

Oneida Nation

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Oneida, WI 54155

BC Resolution # 04-08-20-J

Indian Preference in Contracting Law Fine and Penalty Schedule

- WHEREAS,** the Oneida Nation is a federally recognized Indian government and a treaty tribe recognized by the laws of the United States of America; and
- WHEREAS,** the Oneida General Tribal Council is the governing body of the Oneida Nation; and
- WHEREAS,** the Oneida Business Committee has been delegated the authority of Article IV, Section 1, of the Oneida Tribal Constitution by the Oneida General Tribal Council; and
- WHEREAS,** the Indian Preference in Contracting law ("the Law") was adopted by the Oneida Business Committee through resolution BC-03-27-13-B; and then amended by resolution BC-04-08-20-I; and
- WHEREAS,** the purpose of the Law is to establish an Indian Preference Office and increase economic benefits for the Nation and members of the Nation by providing for the maximum utilization of Indian workers and businesses on projects of the Nation which occur on or near the Reservation; and
- WHEREAS,** the Law allows the Indian Preference Office to take action to resolve a complaint if the Indian Preference Office determines that an alleged violation has merit and there is sufficient evidence of a genuine and material issue of non-compliance; and
- WHEREAS,** the actions the Indian Preference Office is delegated the authority to take include an informal or formal resolution of the alleged noncompliance, a notice of noncompliance by certified mail, placing the entity's Indian preference certification in probationary status, suspension, denial, or revocation, of the entity's Indian preference certification, issuance of fines, renegotiation of compliance agreement, and a request for withdrawal of licensing issued by the Nation; and
- WHEREAS,** the Law delegates authority to the Indian Preference Office to develop a fine and penalty schedule that may be imposed upon any person or entity violating provisions of the Law; and
- WHEREAS,** the fine and penalty schedule is required to be adopted by the Oneida Business Committee through resolution; and

NOW THEREFORE BE IT RESOLVED, that by a finding by the Indian Preference Office that an alleged violation has merit and there is sufficient evidence of a genuine and material issue of non-compliance section 502.9-5(a) of the Law allows the Indian Preference Office to take any of the following action against an entity:

- Attempt to reach an informal or formal resolution of the alleged non-compliance;
- Issue a notice of non-compliance to the entity by certified mail;
- Place the entity's certification in probationary status for a period not to exceed six (6) months; or suspend, revoke, or deny renewal of the entity's certification;
- Issue a fine;
- Re-negotiate a compliance agreement with the contractor to include additional opportunities for qualified trades workers or certified entities; and/or
- Request the appropriate entity withdraw any licensing issued by the Nation.

BE IT FURTHER RESOLVED, the Indian Preference Office hereby sets forth the following fine schedule to be used if it is determined that a fine is the appropriate action to take against an entity to resolve a complaint:

FINE SCHEDULE				
Violation	Reference	1st Offense	2nd Offense	3rd Offense and Up
Beginning work prior to completing negotiations of the required compliance agreement	502.7-1	\$100	\$200	\$400
Failure to comply with the terms of any compliance agreement executed in accordance to this law	502.7-1 502.7-4	\$100	\$200	\$400
Failure to submit the qualified trades worker employee's work evaluation as required in the compliance agreement	502.7-1	\$100	\$200	\$400
Failure to submit certified weekly payroll and manpower report as required in the compliance agreement	502.7-1	\$100	\$200	\$400
Failure to hire qualified trades workers from the Skills Bank in accordance with the order of priority	502.8-3(a)	\$100	\$200	\$400
Failure to provide equal compensation and/or maintain equal work standards for qualified trades workers	502.8-6(a)	\$100	\$200	\$400

FINE SCHEDULE (Continued)				
Violation	Reference	1st Offense	2nd Offense	3rd Offense and Up
Failure to notify the Indian Preference Office of any layoffs or terminations of a qualified trades worker	502.8-6(b)	\$100	\$200	\$400
Termination of a qualified trades worker without documented good cause	502.8-6(b)(2)	\$100	\$200	\$400
Failure to notify Indian Preference Office of intent to call back laid off employees, and/or failure to call back qualified trades workers before other employees	502.8-6(b)(3)	\$100	\$200	\$400
Use of extraneous qualification criteria or other personnel requirements to prevent qualified trades workers from being employed	502.8-7(c)	\$100	\$200	\$400
Breach of contract due to violation of this law or compliance agreement	502.6-8	\$250	\$500	\$1,000
Non-compliance with contract or compliance agreement resulting in harm to the health, safety or welfare of the Nation and/or the community	502.6-8 and 502.7-1	\$1,500	\$3,000	\$6,000

BE IT FURTHER RESOLVED, that a separate offense shall be deemed committed on each day during which a violation occurs or continues.

BE IT FURTHER RESOLVED, that all fines are required to be paid to the Indian Preference Office within thirty (30) days from the date of issuance.

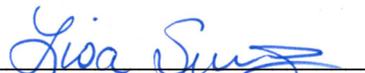
BE IT FURTHER RESOLVED, failure to pay any fines issued within thirty (30) days from the date of issuance shall result in a late penalty of ten dollars (\$10) per day and may result in the Indian Preference Office suspending the violating contractor from the project with reinstatement available upon payment in full of all fines currently due.

BE IT FURTHER RESOLVED, any money received from fines collected for violations of this Law shall be contributed to the General Fund.

BE IT FINALLY RESOLVED, the Oneida Business Committee hereby adopts this resolution which shall become effective on May 8, 2020.

CERTIFICATION

I, the undersigned, as Secretary of the Oneida Business Committee, hereby certify that the Oneida Business Committee is composed of 9 members of whom 5 members constitute a quorum; 9 members were present at a meeting duly called, noticed and held on the 8th day of April, 2020; that the forgoing resolution was duly adopted at such meeting by a vote of 7 members for, 0 members against, and 0 members not voting*; and that said resolution has not been rescinded or amended in any way.



Lisa Summers, Secretary
Oneida Business Committee

*According to the By-Laws, Article I, Section 1, the Chair votes "only in the case of a tie."