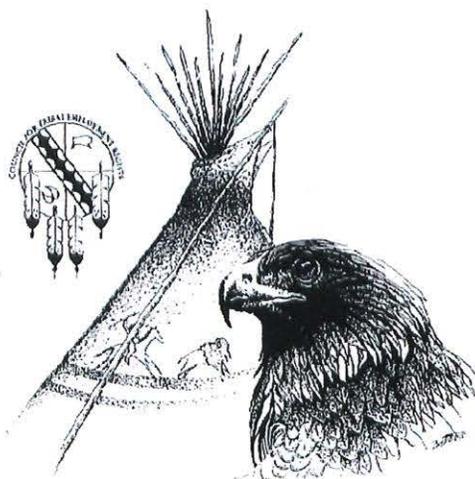


MEMORANDUM OF UNDERSTANDING
BETWEEN
OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS
AND
COUNCIL FOR TRIBAL EMPLOYMENT RIGHTS



DECEMBER 7, 2017

MEMORANDUM OF UNDERSTANDING

BETWEEN

**THE U.S. DEPARTMENT OF LABOR
OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS**

AND

THE COUNCIL FOR TRIBAL EMPLOYMENT RIGHTS

I. PARTIES TO THE MOU

The parties to this Memorandum of Understanding (“MOU”) are the Office of Federal Contract Compliance Programs (“OFCCP”) of the U.S. Department of Labor and the Council for Tribal Employment Rights (“CTER”).

II. PURPOSE AND SCOPE

The purpose of this MOU is to foster cooperation and a mutually beneficial working relationship between OFCCP and CTER to conduct outreach, education, and compliance assistance activities that promote the recruitment, hiring, retention, and advancement of Indians and Native Americans and protect their employment rights.

OFCCP is a civil rights agency within the U.S. Department of Labor. OFCCP enforces three laws that establish the substantive authority for this MOU: Executive Order 11246, as amended (“Executive Order”); Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 793 (“Section 503”); and the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (“VEVRAA”).¹ These laws prohibit employment discrimination by federal contractors and subcontractors, as well as by federally assisted construction contractors and subcontractors, holding contracts that meet or exceed certain thresholds.² These laws require covered federal contractors and subcontractors to take affirmative action to employ and advance in employment qualified minorities, women, individuals with disabilities, and protected veterans.

In an effort to reinvigorate its long-standing relationship with Indian tribes and organizations, OFCCP has created the Indian and Native American Employment Rights Program (“INAERP”), which advances awareness of employment rights issues for Indian and Native American wage earners and job seekers who are employed by or seek employment with companies doing business with the Federal Government. Consistent with this MOU, INAERP will develop meaningful partnerships with CTER and its designees, including the Tribal Employment Rights Offices (“TEROs”).

¹ The Secretary of Labor enforces the Executive Order, Section 503, and VEVRAA; the Secretary’s responsibilities under these laws have been delegated to the Director of OFCCP.

² Contracts in excess of \$10,000 are subject to the Executive Order and contracts in excess of \$15,000 are subject to Section 503. The threshold for coverage under VEVRAA is \$150,000.

CTER is a community-based, Indian-owned and operated non-profit organization that is comprised of and represents the interests of over 300 Tribal and Alaska Native Villages that are covered by employment rights ordinances. CTER provides training and technical assistance to Indian Tribes, Native Organizations, governmental agencies, and private sector employers in all aspects of Indian preference, Tribal Employment Rights enforcement, business, and implementation strategies involving the sovereign power of the Tribes. Additionally, CTER works directly with TEROs to foster employment opportunities for Indians and Native Americans on Indian Reservations.³

III. PROVISIONS

OFCCP agrees to:

1. Assist CTER with establishing linkages⁴ between federal contractors or subcontractors and Indian and Native American organizations.
2. Inform federal contractors and subcontractors about the benefits of working with CTER, or its designee, to create linkages for recruitment and referral of qualified Indian and Native American job applicants.
3. Serve as an information source to CTER on federal contractor and subcontractor requirements for compliance with the Executive Order, Section 503, and VEVRAA and their implementing regulations.
4. Make available a current and comprehensive directory of OFCCP offices (National, Regional, District, Area, and Field) to CTER to facilitate communication between CTER and OFCCP.

CTER agrees to:

1. Notify OFCCP when a direct federal or federally assisted construction project is announced where performance is on an Indian Reservation.
2. Routinely accept employment announcements from federal contractors and subcontractors identified by OFCCP. Disseminate the employment openings to third party entities such as TEROs in an effort to maximize distribution of this information.
3. Upon receipt of a written notification of a linkage from OFCCP, make contact with the federal contractor and subcontractor involved to establish a dialogue and discuss the contractor's recruitment and training opportunities.
4. Provide written feedback to OFCCP regarding the effectiveness of linkage agreements made with federal contractors and subcontractors.
5. Make available a current directory of CTER's and its designees' offices to OFCCP for dissemination to its field offices to utilize in carrying out the terms of this MOU.

