

*Lummi Nation*

*TRIBAL EMPLOYMENT RIGHTS OFFICE*

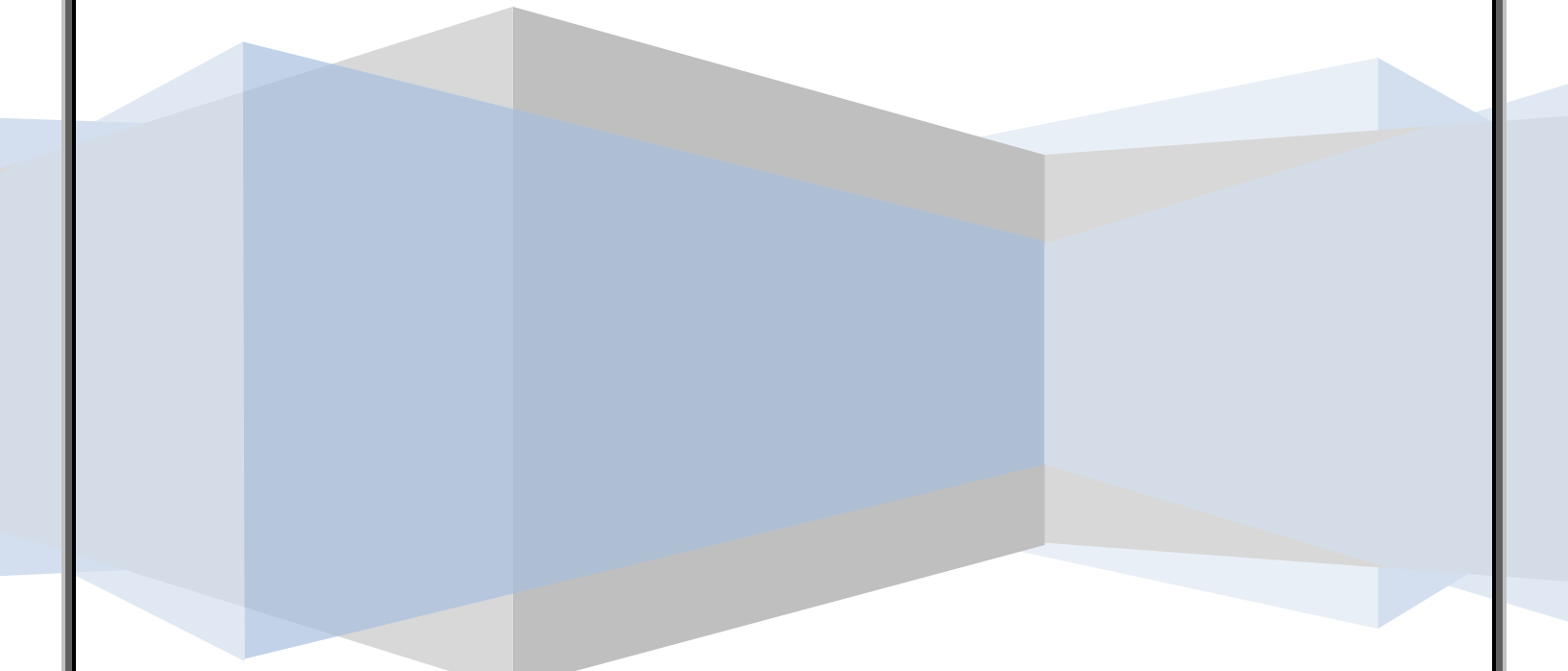
*2665 Kwina Road Bellingham WA 98226*

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# Compliance Plan Packet

Title 25 requirements



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# ATTACHMENT A

## DESCRIPTION OF TERO COMPLIANCE REQUIREMENTS

## DESCRIPTION OF TERO COMPLIANCE REQUIREMENTS

Historically, Lummi Tribal members and other Native Americans have suffered discrimination in employment on and near the Lummi Reservation. As a result, Native Americans were excluded from the employment market and when employed by private sector employers, experienced discrimination; suffered poverty and high unemployment rates, lost opportunities to learn needed skills or to participate in job training programs; lost opportunities for permanent/full time employment; weren't paid equal wage for equal work, to name a few of the consequences. To eliminate discrimination and affirm that Lummi tribal member and other Native Americans on the Lummi Reservation will have preference in employment and training opportunities, the Lummi Nation established a Tribal Employment Rights Ordinance (TERO).

Lummi Nation Tribal Ordinance, Title 25 of the Lummi Code of Laws, addresses contracting and subcontracting, and establishment of the Tribal Employment Rights Office and its requirements. The intent of TERO is to achieve employment and training opportunities for the local Native American workforce.

