



NCA 18-199

CLASSIFICATION: #16. EXECUTIVE BRANCH

A LAW OF THE MUSCOGEE (CREEK) NATION REPEALING MCNCA TITLE 16, CHAPTER NINE ENTITLED "MUSCOGEE (CREEK) NATION CONTRACTING AND EMPLOYMENT SUPPORT ACT" AND CREATING A NEW TITLE 16, CHAPTER NINE ENTITLED "MUSCOGEE (CREEK) NATION CONTRACTING AND EMPLOYMENT SUPPORT ACT"

Be it enacted by the National Council of the Muscogee (Creek) Nation:

SECTION ONE. REPEALER. MCNCA Title 16, Chapter 9, Entitled "Muscogee (Creek) Nation Tribal Employment Rights Office Act" is hereby repealed.

SECTION TWO. NEW LAW. The following new law shall be codified in Title 16, Chapter 9 of the Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification of said new law and its inclusion in pocket parts for the Code of Laws of the Muscogee (Creek) Nation, the Attorney General is hereby authorized: (1) to approve any changes related to the manner in which sections, articles, chapters and sub-chapters are designated in this law in order to be consistent with the format in the Code of Laws published in 2010 by West Publishing Company; (2) to include footnoted references to the legislative history in said pocket parts to the Code of Laws; and (3) to note in said pocket parts any editorial correction of minor clerical or grammatical errors in the following new law:

**TITLE 16. EXECUTIVE BRANCH
CHAPTER 9. MUSCOGEE (CREEK) NATION
CONTRACTING AND EMPLOYMENT SUPPORT ACT**

§ 9-101. Title

This Act shall be known and cited as the Muscogee (Creek) Nation Contracting and Employment Support Act.

§ 9-102. Purpose

The Purpose of this law is to eliminate barriers to employment faced by "Muscogee (Creek) Nation citizens (hereafter "MCN Citizens) and enrolled members of other federally recognized Tribes (hereinafter "Other Indians"). This includes enforcing the Native Preference hiring requirement to prevent discrimination against MCN Citizens

and Other Indians in the employment practices of employers who are doing business with the Muscogee (Creek) Nation. The Certification of Native owned businesses is also established to encourage the growth and success of Native American owned businesses.

§ 9-103. Definitions

A. "Employer" shall mean the Nation, tribal government, all commercial and enterprise entities, all independent agencies (regardless of funding source) and any other person, company, contractor, sub-contractor or other entity engaged in business with or for the Muscogee (Creek) Nation or Muscogee (Creek) Nation Indian Country. The Muscogee (Creek) Nation government is an "employer" for the purpose of this Law and any of its business entities shall be an employer for the purpose of this Law.

B. "Administration" shall mean the Executive Branch of the Muscogee (Creek) Nation as provided in the Muscogee (Creek) Nation Constitution.

C. "Muscogee (Creek) Nation Indian Country" shall mean all land held in trust or subject to restrictions by the United States for the Muscogee (Creek) Nation, or land within the original boundaries of the Muscogee (Creek) Nation and held in trust or subject to restrictions for an individual, and all land held by Muscogee (Creek) Nation or its entities, in fee simple, and any other land within the jurisdiction of the Muscogee (Creek) Nation which land comes within the definition of "Indian Country" as defined in 18 U.S.C. § 1151.

D. "Core Crew" shall mean owner of the firm, or an employee of a company who is a key position.

E. "Covered contract" means any contract between any department or office of the Nation, including all commercial enterprise and independent agencies and any employer for goods or services in the amount exceeding ten thousand dollars (\$10,000.00).

F. "Debarment List" shall be list of contractors or individuals who have previously provided poor performance or engaged in behavior in non-compliance with contract provisions, rules, regulations or laws with any department or entity of the Nation.

G. "EEOC" shall mean the Equal Employment Opportunity Commission of the United States.

H. An employer is "engaged in work" if, during any portion of a business

enterprise or specific project, contract or subcontract, the employer performs work under contract with the Muscogee (Creek) Nation, its entities and wholly-owned corporations and/or the work is performed on MCN Indian Country.

