficiently determine whether any Indians in the index meet the qualifications for a particular job and can develop a list of those who do.

**Sec. 403. Business License; Registration; Hiring Requirements; Work Permits.**

(a) Every covered entity seeking to conduct business on trust lands within the Reservation with any number of employees or any number of contractors or subcontractors shall register with, and obtain a Business License from, TERO. TERO shall set a schedule of fees, to be approved by the Executive Board, for Business Licenses for the following categories: Temporary (up to 30 days), Six Months, and One Year, provided that for any project for which the entity will receive \$100,000 or more, the Business License fee shall be 3% of the total value of the project.

(b) Upon registering with TERO under subsection (a), the covered entity shall describe its form of business association and provide such other documentation as TERO may require.

(c) TERO shall not issue a Business License to a covered entity unless the covered entity, as part of the registration process certifies that it has;

(1) Read and understands this Title 13 of this Code;

(2) Identified a Liaison Officer, if required pursuant to Chapter 7 of this Title;

(3) Read and understands Title 22 of this Code (Protection of the Environment);

(4) Notified the Office of Environmental Protection of its intent to conduct business on trust lands within the Reservation and complied with such registration process as that Office may require; and

(5) Notified the Cultural Resources Department of its intent to conduct business on trust lands within the Reservation and complied with such registration process as that Office may require.

(d) Upon registering with TERO under subsection (a), the covered entity shall receive a list of those Indians in the TERO index who meet the qualifications for employment specified by the covered entity, or TERO shall refer a specified number of such Indians to the entity.

(e) A covered entity commencing business on trust lands within the Reservation without a preexisting work crew may recruit and hire employees or trainees from whatever source and by whatever process it chooses, provided that (1) it may not hire a non-Indian until TERO certifies that no Indians meeting the qualifications set by the covered entity are listed on its index and (2) it complies with the registration and Work Permit requirements for non-Indian employees under subsection (f)(2) and for non-members of the Fort Peck Tribes under subsection (g).

(f) Any covered entity commencing business on trust lands within the Reservation with a preexisting work crew may maintain a workforce made up of 20% or more of non-Indians only if such a covered entity shall, prior to commencing work on any project,

(1) Obtain certification from TERO that either

(i) No less than 80% of the covered entity's workforce is made up of Indians or

(ii) No Indians meeting the qualification for the covered entity's positions are listed on the TERO index to enable the covered entity to employ a workforce that is made up of at least 80% Indians,

(2) Register with TERO the names of all non-Indian employees of the covered entity and any such other information TERO may require, and

(3) Purchase Work Permits from TERO for every employee who is not an Indian.

(g) In addition to the Work Permit requirements set forth in subsection (f), any covered entity who employs an individual who is an Indian but not a member of the Fort Peck Tribes shall;

(1) Register with TERO the names of all such Indian employees of the covered entity and any such other information TERO may require and

(2) Purchase Work Permits from TERO for every Indian employee who is not a member of the Fort Peck Tribes.

(h) Every employee for whom a covered entity registers and pays for a Work Permit in accordance with subsections (f) and (g) shall;

(1) Separately register with TERO, and provide TERO with any such additional information it may request so that TERO may maintain an up-to-date registry of the names, addresses, and other information with respect to all employees working for covered entities who are not members of the Fort Peck Tribes and

(2) Maintain on his or her person at all times a TERO certified Work Permit. The TERO Director shall have authority to revoke any Work Permit issued under this section with or without cause.

(i) Every covered entity shall be responsible for ensuring that their employees holding Work Permits under this section, who are not United States citizens, possess valid Department of Homeland Security documentation, which allows them to work in the United States under the Immigration Reform & Control Act. Should TERO become aware of the presence of any unauthorized foreign worker within the exterior boundaries of the Reservation, it shall inform the Department of Homeland Security of such presence and coordinate with that agency to request appropriate authorities to remove the unauthorized foreign worker from the Reservation.

(j) An employee or covered entity who fails to comply with the requirements of this section or who makes any misrepresentation in the registration requirements set forth herein shall be subject to sanctions in accordance with the provisions and procedures set forth in Chapter 3, and sanctions against employees may include the same civil fines that may be imposed upon a covered entity or exclusion from the Reservation.