1. Employment Requirements: Pursuant to the Lummi Nation TERO Ordinance, all employers are hereby required to give preference to Native Americans in contracting, subcontracting, hiring, promotion, training and all other aspects of employment as defined in Title 25.05.010 . The goal is to be 100% Native Preference employment (excluding core crew) in each job classification if qualified Native Americans are reasonably available. TERO understands this is not always possible, TERO will establish numerical hiring goals and timetables specifying the maximum number of Native Americans an employer must hire by craft and skill level. It will be up to TERO to determine approval. Any employers engaged in work out of compliance of the established hiring goals shall constitute grounds for a "Notice of Violation" and possible sanctions against the employer, upon onsite inspections. All Core Crew and Key Employees, who will be utilized on this project, must be identified in this TERO Compliance Plan.
  - A. Core Crew Employee is defined in Title 25.02.010 as permanent employees of a Construction Employer. A core crew is necessary if there are unique or specialized qualifications that are essential for the operation of the business. The core crew shall not exceed five percent (5%) of the total employees including total hours of payroll of the employees working within jurisdiction. To be considered a core crew the employee must have been regular employee (not temporary, contract, or special project) with company for at least six (6) months.
  - B. Key Employee is defined as one who is in a supervisory or lead position or one who possess a "specialized skill" in which the employer who invested time (years) and cost to help that employee reach a level of specialized skill and who performs a critical function, (this does not include a new hire or apprentice) such that an employer would likely risk financial damage or loss if unable to employ. Such claims to have invested in the employee's skill level shall require written proof, including resume of work history, certificates, licenses, etc. And listed as such on the employer's or contractors annual payroll for a minimum period of one year continuously. *A complete description of duties for each "key employee" listed must be attached to this plan.* TERO will review the information submitted and make a determination. Employers who wish to utilize workers that do not meet the definition "key employee" on this project must obtain approval by submitting an "Amendment Form".

- C. Hiring the employer agrees to utilize TERO to fill their manpower request, and must provide a minimum of forty-eight (48) hours notice and a job description on the manpower needs to the TERO office. The TERO staff will attempt to accommodate the employer in the timeliest manner, matching the specified needs with a TERO referral that meets the minimum of qualifications. TERO will certify in writing when a qualified TERO referral is not available.
- D. ManPower Request Provides a space for the employer to give a brief job summary, including company name, address, and phone number, position title/classification, start date, start time, rate of pay anticipated length of employment, who to see, etc. (See Attachment B).
- E. TERO Dispatching All TERO referrals or "Dispatches" will be made from Hiring Hall listings of Local Native American Workforces. The hiring hall lists contain names of unemployed Native American workers who have indicated that they are available for work and their skill level. Once a name is taken from the Hiring Hall List, the individual's name will be provided to the employer. If that worker possesses the minimum threshold of qualification, then they are referred for the opportunity. All TERO referrals will report to work with a TERO Dispatch form in hand, unless a copy has been faxed/ mailed/hand-delivered prior to the referral's first day of work.
- F. Local Native American Workforce: Is defined as, an enrolled Native American worker who is a resident of the Lummi Nation Reservation or its immediate exterior boundaries.
- G. Hiring Hall: The main TERO Hiring Hall is located at the Lummi Planning Department at 2665 Kwina Road Bellingham WA 98226.
- H. Training: All training opportunities or Training Special Provisions (TSP) requirements are for Native American employees and must be identified prior to the commencement of work activity on this project. Training opportunities shall be filed through the same process described under Section C "Hiring", and through coordination with the TERO Employment and Training Program components to locate individual(s) who may already be in an apprenticeship program for which *the opportunity* will exist.
- I. All Construction Employers shall participate in training programs to assist Native Americans to become qualified in various job classifications. Subject to the availability of funding, TERO may establish and administer an "On the Job" (OJT) training program which may pay up to 50% of the hourly wage of any trainee in the program.
- J. Layoff TERO referred workers will have priority in all work opportunities. In the event that a lay-off becomes necessary, a Native worker with skills, equal to a waived employee, and in some cases key employee, will be retained. Daily TERO monitoring and a review of weekly certified payroll reports will be made to assure that opportunities are not being eliminated by revising the duties of Core Crew, Key Personnel or Waived Employees.
- K. Disciplinary Action Employers must report any disciplinary action taken against a TERO referred worker in written form, providing name, date of incident(s), individual(s) involved, names of witnesses, location of incident, etc. Any disciplinary action taken against a Native American worker will be kept on record at TERO.
- L. Termination Employers must discuss termination of a Native American worker with TERO prior to final action. A paper trail leading up to termination must be handed in for review. In

instances of deliberate acts of safety violation, damage to property, or act of violence, the employer shall have the right to dismiss the employee immediately. Failure to provide TERO with a notice of impending termination for other matters may result in a violation of this agreement.

