## Section 107A. — INDIAN PREFERENCE (ADDED SECTION)

04/02/21– FP-14

WFL Specification 04/02/21 107A0010

Include in all projects located on tribal lands or in Alaska native villages (projects funded by the Tribal Transportation Program (TTP) and Denali Commission), and other projects as determined by the Project Manager. Any change to this specification (other than providing fill-in information) requires a Legal review.

### **107A.01 Employment Opportunities.**

Provide preference in employment opportunities under this contract to Indians who can perform required work, regardless of age (subject to existing laws and regulations), sex, religion, or tribal affiliation. To the extent feasible and consistent with the efficient performance of this contract, give preference in employment under this contract to Indians who are qualified to perform regardless of age (subject to existing laws and regulations), sex, religion, or tribal affiliation. Maintain statistical records as are necessary to indicate compliance with this paragraph.

### 107A.02 Application.

This Section does not apply to the Contractor’s core workforce.

Except for the core workforce, follow the process set forth in this Section for the hiring of all construction workers who will be employed on this project.

### 107A.03 Preliminary Meeting.

Within 20 calendar days after award of the contract, set up a pre-construction, in-person meeting with the Tribe to discuss employment opportunities. The contact person is:

[INSERT CONTACT NAME]

[INSERT CONTACT TITLE]

[INSERT NAME OF TRIBE, VILLAGE, COMPANY OR DEPARTMENT]

[[INSERT](mailto:dbradley@navajodot.org) TELEPHONE NUMBER AND EMAIL ADDRESS]

WFL Specification 03/25/19 107A0020

Include in projects that require this Section, and are in Death Valley National Park (Timbisha Shoshone Tribal Land).

Notwithstanding the Indian employment preference language in section 107A.01, in accordance with Section 7(a) of the Timbisha Homeland Act, Pub. L 106-423, 114 Stat 1875 (Nov 1, 2007) qualified members of the Tribe shall have preference in employment to perform any construction, maintenance, interpretation, or other service in the Park.

WFL Specification 03/25/19 107A0030

Include in projects that require this Section that are NOT in Death Valley National Park (Timbisha Shoshone Tribal Land).

Tribal members of the identified Tribe shall not have employment preference over other Indian applicants.

WFL Specification 04/02/21 107A0040

Include in projects that require this Section.

### 107A.04 Publicly Announced Preference.

Announce publicly the Contractor’s preference in employment to Indians for this project.

**(a) Advertising.** Advise recruitment sources in writing and include a statement in all advertisements for employment that Indian applicants will be given preference in employment.

**(b)** **Initial notice.** Not more than 20 calendar days after award of the contract, post a written notice to the contact identified in Subsection 107A.03. The notice shall set forth the Contractor’s employment needs, including:

**(1)** Approximate numbers and types of employees needed;

**(2)** Approximate dates of employment;

**(3)** The experience or special skills required for employment, if any; and

**(4)** Other pertinent information necessary to advise prospective employees of any other employment requirements.

Request the Tribe to provide assistance to the Contractor in filling its employment needs.

WFL Specification 03/25/19 107A0050

Include in projects that require this Section, and are in Death Valley National Park (Timbisha Shoshone Tribal Land).

Notify the Tribe that there shall be employment preference for Timbisha Shoshone Tribe members for performance of any work under this contract involving construction, maintenance, interpretation or other services in the Park.

WFL Specification 03/25/19 107A0060

Include in projects that require this Section that are NOT in Death Valley National Park (Timbisha Shoshone Tribal Land).

Notify the Tribe that any employment preference is an Indian preference, not a Tribal preference. Equal opportunity for employment will be provided to all Indian applicants, regardless of tribal affiliation.

WFL Specification 03/25/19 107A0070

Include in projects that require this Section.

### **107A.05 Notice of Employment Needs**.

Notify the contact identified in Subsection 107A.03 of any specific need for employees. Provide this notice no earlier than 1 week after the initial notice. The Tribal office will have 1 week after receiving the notice to provide qualified or qualifiable applicants to satisfy the stated employment need.

### 107A.06 Employment.

Give full consideration to all qualified job applicants identified by the Tribal office and to any other Indian applicant. If after giving full consideration, the Contractor’s employment needs remain unsatisfied, the Contractor may employ such non-Indians as necessary to fill-out its workforce needs in accordance with the “Equal Opportunity” clause in this contract. The Contractor is not required to employ any applicant who, in the Contractor’s opinion, is not qualified to perform the classification of work required.

### 107A.07 Definitions.

As used in this clause, the following definitions apply:

**(a) Core Workforce** – Contractor’s workforce composed of full-time employed individuals necessary to satisfy the Contractor’s reasonable needs for supervisory or especially experienced personnel to assure an efficient execution of the contract work. Includes also any Indian already employed by the Contractor.

**(b) Indian** – A person who is an enrolled member of a federally recognized American Indian Tribe or Alaska Native.

### 107A.08 Records.

Maintain and submit records concerning the Contractor’s Indian preference as follows:

**(a)** Maintain written records under this contract which indicate:

**(1)** The numbers of Indians seeking employment for each employment position available under this contract;

**(2)** The number and types of positions filled by Indians and non-Indians;

**(3)** The total number of Indians employed under this contract; and,

**(4)** For those positions where there are Indian applicants, and a non-Indian is selected for employment, the reason(s) why the Indian applicant was not selected.

**(b)** Submit to the Contracting Officer for approval a quarterly report which summarizes the Contractor’s Indian preference activities and indicates the number and types of available positions filled by Indians and non-Indians.

**(c)** Maintain records pursuant to this clause and keep them available for review by the Government for 1 year after final payment under this contract, or for such longer period as may be required by any other clause of this contract or by applicable law or regulation.

### 107A.09 Subcontracting.

Include the provisions of this clause, including this Subsection, in each subcontract awarded at any tier under this contract and notify the Contracting Officer of such subcontracts.

### 107A.10 Enforcement.

In the event of noncompliance with this clause, the Contracting Officer may terminate the contract in whole or in part or may impose any other sanctions authorized by law or by other provisions of the contract.