(k) Job qualifications set by any covered entity may not include non-job-related qualifications which have a discriminatory impact on Indian applicants.

(l) The fees for Work Permits required by this section, and their duration, shall be established by TERO with the approval of the Executive Board.

(m) The requirements of this section shall apply, upon enactment, to any covered entity currently doing business on trust lands.

**(AMENDED AS PER RESOLUTION NO. 788-88-5, DATED 05/11/88. AMENDED AS PER RESOLUTION NO. 261-2008-01, DATED 01/14/2008.)**

#### **Sec. 404. Layoffs.**

In all layoffs and reductions in force, no Indian shall be terminated if a non-Indian worker in the same craft or job remains employed. If a covered entity lays off by crews, qualified Indians shall be transferred to crews that will be retained so long as there are non-Indians in the same craft or job employed.

#### **Sec. 405. Promotion.**

Every covered entity shall give preference to Indians in consideration for promotion and shall encourage Indians to seek promotion opportunities. For all promotions to supervisory positions filled by non-Indians, the employer shall file a report with TERO stating what Indians applied for the job, the reasons why they were not given the job, and the efforts made to inform Indians of the opportunity.

#### **Sec. 406. Summer students.**

Indians shall be given preference in the hiring of summer student help. The employer shall make every effort to promote after-school, summer, and vacation employment for Indian youth.

#### **Sec. 407. Effect of collective bargaining agreements.**

In no event shall a collective bargaining agreement with any union constitute an excuse for failure to comply with the Indian preference policy of this Chapter. Covered entities with collective bargaining agreements shall obtain any necessary agreement from any union with which it has a col-

lective bargaining agreement or give other satisfactory assurance that the covered entity and union will:

(a) Comply with this Chapter;

(b) Give absolute preference to qualified Indians in referral, regardless of which union referral list they are on

(c) Establish mechanisms, such as phone or mail registration, or a union sub-office near the Reservation, so that Indians do not have to travel great distances to retain their place on union lists;

(d) Establish necessary journeyman upgrade and advance apprenticeship programs for Indian workers

(e) "Blanket in" to the union all Indians who qualify and who wish to join the union; and

(f) Grant work permits to Indians who do not wish to join the union. TERO's participation in a written agreement with a union shall not constitute official tribal recognition of any union or tribal endorsement of any recruiting activities conducted by any union.

#### **Sec. 408. Individual complaints.**

Any person or entity which believes that any covered entity has failed to comply with the requirements of this Chapter may file a complaint with TERO whether or not the complaining party can demonstrate it is personally harmed by the alleged non-compliance.

#### **Sec. 409. Compliance and hearing procedures.**

If TERO has reason to believe, either as a result of a complaint filed pursuant to Section 408 or through its own investigations, that a covered entity has failed to comply with any of the requirements of this Chapter, TERO shall so notify the entity in writing specifying the alleged violations(s). If the party being so notified is a contractor or subcontractor, notice shall also be provided to the entity holding the permit or authorization under which the contractor or subcontractor is operating, and such entity may be a party to all further negotiations, hearings and appeals. The entity cited and TERO shall have twenty (20) days to pursue a voluntary, informal resolution of the

problem. If no such resolution can be reached at the end of twenty (20) days, TERO shall notify the Review Board and request that it set up a formal hearing on the problem within twenty (20) days of such notice. The procedures at such hearings shall be as provided in Chapter 3. TERO shall pursue on behalf of the Tribes complaints it determines to have merit. If the Review Board decides that an entity has failed to comply with the ordinance, it may impose one or more of the sanctions provided for in Section 305.

**Sec. 410. Retaliation forbidden.**

Any covered entity and any union or person subject to tribal jurisdiction which retaliates against any employee, employer, union, or other entity because of its exercise of rights under this Chapter, or compliance with provisions of this Chapter, shall be subject to the sanctions set forth in Section 305. In addition, if the Review Board determines a complaint has merit, TERO may petition the Tribal Court to order reinstatement or other temporary or permanent injunctive relief to prevent harm or further harm caused by such retaliatory actions.