- M. Employer Policies The employer must submit a copy of their employee policies prior to the commencement of work activity for TERO review and approval. In case of any conflict or dispute between company policies and with TERO requirements, Lummi Nation Tribal Law will have primacy. An employer may be required to demonstrate that a challenged employment practice is job-related for the position in question and consistent with business necessity.
- N. Drug Testing Employment must be offered prior to requiring a “pre-employment” drug test. The TERO must be notified and provided a copy of the employer’s pre-employment drug testing policies. Documentation must be provided that all core crew and key employees have complied with the drug testing requirements prior to the commencement of their work activity on this project.

## 2. Reporting Requirements

- A. Monthly Reports The General Contractor of the project is required to submit monthly reports to the TERO Director that includes but not limited to Number of Native Americans employed, Number of hours they worked for each job classification, a record of persons hired, fired, or promoted during the reporting period, and a statement regarding compliance with the hiring goals set forth in the plan.
- B. Wages The prime contractor and their subcontractor(s) must submit a table of wage to be paid. TERO referrals must receive pay equal to the employer’s core crew and waived workers performing the same duties/job descriptions. Each work must receive a paycheck with an explanation of workweek, payroll number, regular and over-time hours, and all deductions taken. The company will pay General Laborer positions according to the approved Project Wage Scale and the pay scale equal to that utilized for permanent/annual employees.
- C. Certified Payroll Reports All contractors and subcontractors must submit a weekly-certified payroll report. Certified payroll reports submitted to the contracting agency will not satisfy this requirement. Payroll reports must contain the name, address, social security number, classification/title, hourly rate, over-time rate, number of regular and over-time hours worked that pay period and deductions for each worker the employee has on the project. Failure to submit certified payroll reports on a weekly/timely basis will constitute grounds for a “violation” and possible sanctions against the employer.
- D. Payroll Deductions No payroll deductions indirectly or directly will be taken from the full wages earned, other than permissible deductions outlined in the United States Federal Labor and Standards Act (FLSA) and this TERO Agreement.
- E. Pay Day Schedules TERO workers will receive their pay on the same day as the employer’s core crew and key employees. All employees must receive their paycheck for the previous week’s work hours no later than the close of the workday every Thursday or Friday; whichever may be the last working day of the week for the employer.

- F. Distribution of Payroll checks must not be distributed to anyone other than the worker for whom the check is made out to. Unless the worker has given written permission to release their check to specifically named individual.
  - G. Show up Time will be determined by TERO on a case-by-case basis. Failure to provide adequate notice of the cancellation of workday may require the employer to pay show up time.
  - H. Underutilized Workers shall be defined as a worker who is used on an on-call or part-time basis. To address the need to earn a livable wage, an underutilized worker will receive a minimum of two (2) work hours per day when called to report to work.
3. CONTRACTING AND SUBCONTRACTING Native American Preference in Contracting and Subcontracting opportunities on projects located on or near the Lummi Reservation is allowed through the authority delegated by or recognized by the United States Congress through federal enactment's, rules and regulations promulgated for the benefit of Native Americans. The General Contractor and Subcontractor shall give preference to Lummi TERO Native American Owned Business (NAOB), all subcontracting opportunities on this project. A list of Lummi Native American Owned Businesses will be available to you from TERO. TERO NAOB's are subject to the same terms of this agreement and required to submit a Compliance Plan and Agreement for TERO approval prior to the start of work activity.
- A. Notification of Subcontract Opportunity Contractors bidding on projects on or near the Lummi Reservation must provide notification to TERO providing the name of the project, project owner, funding source, location and listing of subcontract opportunities. Once it has been determined that the project is located on the Lummi Reservation, contractors must provide copies of "notice of subcontracting opportunity" forms, mailed or fax transmission. If you do not wish to use the attached form, provide copies of letters notifying CIB's of opportunity and attach U.S. Post Office certified mail receipts. Notification must be made in good faith, providing adequate information about scope of work opportunity and time-line for response. (See Attachment C – Notice of Subcontracting Opportunity).
  - B. Response to Notice of Subcontracting Opportunity Once the time-line for response to the "Notification of Subcontracting Opportunity" has elapsed; provide TERO with a written explanation of the results. TERO will retain a copy in the project file.
4. RELIGIOUS ACCOMMODATION In concurrence with the American Native American Religious Freedom Act, the employer agrees to provide reasonable accommodation to the Native American's who wish to exercise their rights under the Act. TERO will assist the employer in identifying "reasonable accommodation."
5. TERO FEE will be assessed at 5% of the total contract award amount for contracts totaling \$5,000 or more.
- A. TERO Tax fee is due and shall be paid fully by any Construction Employer prior to commencing Construction Work, unless there are written arrangements set forth by the TERO Office.
  - B. If a Construction Employer fails to pay the tax and fees by the day it commences work, interest shall begin accruing on that date at the rate of 12% per annum. If the taxes and fees are not paid by the 15<sup>th</sup> day after the Construction Employers commences work, construction employer will be cited for non-compliance.

