

TABLED

CHEROKEE COUNCIL HOUSE
CHEROKEE, NORTH CAROLINA

Date: JAN 09 2020

ORDINANCE NO. 86 (2019)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

WHEREAS, Cherokee Code Sec. 92-28B states that every contractor, except for TERO-certified contractors, that obtains a Tribal contract in excess of \$10,000.00 must pay a fee of 1.75% to TERO; and

WHEREAS, the fee will be passed on by the contractors to the Tribe, ultimately increasing the Tribe's budget unnecessarily; and

WHEREAS, imposing the fee is not fiscally responsible; and

WHEREAS, historically, and currently, TERO receives its funding from the Tribe's general fund through the Tribe's regular budgeting process, and this approach should be maintained; and

WHEREAS, Cherokee Code Chapter 92 should be amended to delete the TERO fee and return TERO to the annual Tribal budgeting process, the same as required for all other Tribal programs.

NOW THEREFORE BE IT ORDAINED by the Eastern Band of Cherokee Indians, in Council assembled, at which a quorum is present, that Cherokee Code Chapter 92 shall be amended to read as follows:

Sec. 92-7. - Tribal Employment Rights Office.

(a) There is hereby created the Tribal Employment Rights Office (TERO). ~~The TERO shall operate as an independent and autonomous entity under the direction of the TERO Commission.~~

(b) The purpose of the TERO is to conduct the day-to-day business of the TERO Commission, as delegated by the Commission, and to administer the rules, regulations, procedures, guidelines and orders adopted by the Commission.

(c) The Manager/Director of the TERO may obtain and expend funding from federal, state or other sources to carry out the purposes of the Commission, subject to approval by Tribal Council. The staff employed by TERO, including the Director/Manager shall be employees of the Tribe and shall be subject to the Tribe's personnel policy as ~~have the benefits and protections of the personnel policy~~ applicable to all Tribal employees, including procedures for corrective actions and access to Tribal benefits. ~~In order to maintain a clear separation of duties, all staff serving TERO shall be separate from the administrative authority of the~~

1 Principal Chief, the Executive Committee, and Tribal Council. It shall be the responsibility of
2 the TERO Director/Manager, with approval of the TERO Commission to modify such Tribal
3 personnel policies and procedures, as needed, in order for such policies and procedures to be
4 effective for the personnel needs of TERO. The TERO Commission shall have exclusive
5 supervisory responsibility over the Director/Manager, and the Director/Manager shall have
6 supervisory and personnel responsibilities over all other TERO staff.

7
8 **Sec. 92-7A. - Budget.**
9

- 10 (a) TERO shall prepare a budget as a component program of the Executive branch department to
11 which it is assigned in the Tribe's organizational chart. The budget shall be ~~subject for its~~
12 ~~operations as necessary to pay salaries and other expenses, within the limit of funds available~~
13 ~~to it, which is to be included in budget requests~~ submitted annually to Tribal Council for
14 approval. Funding for the activities of the TERO Commission shall be proposed, reviewed
15 and approved as part of the overall TERO budget.
- 16 (b) ~~TERO shall utilize funds. Funds obtained through vendor certification fees, regulatory fines,~~
17 ~~and contract fees. Except as provided in subparagraph (c) below, any surplus remaining from~~
18 ~~such fees or fines shall revert back~~ be remitted to the Tribe's general fund ~~at the end of a fiscal~~
19 ~~year as provided by Tribal policy.~~
- 20 (c) TERO shall have the authority to establish, fund, and maintain capital/expansion reserve funds
21 for:
- 22 (1) Working capital in an amount recommended by independent auditors; and
23 (2) For such other purposes as are specifically authorized by Tribal Council.

24
25 **Sec. 92-7B. - Office administration.**
26

- 27 (a) ~~Budget. The TERO Commission shall establish a budget for the support and operations of~~
28 ~~the office during the budget year and shall manage its budget in coordination with the Tribe's~~
29 ~~financial management system. The TERO shall be supported by the Tribe's established system~~
30 ~~for payroll, procurement of capital assets, hiring assistance, drug testing and other~~
31 ~~administrative processes as may be requested by the Chairman in order to have the TERO~~
32 ~~function within existing administrative and support resources.~~
- 33 (b) *Director and staff.* The Director shall be responsible for the administration of the staff. The
34 Director shall work closely with the Commission to set goals, priorities and initiatives for the
35 organization. ~~The staff members are not Tribal employees subject to the Executive~~
36 ~~Committee's hiring and daily management.~~
- 37 (c) Application of the Tribe's personnel policy. It is the intent of the Commission that all hired
38 staff, including the Director, shall be employees of the Tribe and shall be subject to the Tribe's
39 personnel policy as applicable to all Tribal employees, including procedures for corrective
40 actions and access to employee benefits. ~~have the benefits and protections of the personnel~~
41 ~~policy shall have the benefits and protections of the personnel policy applicable to all Tribal~~
42 ~~employees, including procedures for corrective actions. In order to maintain a clear separation~~
43 ~~of duties and administration of the preference law, however, all staff serving the TERO shall~~

1 ~~be separate from the administrative authority of the Principal Chief and the Executive~~
2 ~~Committee. It shall be the responsibility of the Director, with the approval of the Chairman,~~
3 ~~to modify such Tribal personnel policies and procedures, as needed, in order for such policies~~
4 ~~and procedures to be effective for the personnel needs of the TERO. The Chairman shall have~~
5 ~~exclusive supervisory responsibility of the Director and the Director shall have supervisory~~
6 ~~and personnel responsibilities over all other TERO staff.~~

7
8 ~~Sec. 92-28B. TERO fees.~~

9 ~~An employee rights fee is necessary to raise revenue for the operation of the TERO. Every~~
10 ~~economic entity, with the exception of TERO certified vendors, that obtains a Tribal contract~~
11 ~~where section 92-3 applies shall pay a fee of 1.75% for all contracts in excess of \$10,000.00.~~

12 BE IT FINALLY ORDAINED that all ordinances that are inconsistent with this ordinance are
13 rescinded, and that this ordinance shall become effective when ratified by the
14 Principal Chief.
15

16
17 *Submitted by David Wolfe, Yellowhill Tribal Council Representative*