I. "MCN Citizen" shall mean a person who is an enrolled citizen of the Muscogee (Creek) Nation.

J. "Other Indian" shall mean any person who is a duly enrolled with another Federally Recognized Tribe, unless the context clearly indicates otherwise, residing within MCN Tribal jurisdiction.

K. "Non-Native Head of Household" shall mean a person supporting Minor Creek Citizens.

L. "Indian organization" shall mean the governing body of any Indian Tribe or entity established or recognized by such governing body.

M. "CESO" shall mean the Contracting and Employment Support Office.

N. "CESO Certified Vendor" shall mean any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit, certified through the CESO Certification Committee.

O. "Muscogee Owned Vendor" has been certified to be owned and operated at least fifty-one percent (51%) by a Muscogee (Creek) citizen.

P. "Indian Owned Vendor" has been certified to be owned and operated at least 51% by a Member of another Federally Recognized Tribe.

Q. "Indian Tribe" means an Indian Tribe, pueblo, band, Nation or other organized group or community, including any Alaska Native Claims settlement Act (85 Stat. 688,43 U.S.C. § 1601), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

R. "MCN" shall mean the Muscogee (Creek) Nation.

S. "CESO Staff" shall mean employees hired by the Contracting and Employment Support Office to carry out the functions of this Act.

§ 9-104. Establishment and Name

Page 4 of 18
NCA 18-199

There is hereby created the Contracting and Employment Support Office (CESO). CESO, under the Secretary of the Nation and Commerce, shall administer this program of the Muscogee (Creek) Nation in accordance with this Law.

§ 9-105. Powers and Duties

CESO shall have the authority to carry out day-to-day operations and enforce this law. CESO shall have the following powers and duties:

- A. To operate consistent with the provisions of this Law and to develop rules and regulations governing activities of CESO.
- B. CESO may adopt EEOC guidelines or other requirements to eliminate employment barriers unique to MCN Citizens and Other Indians in Indian Country.
- C. To operate funding from federal, state and other sources to supplement National Council appropriations as delegated by the Administration.
- D. To negotiate cooperative agreements with federal, state, local, and other authorities on matters dealing with employment rights and CESO activities, subject to National Council approval, and to operate pursuant to finalized cooperative agreements and/or memoranda of understanding or agreements.
- E. To use the information, facilities, personnel, and other resources of federal, state, and local agencies, as well as any and all MCN departments to accomplish the goals of this law.
- F. To require an employer to establish or participate in job training program as CESO deems necessary to increase the pool of MCN Citizens and Other Indians eligible for employment.
- G. To establish and administer a CESO job bank and require employers to use it.
- H. To prohibit employers from using discriminatory job-qualifications criteria or personnel requirements that purposely bars MCN Citizens and Other Indians eligible from employment.
- I. To engage in the process of certifying businesses as CESO Certified Vendor. Documented evidence proving fifty-one percent (51%) or more Native ownership and proof of Native control and management must be provided to qualify for CESO Certification.

Page 5 of 18
NCA 18-199

J. To determine and assess an application fee of not more than fifty dollars (\$50.00) to business seeking to become a CESO Certified Vendor. Also, to annually determine and assess a fifty dollars (\$50.00) re-certification fee to those enterprises.

K. To direct inspection of regulated sites and determine compliance with rules, regulations, and/or contract requirements.

L. To facilitate agreements with union to insure union compliance with this Law.

M. To require employers give preference to qualified CESO Certified Vendors in the reward of contracts and subcontracts.

N. To refer applicants and participants to counseling and education programs to assist MCN Citizens in obtaining and retaining employment.

O. To require employers to submit reports to illustrate they have taken all action deemed necessary by CESO for the fair and vigorous implementation of this Law.

P. To increase awareness, participation and adhesion to this Law, CESO may review the procurement history and procedures of MCN programs and entities on a periodic basis.