- C. Change Orders Must be reported to TERO at least twenty-one (21) calendar days in advance of any project cost increase or delay due to work order changes or modifications. Adjustments to the TERO Fee will be calculated and sent to construction employer, which is due within 30 days. Failure to pay the adjusted amount TERO may order employer to cease work until tax is paid.
- 6. PROJECT MONITORING will be done on this Compliance Plan and Agreement through on-site inspections. On-site visits will be conducted in a manner, which causes minimal interruption to the workforce duties and projects. Any possible violation will be documented and reported to the employer for immediate resolution. Continuous violations may result in sanctions against the employer, including up to \$500 per day per violation, back pay for lost opportunity and as last resort, a stop work order.
- 7. COMPLAINTS
  - A. On-The-Job Contracts for TERO referrals are required to follow through the procedures outlined in the contract employer's policies prior to filing a complaint with TERO. The employer must provide notice to TERO once a complaint is filed and provide information on the action taken to resolve the matter and final disposition of the matter once it is settled.
  - B. Discriminations of a TERO referred worker may be filed with TERO, if the worker has been treated unfairly by the employer or the employer representative (e.g. core crew, key personnel) the complaint be investigated and subject to EEOC rules and regulations.
  - C. Complaint Investigations through TERO will be done by interviewing witnesses, collecting written statements and review of supporting evidence. Employees providing statements to TERO will not be penalized for time taken to give a brief statement or for cooperating with the investigation. TERO will attempt to make interruption in work activity at the minimum.
- 8. FAILURE TO COMPLETE COMPLIANCE PLAN thoroughly and submitted prior to the commencement of work on the below described project, will be construed as a refusal to comply and may result in a "Notice of Violation." The Lummi Nation TERO will make every effort to work cooperatively with the employer named on this agreement. However, when willful disregard for these requirements are evident, the sanctions afforded will be utilized to the fullest extent of the law.

By signing below you certify you have read and understand the Employment Requirements and agree to all the terms and conditions described above in the description of TERO compliance requirements.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
*Contractor/Sub-Contractor*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
*TERO Official*



# ATTACHMENT B

 MANPOWER REQUEST FORM

 EVALUATION FORM



# ManPower Request Form

Employer: \_\_\_\_\_ Contact Person: \_\_\_\_\_

Work Phone: \_\_\_\_\_ Ext. \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Job Location: \_\_\_\_\_ Job Number: \_\_\_\_\_

Job Title	Rate of Pay	# of Positions	Dates Needed	Start Time

Job is:  M-F  Weekends  Shift  FT  PT  PERM  Temp

Job Will Last:  1-5 Days  1-2 Weeks  30-60 Days  60-90 Days  90-120 days  + 150 Days

License Required:  Yes  No CDL:  A  B  C  D

Tools Needed  Yes  No Explain: \_\_\_\_\_

Working Conditions/Physical Demands: \_\_\_\_\_

Skills Training: \_\_\_\_\_

Special Instructions: \_\_\_\_\_

Alcohol/Drug Test Required through employer:  Yes  No Physical Required:  Yes  No

Testing Center/Lab to Report to: \_\_\_\_\_

What is the pay schedule: (i.e. Mon-Sun)? \_\_\_\_\_

When are timecards due (day & time)? \_\_\_\_\_

When are employees expected to be paid? (day & time) \_\_\_\_\_

**NOTE:**

- If Employer fails to cancel arrangements or does not show up, you will be billed 4 hours for employee(s) time.
- If TERO does not have anyone to fill the position, please request an Amendment Form.