³ For purposes of this MOU, "Indian reservation" means any federally recognized Indian tribe's reservation, including former reservations in Oklahoma, Indian allotments, and land held by incorporated Native groups, regional corporations, and village corporations in Alaska under the provisions of the Alaska Native Claims Settlement Act. See EEOC Policy Statement on Indian Preference Under Title VII, EEOC No. 915.027 (May 16, 1988).

⁴ Linkages are "relationships between contractors and community recruitment resources." OFCCP, Federal Contract Compliance Manual, sec. 2K, p. 94 (2013).

OFCCP and CTER agree to work together to:

1. Explore innovative approaches for identifying employment opportunities for Indians and Native Americans.
2. Explore ways to promote coordination among the various federal agencies with responsibility for programs that affect the employment of Indians and Native Americans.
3. Ensure federal contractors and subcontractors performing work on OFCCP-designated mega construction projects and other federal government contracts are aware of Indian reservations near the location where the federal contract work is being performed.
4. Document the linkages established between federal contractors and subcontractors and CTER (or its designee). Such linkages may be formal or informal, depending on the availability of employment openings and the duration of the federal contract or subcontract.
5. Participate in seminars, conferences, interagency training programs, staff meetings, webinars, and other related activities conducted by OFCCP and/or CTER, subject to the availability of funds.
6. Conduct quarterly meetings via telephone conference, to discuss implementation of the MOU, successful employment linkages with federal contractors and subcontractors, employment opportunities, and issues related to OFCCP compliance regulations. Exchange information about employment opportunities available during the quarter, availability of qualified Indians and Native Americans, and job training. Prepare a joint report memorializing the quarterly meeting and submit the report to the OFCCP Director and the CTER President.

IV. LIMITATIONS

OFCCP and CTER agree to make good-faith efforts to cooperate as detailed herein. However, both parties fully understand that the MOU does not create any legally enforceable rights or obligations on the part of either party or any third party. Nothing in this agreement shall be interpreted as limiting, superseding, or otherwise affecting either party's normal operations or decisions in carrying out its statutory or regulatory duties. This agreement does not limit or restrict the parties from participating in similar activities or arrangements with other entities. This agreement does not authorize the expenditure or reimbursement of any funds. Nothing in this agreement obligates the parties to expend appropriations or enter into any contract or other obligation.

This agreement will be executed in full compliance with all applicable statutes and regulations, including the Privacy Act of 1974, the Freedom of Information Act, and the Federal Records Act. Nothing in this MOU constitutes an official endorsement by OFCCP for CTER's products and services, and CTER agrees not to use this MOU for such purposes.

V. AMENDMENT, DISPUTES, AND TERMINATION

This MOU may be modified in writing by mutual consent of the parties when specific changes are deemed appropriate to be in the best interest of either party.

Should disagreements arise regarding the interpretation of the provisions of this agreement and/or any amendments or revisions thereto that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each party, and presented to the other party for consideration. If agreement or interpretation is not reached within thirty days, the parties shall forward the written presentation of the disagreement to respective higher officials for appropriate resolution.

The provisions of this MOU are effective on the date of signature noted below in section VII and will remain in effect until three years after that date. The Parties can only modify the MOU by mutual consent. Either party can unilaterally terminate this MOU by a providing 30-day written notice to the other party.

This MOU is effective until modified or terminated in accordance with this Agreement. The undersigned hereby agree that this document represents the entire understanding between them.

VI. POINTS OF CONTACT

In implementing this MOU, the parties agree to the following points of contact:

A. OFCCP:

Theresa Lujan, Director of INAERP
USDOL/OFCCP
230 N 1st Avenue
Suite 503
Phoenix, AZ 85003

B. CTER:

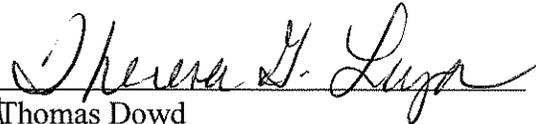
Lee Adolph, President
Council for Tribal Employment Rights
1025 W Indiana
Suite 99
Spokane, WA 99205

VII. AGREEMENT

The provisions of this MOU are effective on the date of the last signature noted below and may be modified by mutual consent.

The undersigned hereby agree that this document represents the understanding between them.

For OFCCP:


Thomas Dowd
Interim Acting Director
Office of Federal Contract Compliance Programs

12/7/2017
Date

For CTER:


Lee Adolph
President
Council for Tribal Employment Rights

12/7/2017
Date