Q. Findings of non-compliance by a MCN program or entity will be reported to the overseeing Cabinet member and the Principal Chief's office. Reports of continued non-compliance will be reported to the National Council.

R. To negotiate cooperative agreements, subject to National Council Approval, with employment rights agencies to eliminate adverse discrimination against MCN Citizens and Other Indians.

S. To take such actions as are necessary to achieve the purposes and objective of the MCN employment rights established in this Law.

T. To publish an electronic listing of CESO Certified Vendors.

U. To hold hearings in accordance with this chapter.

V. To register and keep file of complaints concerning individuals and companies doing business with the MCN.

W. To make available an electronic copy of this Law to every employer doing business with the Muscogee (Creek) Nation.

§ 9-106. Hiring Preference Requirement

MCN Citizens and Other Indians preference requirements contained in this Law shall be binding on all contractors and subcontractors of employers, regardless of tier, and shall be deemed a part of all contract and subcontract specifications. The employer shall be subject to penalties provided herein for violation if the contractor or subcontractor fails to comply.

§ 9-107. Preference in Promotions

Every employer shall, in accordance with CESO regulations, giving MCN Citizens and Other Indians preferential consideration for all promotion opportunities and shall encourage MCN Citizens and Other Indians to seek such opportunities.

§ 9-108. Preference in employment of students

Employers shall give MCN students and students who are Other Indians preferential consideration for summer student employment. The employer shall make every effort to promote after-school, summer, and vacation employment for MCN students and Other Indians.

§ 9-109. Establishment and review of numerical goals for employment generally

CESO may establish the minimum number of MCN Citizens and Other Indians each employer shall employ on its work force during any year that the employer or any of its employees are engaged in work with MCN. Numerical goals may be set for each craft, skill, job classification, etc. used by the employer and shall include, but not be limited to, administrative, supervisory and professional categories. The goals shall be expressed in terms of man-hours worked by the employer's work force in the job classification involved.

§ 9-110. Work Permits

Each employer shall be required to submit a core crew list to CESO. Once the Core Crew list is submitted, CESO will confirm essential employees listed.

A. Requirements

1. Each employer will submit a list of all non-core positions.
2. If CESO has identified qualified job bank applicants for non-core

- positions it shall require the employer to place tribal citizens.
3. Any employer, as defined in this law shall be required to pay a work permit fee of twenty-five dollars (\$25.00) per employee per day for non-Indian employees hired for the project, that are in addition to the core crew, if the employer hires a non-Indian employee when otherwise there is a qualified Indian applicant available.
 4. CESO is also authorized to administer other fees and penalties as provided in this law.

§ 9-111. Report submission

Each employer, when engaged in covered contracted work in Muscogee (Creek) Nation Indian Country shall submit a monthly report to CESO on a form provided by the CESO staff. Report shall include the number of MCN Citizens and Other Indians in the employer's work force, all persons hired or fired during the month, including job positions involved, and other information as required by CESO.

§ 9-112. On Site Inspections

CESO and its representatives shall have the right to make on-site inspections during regular working hours in order to monitor any employer's compliance with this Law and the rules, regulations, and orders of CESO. CESO shall have the right to inspect and copy all relevant records of any employer, or any signatory union or subcontractor, and shall have a right to speak to work and conduct investigations on job sites.

§ 9-113. Participation in Training programs

Employers may be required by CESO to participate in training programs to assist MCN Citizens and Other Indians to become qualified in the various job classifications used by the Employer. The ratio of citizen trainees to fully qualified workers shall be set by CESO after consultation with the employer.

§ 9-114. Establishment by the CESO staff of counseling and other support programs; Cooperation by employers

CESO may establish counseling and other supported programs to assist MCN Citizens and Other Indians in obtaining and training employment. Every employer shall be required to cooperate with the CESO regarding such counseling and support programs.

§ 9-115. Use of job qualification criteria and personnel requirements by employers

Employers are prohibited from using job-qualification criteria or personnel requirements

which bar MCN Citizens and Other Indians employment unless such criteria or requirements are required by business necessity.