*For Office Use Only:*

Rec'd By: \_\_\_\_\_ Date: \_\_\_\_\_

Worker Sent?  Yes  No If Yes, Employee Name: \_\_\_\_\_

If No, Explain: \_\_\_\_\_



# EVALUATION FORM

Project: \_\_\_\_\_

Employer Name: \_\_\_\_\_ Job Title/Class: \_\_\_\_\_

Employee Name: \_\_\_\_\_ Start/End Date: \_\_\_/\_\_\_/\_\_\_ - \_\_\_/\_\_\_/\_\_\_

INTERVIEW

HIRED:  Full-Time  Part-Time  On-Call  Subject to rehire

NOT HIRED

JOB COMPLETED

TERMINATED: Date of Termination: \_\_\_/\_\_\_/\_\_\_

Reason for termination:  Safety Violation  Work Ethics  No Call/No Show  Other

Comments:
-----------

RATE THIS EMPLOYEE, ON A SCALE OF 1-10, ON THE FOLLOWING:

Attendance	
Knowledge of skills required for the job/classification for which they were referred	
Knowledge of proper use of tools or equipment required for this position	
Used time productively	
Ability to work cooperatively with others	
Attitude	
Other:	

AUTHORIZED EMPLOYER REPRESENTATIVE

I understand that the information provided above will be taken in the strictest of confidentiality, and is to be used to assist TERO in assessing the level of skill and training needs of TERO referred workers.

Employer Representative: \_\_\_\_\_ Date: \_\_\_\_\_

Please Return to Lummi TERO:

<b>Mail:</b> 2665 Kwina Rd Bellingham, WA 98226	<b>Email:</b> <a href="mailto:Teresarays@lummi-nsn.gov">Teresarays@lummi-nsn.gov</a> or <a href="mailto:AlishaP@lummi-nsn.gov">AlishaP@lummi-nsn.gov</a>	<b>Fax:</b> 360-380-6990
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# ATTACHMENT C

## NOTICE OF SUBCONTRACTING OPPORTUNITY FORM

# NOTICE OF SUBCONTRACTING OPPORTUNITY

Date: \_\_\_\_\_

Project Name: \_\_\_\_\_

Location: \_\_\_\_\_

Project Owner: \_\_\_\_\_

Project Architect: \_\_\_\_\_

Project Funding Agency: \_\_\_\_\_

Funding Agency Contact: \_\_\_\_\_

## CONTRACTOR INFORMATION

Name: \_\_\_\_\_ Contract #: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

This form is a requirement for bids on the above-described project. Located on the Lummi Native American Reservation. The Lummi Tribal Employment Rights Office (TERO) referred our company to your company, and we look forward to receiving a bid. If you would take a moment and fill out the following item(s), it would assist this company in fulfilling its obligation to provide subcontracting opportunities for Lummi TERO Native American Owned Businesses.

Bid opening Date is \_\_\_\_/\_\_\_\_/\_\_\_\_ and this company will welcome bid until \_\_\_\_/\_\_\_\_/\_\_\_\_.

Time: \_\_\_\_\_ AM \_\_\_\_\_ PM Thank you for your time and response.

Please note the division (i.e. framing, drywall, trucking, site prep, etc.) that your company would be interested in bidding on: \_\_\_\_\_

Authorized Signature of Prime Contractor: \_\_\_\_\_

## RESPONSE FROM TERO NATIVE AMERICAN OWNED BUSINESSES

Upon notification of this opportunity, our company requested, received or was given the opportunity to review description of work to be bid on:

\_\_\_\_ Yes \_\_\_\_ No If yes, date received: \_\_\_\_/\_\_\_\_/\_\_\_\_

\_\_\_\_ Our Company has DECLINED the opportunity to bid on the above named division/project.

\_\_\_\_ Our company BID and were given the opportunity to negotiate for the above division.

Comments: \_\_\_\_\_

## TERO NATIVE AMERICAN OWNED BUSINESS INFORMATION

Company Name: \_\_\_\_\_ NAOB # \_\_\_\_\_

Owner Name/Contract: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

Insurance/Bonding Company: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Cell/Email: \_\_\_\_\_

