

TRIBAL CODE

CHAPTER 13:

AFFIRMATIVE ACTION PLAN

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HISTORY NOTE:

Current Ordinance

Original Affirmative Action Plan adopted by Board motion on April 25, 1978.

Amended Plan adopted by Board motion on April 29, 1981.

Reenacted in Tribal Code Format as part of the Tribal code July 5, 1995, Resolution No. 95-89, effective immediately.

Amendments

Resolution 2-24-82A, adopted February 24, 1982, added current §13.114.

Indian employment percentage changed to 75% by Board motion on June 23, 1982.

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CHAPTER 13:

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13.101 Contract Requirement.

The Sault Ste. Marie Tribe of Chippewa Indians Affirmative Action Plan, Tribal Code Chapter 13, shall be included as a requirement of all construction contracts and all other contracts with the Tribe to be performed on or near Tribal lands. It shall likewise apply to all subcontractors of any such contractor. It is established to ensure that a reasonable percentage of Indian people will be employed by each contractor and subcontractor on every Tribal project. The Affirmative Action Plan is set forth in the remaining sections of this Chapter.

13.102 Legal Basis of Plan.

(1) Federal law prohibits racial discrimination by private employers in connection with federally funded contracts under the Civil Rights Act of 1964. It is unlawful for employers to refuse to hire an individual, to segregate employees, to differentiate wages paid or to otherwise discriminate in employment practices, on the basis of color, race, religion or national origin.

(2) Indian tribes are exempted from this requirement; they may employ all Indian work forces. Also, enterprises on or near Tribal land may give hiring preference to Indians.

13.103 Affirmative Action Policy.

Indian persons are to be given preference in employment. In achieving the specific goals set forth in this plan, Sault Ste. Marie Tribal members are given primary preference, and other Indians are given preference over non-Indians.

13.104 Seventy-five Percent Indian Employment.

Every contractor will be required to employ seventy-five percent (75%) Indian employees on all Tribal projects. This provision does not require a contractor to change his hiring or firing practices regarding unproductive employees.

13.105 Each Job Classification or Trade.

The 75% Indian employment requirement will apply in each job classification or trade. The contractor may hire one non-Indian in any trade; however, the second, and 75% of all employees hired thereafter, must be Indian.

13.106 Openings and Record Keeping.

A list of Indian applicants will be maintained at the Tribal office for the convenience of the contractors. Contractors will file a notice of all openings with the Tribal office and will maintain records of employment of Indians on the job, showing the dates of employment and payroll of both Indian and non-Indian employees.

13.107 Employment Preference; Indian Defined.

Indian persons are given preference in employment. Indian persons are enrolled members of Indian tribes and persons recognized as such by the Indian community. The Tribe shall resolve any disputes regarding Indian status.

13.108 Minority Contracts.

Minority contractors with appropriate federal approval will be given preference, but must also comply with this Chapter.

13.109 All Contracts.

This policy is part of all Tribal contracts. All contractors and subcontractors will sign a copy of this plan and file same with the Tribe's Executive Director before commencing work.

13.110 Public Announcement.

The contractor on any Tribal project shall publish, in a local newspaper of general distribution, notice of his intention to give employment preference to Indians.

13.111 Waiver.

The requirement of Indian preference may be waived by the Tribe's contracting officer if qualified Indians are not available for any job opening. A separate waiver must be done for each position filled by any contractor in violation of this policy prior to filling the position. All waivers must be in writing signed by the contract officer.

13.112 Compliance and Penalties.

Contractors must comply with this Chapter within five working days after execution of the contract. Failure to do so may result in termination of the contract or other remedies which may include a penalty equal to the payroll wrongfully denied to Indian people.

13.113 Grievances.

Complaints by individual Indians or noncompliance will be arbitrated by a board established for the purpose by the Tribe. The contractor will represent himself at the hearing. Disputes between the Tribe and the contractor arising under this policy will be resolved as any other disputes arising under the contract are to be resolved.

13.114 Indian Preference in Contracting.

Indian preference will apply to all contracting by the Tribe. Eligibility for Indian preference in contracting will be determined on the basis of the HUD Indian Enterprise Qualification Statement.