

Appendix C

Checklist of San Pasqual Tribal Government Procedures regarding the San Pasqual TERO (Tribal Employment Rights Office) Ordinance

A. Contractors & Subcontractors

1. Is work for or on behalf of the Tribe performed by a Contractor or Subcontractor?
(The term Contractor and Subcontractor means an enterprise or business performing work or a service for a fee and does not include a purveyor or vendor delivering goods or materials to the Reservation.) Yes ☐ No ☐
2. Is the contract in an amount of \$5,000 or more? Yes ☐ No ☐
3. Is the Contractor / Subcontractor engaged in work on or near the Reservation or Tribally owned land when performing the contract? Yes ☐ No ☐

Is a TERO employment rights fee due and payable?

If all questions are “yes”, the contract / subcontract is subject to the 1% TERO fee. In such case, please be sure that the contract bid contains a 1% TERO fee and arrangements are made to pay the 1% TERO fee for deposit into the TERO Commission bank account(s). The TERO fee is due at the commencement of the contract. However, the fee may be paid on installments over the length of the contract if allowed by the TERO Officer. The entire fee must be paid upon completion of the contract when installments are permitted.

What Other TERO Ordinance provisions are required by the Contractor / Subcontractor?

See section “C” below for other TERO Ordinance provisions.

B. Contracts with other Employers

1. Is the Employer engaged in work on or near the Reservation or Tribally owned land?
(An employer is not engaged in work on or near the Reservation or Tribally owned land if it is a purveyor or vendor delivering goods or materials to the reservation. Also, an employer may not be a construction contractor with a contractor’s license. Such an employer may be a Contractor / Subcontractor discussed above.) Yes ☐ No ☐
2. Does the Employer have a contract with the Tribe in an amount of \$5,000 or more? Yes ☐ No ☐
3. Does the Employer have one or more employees? Yes ☐ No ☐
4. Is the Employer not an educational, health or non-profit employer? Yes ☐ No ☐

Is a TERO employment rights fee due and payable?

If all questions are “yes”, the contract is subject to a TERO fee equal to 1% of the employer’s annual payroll or, if the contract can be performed in less than one year, 1% of the payroll paid to complete the contract. The TERO fee is due at the commencement of the contract, unless the TERO Officer permits installments. Budgeted payroll

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figures can be used to compute the TERO fee for the initial payment, but actual payroll must be used to compute the fee at the completion of the contract. Actual payroll costs are subject to audit at the discretion of the TERO Officer to verify compliance with the TERO Ordinance.

In lieu of payment of 1% of payroll costs, the employer may negotiate a TERO fee that is suitable to the TERO Officer to avoid disclosure and computation of employee costs on the project if permitted or delegated by the TERO Commission.

What Other TERO Ordinance provisions are required by the Contractor / Subcontractor?

See section "C" below for other TERO Ordinance provisions.

C. Employer Responsibilities under the TERO Ordinance

The TERO Ordinance was passed to combat employment discrimination against Indians, create employment rights and encourage the hiring and training of Indians (Native Americans). Employers, contractors and subcontractors subject to the Ordinance (basically those to which a TERO fee applies) are required to give preference to preferred employees in hiring, promotion, training and all other aspects of employment, contracting or subcontracting and must comply with the TERO Ordinance and the rules, regulations and orders of the TERO Officer.

The order of preference is as follows: (1) members of the San Pasqual Tribe; (2) Spouses of members of the San Pasqual Tribe who contribute to the support of the household of a San Pasqual Tribe member; and (3) Other Indians. However, if said order is prohibited by Federal law, the following order of preference shall apply: (1) Indians who are local residents; (2) Other Indians; and (3) Other local residents.

The employer should have a policy of preferential hiring in accordance with the policy where it is practical and feasible under the circumstances. The TERO Officer may require proof of actions under such policies or pursue other remedies under the ordinance.

Does the undersigned employer have a policy of preferential hiring in accordance with the TERO Ordinance, a copy of which has been delivered and receipt is hereby acknowledged? Yes ☐ No ☐

If not, has a waiver been obtained from the TERO Officer Yes ☐ No ☐

Employer / Contractor / Subcontractor: _____

Signature of authorized person: _____

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Print Name: _____

Date: _____