CC: Lummi TERO  U.S. Postal  Fax  Hand Delivered  Other

# ATTACHMENT D

## PREVAILING WAGE

## TERO CLASSIFICATIONS AND RATES

Approved Jan 4, 2012

### Building Construction

Trade	Job Classification	TERO Min.	TERO Max.
Boilermakers	Journey Level	\$ 33.26	\$ 36.35
Brick Mason	Brick And Block Finisher	\$ 33.02	\$ 35.09
Brick Mason	Journey Level	\$ 37.38	\$ 39.71
Carpenter I	1st Year Apprentice, Carpenter	\$ 15.20	\$ 18.00
Carpenter II	2nd-3rd Yr Apprentice, Carpenter	\$ 18.95	\$ 30.78
Carpenter III	Journeyman, Carpenter	\$ 32.80	\$ 37.03
Cement Masons	1st Year Apprentice, Cement Mason	\$ 12.98	\$ 15.00
Cement Masons	2nd-3rd Yr Apprentice, Cement Mason	\$ 19.00	\$ 24.14
Cement Masons	Journey Level	\$ 25.54	\$ 37.03
Drywall Applicator	1st Year Apprentice -Drywall Applicator	\$ 12.93	\$ 19.00
Drywall Applicator	2nd-3rd Yr Apprentice -Drywall Applicator	\$ 19.00	\$ 24.99
Drywall Applicator	Journey Level	\$ 25.00	\$ 39.29
Drywall Tapers	1st Year Apprentice -Drywall Tapers	\$ 18.00	\$ 19.44
Drywall Tapers	2nd-3rd Yr Apprentice - Drywall Tapers	\$ 20.00	\$ 21.60
Drywall Tapers	Journey Level	\$ 22.22	\$ 27.78
Electricians - Inside Cable Splicer	1st Year Apprentice	\$ 29.25	\$ 31.59
	2nd-3rd Yr Apprentice	\$ 32.80	\$ 35.10
	Journey Level	\$ 36.45	\$ 41.92
Electricians - Inside	1st Year Apprentice	\$ 16.83	\$ 20.20
	2nd-3rd Yr Apprentice	\$ 22.50	\$ 30.78
	Journey Level	\$ 32.40	\$ 40.30
Flaggers	Journey Level	\$ 17.92	\$ 27.00
Glaziers	1st yr Apprentice	\$ 30.71	\$ 33.17
	2nd-3rd Yr Apprentice	\$ 34.12	\$ 36.85
	Journey Level	\$ 37.91	\$ 43.60
Heat & Frost Insulators And Asbestos Workers	Journeyman	\$ 36.45	\$ 41.92
Hod Carriers & Mason Tenders	Journey Level	\$ 17.00	\$ 37.97
Ironworkers	1st yr Apprentice	\$ 32.47	\$ 36.08
Ironworkers	2nd-3rd Yr Apprentice	\$ 37.15	\$ 41.00
Ironworkers	Journeyman	\$ 42.00	\$ 51.54
Janitorial, Custodial & Cleaning	Trainee/Journey Level	\$ 11.70	\$ 26.00
Laborers	Construction Labor I - 1st Apprentice	\$ 14.00	\$ 15.12
Laborers	Construction Labor II-2nd-3rd Apprentice	\$ 15.40	\$ 16.63
Laborers	Construction Labor III-Journeyman	\$ 21.10	\$ 23.63
Landscape Construction	Landscaping Or Planting Laborers	\$ 11.07	\$ 17.52
Painters	1st yr Apprentice	\$ 11.13	\$ 14.00
	2nd-3rd Yr Apprentice	\$ 15.00	\$ 21.00
	Journey Level	\$ 22.00	\$ 25.87
Pile Driver	Journey Level	\$ 30.00	\$ 41.98
Plasterers	Journey Level	\$ 34.97	\$ 40.22
Plumbers & Pipefitters	1st yr Apprentice	\$ 14.81	\$ 24.50
	2nd-3rd Apprentice	\$ 25.46	\$ 31.78
	Journey Level	\$ 32.60	\$ 47.60
Power Equipment Operators	Heavy Equipment Operator	\$ 32.29	\$ 43.04
Roofers	1st yr Apprentice	\$ 15.34	\$ 16.57

	2nd-3rd Yr Apprentice	\$	17.05	\$	18.41
	Journey Level	\$	18.95	\$	21.79
Sheet Metal Workers	1st yr Apprentice	\$	16.67	\$	18.00
	2nd - 3rd Yr Apprentice	\$	18.76	\$	20.26
	Journey Level	\$	20.84	\$	23.96
Sprinkler Fitters (Fire Protection)	1st yr Apprentice	\$	19.00	\$	23.00
	2nd - 3rd Yr Apprentice	\$	23.67	\$	25.24
	Journey Level	\$	26.30	\$	30.24
Stone Masons	1st yr Apprentice	\$	28.39	\$	30.66
	2nd-3rd Yr Apprentice	\$	31.54	\$	34.06
	Journey Level	\$	35.04	\$	40.30
Surveyors	All Classifications	\$	17.00	\$	31.19
Telecommunication Technicians	Journey Level	\$	26.32	\$	30.27
Tile Setters	1st yr Apprentice	\$	22.01	\$	23.77
	2nd-3rd Yr Apprentice	\$	24.46	\$	26.52
	Journey Level	\$	27.18	\$	31.26
Tile, Marble & Terrazzo Finishers	1st yr Apprentice	\$	24.73	\$	26.71
	2nd-3rd Yr Apprentice	\$	27.48	\$	29.68
	Finisher - Journey	\$	30.53	\$	35.11
Truck Drivers	Dump Truck	\$	18.95	\$	25.10
Well Drillers & Irrigation Pump Installers	Oiler, Well Driller, Irrigation Pump Installer	\$	18.00	\$	25.00



