



THREE AFFILIATED TRIBES ● FORT BERTHOLD RESERVATION

Mandan, Hidatsa and Arikara Tribes

TRIBAL EMPLOYMENT RIGHTS OFFICE

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TO: Awarding Entities on the MHA Nation
FROM: TERO COMMISSION
DATE: 12 April 2018
RE: Expanded NO IDLE TRUCK POLICY

Please find attached MHA TERO Commission approved enforcement policy of Indian preference to be applied on the MHA Nation.

1. The policy is regarding Certified Indian Firms with trucking services.
2. The policy is regarding all trucking services.
3. The policy mandates an hourly rate for Water and Aggregate Hauling
4. This policy is effective immediately.

No truck that is owned by an Indian Certified firm shall remain idle while non-Indian trucks are operating on the Fort Berthold Indian Reservation.

The Indian Contractors who have available trucks and that are seeking work have been advised to arrange meetings with you to discuss the MHA TERO Trucking Mandate and complete the MHA TERO Negotiation Document. The completed TERO Negotiation Document will then be returned to MHA TERO (Indian Contracting Department).

If you have any questions or concerns, please feel free to share your input at any TERO Commission meeting which are scheduled for the second Tuesday of every month. Thank you in advance for your efforts in completing your obligations and commitments as a TERO licensed firm.

A handwritten signature in blue ink, appearing to read 'Whitney Bell', is written over a light blue horizontal line.

Whitney Bell
MHA TERO Commission Chairman

EFFECTIVE IMMEDIATELY

Pursuant to the April 10, 2018 TERO Commission Meeting

NOTICE OF MHA TERO TRUCKING MANDATE

FOR ALL TRUCKING SERVICES INCLUDING BUT NOT LIMITED TO:

- (1) PRODUCTION WATER
- (2) CRUDE TRANSPORT
- (3) FRESH WATER / SALT WATER
- (4) FRAC SAND TRANSPORT
- (5) HOT SHOT / OILFIELD EQUIPMENT-SUPPLIES / FLATBED TRANSPORT
- (6) HEAVY EQUIPMENT/HEAVY HAUL
- (7) DRILL CUTTINGS
- (8) FUEL DELIVERY
- (9) NGL TRANSPORT
- (10) DRILLING FLUIDS
- (11) AGGREGATE TRANSPORT / BELLY DUMP - SIDE DUMP
- (12) NITROGEN TRANSPORT
- (13) WINCH TRUCK SERVICES

NO TRUCK THAT IS OWNED BY AN INDIAN CERTIFIED FIRM SHALL REMAIN IDLE WHILE NON-INDIAN TRUCKS ARE OPERATING ON THE FORT BERTHOLD INDIAN RESERVATION

ALL INDIAN CERTIFIED FIRMS DESIRING TO HAVE THEIR CERTIFIED TRUCKS PERFORM THE WORK WILL COMPLY WITH ALL TRIBAL, STATE, AND FEDERAL D.O.T. LAWS APPLICABLE TO THE SERVICE. THEY WILL HAVE IMMEDIATE PREFERENCE ABOVE ANY NON-INDIAN TRUCKING FIRM AND ANY NON-INDIAN OWNED TRUCK

This mandate is pursuant to TERO Regulations requiring Indian Preference in contracting, subcontracting, and employment to Indians and Indian-owned firms by all contract awarding entities operating within the exterior boundaries of the lands over which the Mandan Hidatsa and Arikara Nation ("MHA Nation") has jurisdiction.

A reasonable rate must be negotiated between the parties or TERO intervention may occur to determine reasonable price. Once a negotiated rate is agreed to, it shall be secured in writing and both parties shall send notification to the MHA TERO Indian Contracting Department.

Written contracts shall follow the award of any Request for Proposals (RFP's) issued under this policy. Contracts shall be consistent with and mirror the RFP. To preserve our roads, enforce TERO policy and promote public safety, no bidding shall be by the barrel, but shall be at an hourly rate. The minimum base rate, until further notice, shall be **\$120.00 US per hour** for water and aggregate hauling. All billing shall be billed direct to the awarding entity. Any violation of this policy shall result in a \$5000 per day sanction.

Best business practices will be followed. Producers may not be required to utilize Indian-owned trucks and Indian-owned firms with prior or pending litigation, liens, serious disputes (as determined by TERO)

involving payments to sub-contractor or if non-corrected safety issues exist. All future RFP's/Bids must mandate the full use of Indian Certified Firm trucks, anything not fulfilled can thereafter can go to non-Indian trucks.

MHA TERO recognizes that existing contracts could possibly be affected. These existing contract arrangements may continue if there are no idle company owned trucks of Indian Certified Firms. The existing contracts shall continue to the greatest extent possible, secondary to the Indian preference mandate noted above.

All future bids submitted must include a list of trucks owned by the Indian Firm that are not working in other contracts. To prevent overlapping on other contracts, those assets cannot be used on other bids. The effect would be knowing one company has all its trucks in use in another contract allowing any Indian Certified Firm's idle equipment to be utilized. The bids from all awarding entities will be closely monitored.

FAILURE TO COMPLY WITH THIS MANDATE MAY RESULT IN AN INDIAN PREFERENCE IN CONTRACTING AND SUBCONTRACTING VIOLATION.