

Cherokee Nation Code Annotated

Title 40: Labor and Employment

Chapter 2: Tribal Employment Rights Office (TERO)

§ 201. Tribal Employment Rights Office—Establishment, authority and duties

Cite as: 40 CNCA § 201

There is hereby recognized the Tribal Employment Rights Office (hereinafter referred to as the "TERO"). The TERO shall administer the employment rights program of the Cherokee Nation in accordance with this Title.

The TERO shall have the authority:

1. To operate consistent with the provisions of this Title and to develop rules and regulations governing activities of TERO. The TERO may adopt EEOC guidelines or may adopt other requirements to eliminate employment barriers unique to Indians in Indian Country;
2. To obtain funding from federal, state and other sources to supplement Council appropriations as delegated by the Administration;
3. To negotiate cooperative agreements with federal, state, local, and other authorities on matters dealing with employment rights and TERO activities and to operate pursuant to finalized cooperative agreements and/or memoranda of understanding or agreement;
4. To use the information, facilities, personnel, and other resources of federal, state, and local agencies, as allowed by those agencies, as well as any and all Cherokee Nation departments;
5. To require employers to establish or participate in job training programs as the TERO deems necessary to increase the pool of Indians eligible for employment;
6. To establish and administer a tribal job bank and require employers to use it;
7. To prohibit employers from using job-qualification criteria or personnel requirements that may bar Indians from employment unless such criteria or requirements are required by business necessity;
8. To engage in the process of certifying businesses as "Indian-owned economic enterprises" and determine whether businesses may be given Indian preference. No business that is more than forty-nine percent (49%) owned by a trust shall be certified;

9. To direct inspections of regulated sites and determine compliance with rules, regulations, and/or contract requirements. A "regulated site" shall be any site where an employer is engaged in work as defined by this Act;
10. To negotiate agreements with unions to insure union compliance with this Title;
11. To require employers/contractors to follow the preferences as required in 40 CNCA § 301;
12. To establish counseling programs to assist Indians in obtaining and retaining employment;
13. To require employers to submit reports and take all actions deemed necessary by the TERO for the fair and vigorous implementation of this Act;
14. To enter into cooperative agreements with employment rights agencies such as EEOC, HRC, and OFCCP to eliminate adverse discrimination against Indians;
15. To take such actions as are necessary to achieve the purposes and objectives of the Cherokee Nation employment rights program established in this Title;
16. To publish a listing of certified "Indian-owned economic enterprises";
17. To review and propose changes to this Title and related regulations as necessary;
18. To participate and cooperate in appeal hearings in accordance with this chapter;
19. To register and keep file of records and complaints concerning certified, Indian-owned economic enterprises and with individuals and companies doing business with the Cherokee Nation;
20. To assess an employment rights fee of one-half of one percent (0.5%) on all covered contracts, which shall mean any contract executed by a contractor as defined in 40 CNCA § 103.
21. To issue and assess fees for work permits which must be obtained for all non-Indian employees of an employer:
 - a. Any employer, as defined in this Act shall be required to pay a fee of not less than Twenty-Five Dollars per employee per day for non-Indian employees hired for a project or hired after the effective date of Legislative Act 30-12 (September 12, 2012) if the employer is the Cherokee Nation or its entities.
 - b. Each such employer shall be required to submit a core crew list to the TERO.

- c. Once the core crew list is submitted the TERO will confirm the core crew members the vendor has listed and those employees shall not be exempt from the requirement to obtain a work permit but no fee will be due for the core crew employees.
- d. If the TERO has identified Indians that can be used for non-Indian employees it shall submit the name to the employer for consideration of replacement of the non-Indian employees. Failure to hire the qualified Indians submitted by TERO will result in termination of the employer's contract with the Cherokee Nation or its entities.
- e. The TERO is also authorized to administer other fees and penalties as provided in this Act.
- f. An employer is exempt from the assessment of a fee or penalties as provided in this Act if the employer can prove to the TERO that the employer followed the preferences under this Act through posting of a job announcement twice, employer submits job descriptions to TERO for qualified Indians, and through proof that no Indian applicant was qualified or no Indian applied.

Historical Data

LA 38-05, eff. November 17, 2005. Amended LA 30-12, eff. September 12, 2012; LA 01-14, eff. March 21, 2014; LA 05-16, eff. April 21, 2016; LA 17-16, eff. July 13, 2016.