# ATTACHMENT E

 COMPLIANCE PLAN PACKET

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# Tribal Employment Rights Office

2665 Kwina Road \* Bellingham \* WA \* 98226  
Ph: 360.312.2245 Fax: 360.380.6990

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## COMPLIANCE PLAN

- Note: All Contractors/Subcontractors must meet with TERO.
- Any covered employers not submitting a completed compliance plan will be denied the right to commence business on the Lummi Nation Reservation.
- A compliance plan should be submitted at least two (2) weeks prior to starting any project.
- All Contractors are required to submit a copy of contract with compliance plan to TERO.
- Failure to comply with the TERO Ordinance may result in civil penalties.

Prime

Contractors

---

Subcontractor

---

Project

---

Starting Date

---

Ending Date

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Historically, the Lummi Tribal members and other Native Americans have suffered discrimination in employment on and near the Lummi Reservation. As a result, Native Americans were excluded from the employment market and when employed by private sector employers, experienced discrimination; suffered poverty and high unemployment rates, lost opportunities to learn needed skills or to participate in job training programs; lost opportunities for permanent/full time employment; weren't paid equal wage for equal work, to name a few of the consequences. To eliminate discrimination and affirm those tribal members and other Native Americans on the Lummi Reservation will have preference in employment and training opportunities, the Lummi Nation established a Tribal Employment Rights Ordinance (TERO).

## Project Information

Project Name \_\_\_\_\_ Project No \_\_\_\_\_  
Location \_\_\_\_\_  
Project Owner \_\_\_\_\_ Contract No \_\_\_\_\_  
Project Architect \_\_\_\_\_ Phone: \_\_\_\_\_  
Project Funding Agency: \_\_\_\_\_  
Funding Agency Contact: \_\_\_\_\_ Phone \_\_\_\_\_

## Contractor Information

Check all that apply:  Prime  Contractor  Sub Contractor  Union  Non-Union

Company \_\_\_\_\_  
Complete Address \_\_\_\_\_  
Contact Person \_\_\_\_\_  
Title \_\_\_\_\_  
Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ Cell: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Insurance Company: \_\_\_\_\_ Policy: \_\_\_\_\_  
Scope of work performed: \_\_\_\_\_  
\_\_\_\_\_

Construction Schedule/Business Plan: \_\_\_\_\_

Union Agreement: \_\_\_\_\_  
*(Tribal Law requires that all covered employer's who have collective bargaining agreements, with any union, must negotiate and file a written agreement that provides the union will comply with the provisions, rules, regulations and order of the TERO Ordinance. Failure by an employer to file a union compliance agreement with the TERO office will constitute non-compliance.)*

Contract Amount: \_\_\_\_\_ TERO Fee 5%: \_\_\_\_\_

*This agreement shall be for the life of this specific project, plus a warranty period of two years. This compliance plan serves as an invoice – payment must be paid from this compliance plan. (See Attachment A, Section 5).*

### Identification of Core Crew

Core Crew Employee is defined in Title 25.02.010 as permanent employees of a Construction Employer. A core crew is necessary if there are unique or specialized qualifications that are essential for the operation of the business. The core crew shall not exceed five percent (5%) of the total employees including total hours of payroll of the employees working within jurisdiction. To be considered a core crew the employee must have been regular employee (not temporary, contract, or special project) with company for at least six (6) months.

Name	Position/Classification	Tribal Yes/No	Licensed Yes/No	Hourly Rate	Length w/ Company

### Identification of Key Personnel

A Key Employee is defined as one whom the employer has invested time and costs into, and the employee performs critical functions such that the employer would risk financial damage or loss if unable to employ on this project (supervisors, lead personnel or specialized skills, etc. See Attachment A, Section 1B). TERO may require a position be opened up to all preference workers.

Name	Position/Classification	Tribal Yes/No	Licensed Yes/No	Hourly Rate	Length w/ Company

### ManPower Requests

Provide a preliminary estimate of workers (in addition to core crew and key employees) that your company will require on this project. A TERO Dispatch form and follow up call to TERO at least forty-eight (48) hours prior to identify "start date" is required. A separate form to request more workers is attached.

Attach a copy of Personnel Manual and Company application to be used in selection process.

Classification/skill	Start Date	No.	Pay Rate	Special Instruction

## All Other Employees

Employers who wish to utilize workers that do not meet the definition of “Core Crew” or “Key Employee” must obtain approval. Employees added to this section should fit into one of the categories below:

- It is a specialized skills which requires licensing or certification for which I have invested time and finances into training, certification, or licensing of the individual. (Attach supporting documents).
- TERO did not have a referral who met the qualifications required, and advised to list name here.