§ 9-116. Implementation of layoffs and reductions in force by employers

In all layoffs and reductions in force, employers shall maintain the required ratio of MCN Citizens and Other Indians employed.

§ 9-117. Funds

All funds from application, certification, recertification, and employer fees and other sources collected by CESO shall be properly accounted for and deposited at least monthly into accounts established for CESO with the Office of the Controller. All funds from such account shall be used for purposes for which CESO was established and carry out its powers and duties.

§ 9-118. Job Bank

CESO may establish and administer a Job Bank to assist employers in placing qualified MCN Citizens and Other Indians in job positions. Employers covered under this law shall be required to utilize the Job Bank and comply with the CESO Law and policies and procedures established by CESO.

A. In hiring preference shall be given to qualified:

1. MCN Citizens as first preference.
2. Other Indians as second preference.
3. CESO may provide for preference for a non-native who is the verified Head of Household supporting minor Muscogee (Creek) Nation citizens.

B. Employers covered under this Law do not have to hire or employ a job bank participant who is not qualified for the open position. This decision should be made in a good faith effort and the employer shall have valid reason with documentation for not hiring a job bank referral.

C. Employers covered under this Law shall notify CESO of all job openings and shall submit to CESO job description, application forms and other relevant information to comply with goals of this law. If an employer advertises the job position, the advertisement shall state that Native preference will be given.

§ 9-119. Employment Support

CESO may provide support to all MCN Citizens regardless of residence, whether in or out of MCN Boundaries. Support may be provided to Other Indians residing within MCN boundaries. This support is provided to assist with work related items to gain or maintain new employment.

§ 9-120. Duties of unions generally

Every union with collective bargaining agreement with an employer shall file a written agreement stating that the union will comply with this Law and rules, regulations and orders CESO. Until such agreement is filed with CESO, the employer may not commence work within MCN.

§ 9-121. Contents of union agreements

Every Union agreement with an employer or filed with CESO.

A. Indian preference. The union will give preference to MCN Citizen and Other Indians in job referrals regardless of which union referral list they are on.

B. The Union will cooperate with CESO in all respects and assist in the compliance with and enforcement of this Law and related regulations and agreements.

C. Training programs. The Union will establish a journeyman upgrade and advance apprenticeship program.

D. Temporary work permit. The union will grant temporary work permits to MCN citizens and Other Indians who do not wish to join the union.

§ 9-122. Model union agreement

CESO staff will provide a model union agreement for use by all unions who have collective bargaining agreements with any employer.

§ 9-123. Unions and union activities

Nothing herein, nor any activities by CESO authorized hereby, shall constitute official MCN recognition of any union or endorsement of any union activities within the MCN. Nothing herein bars any employer, MCN or its entities, from recognizing any union. Neither CESO, including any employer or agent thereof, nor any MCN entity, including any employee or agent thereof, shall engage in any activity constituting opposition to or endorsement of any Union activities among employees of any Employer covered by this

law. Nothing herein shall restrain any elected official of the MCN from endorsing or opposing such Union activities.

Any prohibition against endorsement of any Union activities in this Section shall not include the provision of any assistance to any MCN citizen to utilize any apprentice or job training program operated by any Union or Union affiliated entity.

§ 9-124. Certification of CESO Certified Vendors

CESO Certification Committee is the sole authority for making determinations regarding certifications of CESO Certified Vendors. In order to qualify for certification a company must verify they are fifty-one percent (51%) or more Native American owned and operated. CESO will maintain application and procedures to certify businesses.

§ 9-125. CESO Certification Committee

The CESO Certification Committee will meet to review and evaluate applications submitted to CESO for Certification. The committee shall consist of a representative from the Secretary of the Nation and Commerce, one National Council representative, a representative from Department of Housing, a representative from the Mvskoke Loan Fund and a representative from Tribal Construction. Minimum of three (3) members must be present to establish a quorum.

§ 9-126. Categories of CESO Certified Vendors

- A. Muscogee (Creek) owned businesses.
- B. Indian Owned.

