02/25/2024

Include if any of the following apply:

(a) Projects located on Tribal lands
(b) Projects funded by the Tribal Transportation Program (TTP)
(c) Other projects as determined by the Project Manager.

Any change to this specification (other than providing fill-in information) requires a Legal review.

## Section 107A. — INDIAN PREFERENCE (ADDED SECTION)

**107A.01 Definitions.**

**(a) Core workforce.** Contractor’s workforce composed of full-time employed individuals necessary to satisfy the Contractor’s reasonable needs for supervisory or especially experienced personnel to assure an efficient execution of the contract work. Includes any Indian already employed by the Contractor.

**(b) Indian.** A person who is an enrolled member of a federally recognized American Indian Tribe or Alaska Native.

**107A.02 Employment Opportunities.** To the extent feasible and consistent with the efficient performance of this contract, give preference in employment under this contract to Indians who are qualified to perform regardless of age (subject to existing laws and regulations), sex, religion, or Tribal affiliation.

**107A.03 Application.** This Section does not apply to the Contractor’s core workforce.

Except for the core workforce, follow the process set forth in this Section for the hiring of all construction workers who will be employed on this project.

**107A.04 Preliminary Meeting.** Within 20 days after award of the contract, set up a pre-construction, in-person meeting with the Tribe to discuss employment opportunities. The contact person is:

<<<Insert contact name>>>

<<<Insert contact title>>>

<<<Insert name of Tribe, Village, Company, or Department>>>

<<<Insert telephone number and email address>>>

**107A.05 Publicly Announced Preference.** Announce publicly the Contractor’s preference in employment to Indians for this project.

**(a) Advertising.** Advise recruitment sources in writing and include a statement in all advertisements for employment that qualified Indian applicants will be given preference in employment.

**(b)** **Initial notice.** Not more than 20 days after award of the contract, post a written notice to the Tribe identified in Subsection 107A.04. The notice shall set forth the Contractor’s employment needs, including:

**(1)** Approximate numbers and types of employees needed;

**(2)** Approximate dates of employment;

**(3)** The experience or special skills required for employment, if any; and

**(4)** Other pertinent information necessary to advise prospective employees of any other employment requirements.

Request the Tribe provide assistance to the Contractor in filling its employment needs.

Notify the Tribe that any employment preference is an Indian preference, not a Tribal preference. Equal opportunity for employment will be provided to all Indian applicants, regardless of Tribal affiliation.

**107A.06 Tribal Notice of Employment Needs.** Notify the Tribal office identified in Subsection 107A.04 of any specific need for employees. Provide this notice at least 1 week after the initial notice. The Tribal office will have 1 week after receiving the specific need notice to provide qualified or qualifiable applicants to satisfy the stated employment need.

**107A.07 Employment.** Give full consideration to all qualified job applicants identified by the Tribal office and to any other Indian applicant. If after giving full consideration, the Contractor’s employment needs remain unsatisfied, the Contractor may employ non-Indians as necessary to fill-out its workforce needs according to the “Equal Opportunity” clause in this contract. The Contractor is not required to employ any applicant who, in the Contractor’s opinion, is not qualified to perform the classification of work required.

**107A.08 Records.** Maintain and submit records concerning the Contractor’s Indian preference as follows:

**(a)** Maintain written records under this contract which indicate:

**(1)** The numbers of Indians seeking employment for each employment position available under this contract.

**(2)** The number and types of positions filled by Indians and non-Indians.

**(3)** The total number of Indians employed under this contract.

**(4)** For those positions where there are Indian applicants, and a non-Indian is selected for employment, the reason(s) why the Indian applicant was not selected.

**(b)** Submit to the CO for approval a quarterly report which summarizes the Contractor’s Indian preference activities and indicates the number and types of available positions filled by Indians and non-Indians.

**(c)** Maintain records pursuant to this clause and keep them available for review by the Government for one year after final payment under this contract, or for such longer period as may be required by any other clause of this contract or by applicable law or regulation.

**107A.09 Subcontracting.** Include the provisions of this clause, including this Subsection, in each subcontract awarded at any tier under this contract and notify the CO of such subcontracts.

**107A.10 Enforcement.** In the event of noncompliance with this clause, the CO may terminate the contract in whole or in part or may impose any other sanctions authorized by law or by other provisions of the contract.