Classification/skill	Start Date	No.	Pay Rate	Special Instruction

## Identification of Sub-Contractors

It shall be the Prime/General Contractors responsibility to provide blank copies of this TERO Compliance Plan and Agreement form to all their subcontractors and suppliers. All Subcontractors must obtain an approved TERO Compliance Plan and Agreement of their own, prior to the commencement of any portion of work activity they will be involved in. The Prime and all subcontractors will be required to attend a TERO Pre-Construction meeting prior to the beginning of work.

Company Name	Phone	Compliance Plan Yes/No	Scope of Work	Estimated Start Date

## Safety Plan

All Construction Employers shall provide a written Safety Plan as part of their Compliance Plan. The Safety Plan shall provide for the protection of health and environment of employees and other persons and prevent damage to property, materials, equipment and the physical environment. The safety plan shall include a description of how accidents will be prevented and a complete procedure for what the Construction Employer and employees shall do if an accident or injury does occur.

## Training and Salary

For construction work on the lands subject to Title 25, all trainees or apprentices shall be Native American. The employer agrees that all local Native American employees will receive adequate training for the position for which they are hired. No construction employer shall pay Native American employees a wage less than that paid to the construction employer’s core crew workers performing the same job duties. An agreement with TERO and the contractor may be done for a training plan, but is not necessary. If there is a training plan set in place, the Native American employees will be evaluated and paid in accordance with the training plan set forth between the contractor and TERO.

## Emergency Replacement Workers:

TERO Waivers must be obtained for workers who do not meet definitions of "Core Crew/Key Employees". Employers operating during hours when the TERO office is closed (i.e. weekends, holidays, etc.) who are in need of workers to fill a vacancy will be authorized to place an emergency worker to fill the vacancy. This emergency placement shall be allowed no longer than seventy-two (72) hours. TERO will be notified of such hires immediately upon the next working day and the position will be filled pursuant to the standard TERO procedures described in this compliance plan. Emergencies will be determined on a case-by-case basis.

## Termination/Layoffs

No local Native American employee, who can perform the work required, shall be terminated through layoff or reduction in force while a non-Native American or non-local Native American employee's in the same craft or job duties are still employed.

The TERO Director/Administrator or Coordinator has the right to make on-site inspections and conduct compliance investigations at all sites where employment is taking place under the provisions of this compliance plan.

Employers ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites in all facilities at which the employees are assigned to work. The employers shall specifically ensure that all supervisors are aware of and carry out the employers obligations under the TERO ordinance.

The employer agrees to respect the right of the TERO referral to decide for themselves whether to accept cash in lieu of benefits or to accept fringe benefits for construction projects.

The employer agrees to comply with all rules and regulations set forth in the TERO Ordinance. This agreement is affirmed in writing by a TERO Official.

## TERO Pre-Construction Meeting

A TERO Pre-Construction meeting is required to provide each contractor and their supervisory personnel orientation on the TERO requirements and procedures. The Prime/General Contractor shall be responsible for contacting TERO to schedule the meeting and for providing notification of meeting date and time to their subcontractors. By signing below you agree to all the terms and conditions described above in the compliance plan.

Meeting Date	Time/Location

## General Contractor Exit Interview

Upon completion of the project/contract the General Contractor will set up an exit interview with the director

Meeting Date	Time/Location

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
*Contractor/Sub-Contractor*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
*TERO Official*

# TERO Understanding and Acceptance

Lummi Nation Tribal Employment Rights Office

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## Understanding & Acceptance

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On behalf of \_\_\_\_\_, I hereby certify that I have received, read and understand the Lummi Nation Tribal Employment Rights Office (TERO) requirements set forth in this TERO Compliance Plan and Agreement, and hereby agree to accept the responsibility of compliance with the described obligations and requirements.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Project: \_\_\_\_\_ Contract No. \_\_\_\_\_

Contractor: \_\_\_\_\_ Sub-Contractor: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*Contractor/Sub-Contractor*

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## NOTICE TO PROCEED

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The attached TERO Compliance Plan and Agreement has been received and is fully acceptable. On behalf of the Lummi Nation TERO, authorization to begin work on the above-described project is hereby granted. I hereby attest to the conditions set forth in this TERO Compliance Plan and Agreement, and will enforce this agreement through the powers vested in me by the Lummi TERO Commission and the Lummi Nation Tribal Employment Rights Ordinance (TERO) Title 25.

Signature \_\_\_\_\_ Date \_\_\_\_\_  
*TERO Official*