

This Guide Sheet outlines two Indian Preference topics:

1. Indian Preference for **individual** hiring with the federal government or tribal jobs (**Indian Preference**)
2. Indian Preference for Indian-owned **businesses** interested in doing business with the federal government or tribes (**TERO**)

Indian Preference

What is Indian Preference?

Indian Preference is a unique legal-right tribal members have, which entitles them to first consideration at all employment, training, contracting, subcontracting, and business opportunities existing on and, in some cases, near reservations. This preference provides an advantage to qualified American Indians and American Indian businesses who apply for governmental positions and contracts. Most commonly, Indian Preference applies to federal agencies such as the Bureau of Indian Affairs, Indian Health Service, Tribes, and, in certain instances, contracts with governmental and tribal agencies.

Preference in filling vacancies is given to qualified Indian candidates in accordance with the *Indian Reorganization Act of 1934* and other U.S. laws. Indian Preference eligibles not currently employed in federal service may be appointed under certain Excepted Service Appointment Authorities. Consideration may be given to non-Indian applicants if there are no qualified Indian Preference eligibles.

Indian Preference Criteria

Individuals are eligible for Indian Preference if they meet the following criteria:

- ◆ Are a member of a federally recognized Indian tribe, or are an Alaska Native
- ◆ Qualified for the vacant position or contract
- ◆ Can prove membership in a Native American tribe through BIA Form 4432 or other documentation
- ◆ Live on or near an Indian reservation

Is there a difference between Indian Preference and Veteran's Preference?

Generally, Indian Preference takes precedence over certain sections of the Veteran's Preference Act of 1944. Check with your internal policies and procedures to see what your Indian Preference policies are.

Tribal Employment Rights Ordinance

What is a Tribal Employment Rights Ordinance (TERO)?

TEROs are tribal laws and regulations requiring all employers engaged in business on reservations to give preference to qualified Indians in all aspects of employment and contracting and all other business or economic development activities.

Why were TEROs enacted?

To address the deplorable rate of poverty, unemployment, and underemployment which exists among Native people living on reservations; to eliminate discriminatory and other historical barriers tribal members face while seeking employment and business opportunities on or near reservations; and to ensure tribal members receive their rightful entitlements as intended under the concept of Indian Preference.

What does a TERO do?

- ◆ **Sets conditions:** Orders the tribal requirements for Indian Preference that all covered employers must comply with in order to be eligible to perform work on a reservation.
- ◆ **Establishes authority:** Empowers the TERO Commission and staff with enough authority to fully enforce all provisions of the TERO.
- ◆ **Provides due process of law:** Provides principles of legal fairness to all parties involved in compliance or violation dispute issues.

What are the basic TERO requirements?

Examples of basic TERO requirements employers are required to comply with include:

- ◆ Submit an acceptable compliance plan detailing the steps they will take to ensure compliance with the TERO.
- ◆ Utilize the TERO Skills Bank for all referrals and consider Indian applicants before interviewing or hiring.
- ◆ Eliminate all extraneous job qualification criteria or personnel requirements which may act as barriers to Indian employment.
- ◆ All employers who have collective bargaining agreements with one or more unions must secure a written agreement indicating they will comply with TERO.
- ◆ Agree to acknowledge and respect tribal religious beliefs and cultural differences to cooperate with TERO to provide fair and reasonable accommodations.

Resources

- ◆ Indian Health Service (<https://www.ihs.gov/>)
- ◆ Indian Affairs (<https://www.bia.gov/>)
- ◆ Form BIA – 4432 (https://www.bia.gov/sites/bia.gov/files/assets/public/raca/online_forms/pdf/IndianPref_1076-0160_Exp3-31-21.pdf)



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Feedback Requested

OVC TFMC will continually work to provide resources to support grantees as they successfully manage their OVC financial awards. Your feedback assists us in creating these resources to meet your needs. To help us provide the most useful resources, we would appreciate your feedback on this guide sheet. Please send any comments or suggestions to Evaluation@OVCTFMC.org.

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