§ 9-127. Prohibition on brokering and fronting services

No entity shall represent that it is exercising management control of a project in order to qualify for Indian preference in the award of said contract or sub-contract when in fact such management control is exercised by a non-Indian entity.

§ 9-128. Notification of Upcoming Projects

At the beginning of each fiscal year upon approval of the Comprehensive Annual Budget, all MCN departments (regardless of funding source) shall provide information to CESO of anticipated projects for that year including the name of the project, the location of the project, the project contact person, projected start date and other relevant information. This information is due no later than forty-five (45) days after budget approval. Throughout the fiscal year, the respective department(s) shall notify CESO of changes or additional projects.

§ 9-129. Bid requirements

When bids are utilized all procuring entities must notify CESO and supply with a bid package prior to advertising, including invitation to bid, bid deadlines, RFP, bid documents and specifications. CESO will forward bid packages to CESO Certified Vendors.

- A. Bids must include a copy of CESO requirements.
- B. If a Pre-bid conference is required, CESO shall be notified within 72 hours before the scheduled date, and a CESO representative must be present when possible.
- C. When possible, a CESO staff member will attend bid openings. In events where this is not possible the employer shall provide a copy of all bids and bid opening results via email, to the CESO Manager within 48 hours of opening.

§ 9-130. Notification of prospective and current employers of obligations imposed by Law and rules, regulations and orders of CESO

All bid announcements issued by a tribal, federal, state, or other private or public entity shall contain a statement that the successful bidder will be obligated to comply with this Law and all rules, regulations and orders of CESO.

§ 9-131. Preference requirements in Procurement

All employers are required to give preference to CESO Certified Vendors in all purchases, contracting and sub-contracting, and shall comply with this Law and the rules, regulation and order of CESO.

- A. Requirements and Definitions
 - 1. General contractors shall include a Native Preference Statement. This statement will include information relative to Preference Requirements in contracting. The General Contractor will be responsible for ensuring that all subcontractors meet CESO Preference Requirements.
 - 2. MCN government is an "employer" for the purpose of this Law and any of its business entities (regardless of funding source) shall be an employer for the purpose of this Law.

§ 9-132. Purchase Requirements

CESO Certified Vendors must be utilized first in acquiring quotes or purchase of all goods and services.

A. All MCN entities (regardless of funding source) must give a preference to CESO Certified Vendors when awarding procurement opportunities; contracts or subcontracts for supplies, services, labor, and materials unless one of the exceptions listed below applies.

1. No CESO Certified Vendor is available.
2. Procuring entity has a procurement policy that requires approval from the National Council or other governmental agency, then that procuring entity is to follow the guidelines established in that approved policy. CESO will review the approved policy for compliance with this Law.
3. When the purchase can be made from available federal procurement sources such as the General Services Administration or Veteran's Administration.

§ 9-133. Sole Source Purchasing

Purchases through sole sourcing should be rare. Sole source requests must meet the requirements listed below.

A. After research it is determined that the item or service is available from only one source (should not be due to brand loyalty and must be documented).

B. Public exigency or emergency will not permit delay associated with competitive bidding or quotation (should not be due to failure to plan).

C. Expertise, and/or standardization, quality, compatibility with existing equipment or specifications is the only source acceptable to meet a specific need.

D. Sole sourcing is authorized by funding source. (must be documented).

E. In an emergency situation as determined by the Principal Chief.

§ 9-134. Preference Scale

The following percentages must be allowed to CESO Certified Vendors when awarding quotes or bids. A company that is not certified by CESO cannot receive preference. The percentage is the allowable amount CESO Certified Vendors can be above non CESO Certified Vendors.

- A. Products/Goods and Services:
\$0-\$4,999 = 5%
\$5,000-\$499,999 = 3%

\$500,000-\$999,999 = 2%
\$1,000,000 + = 1%

B. The procuring entity or department may develop its own scale for scoring bids in accordance with applicable procurement policies and the specific needs of the project, provided that at least ten percent (10%) of the total points awarded shall be reserved for CESO Certified Vendor preference.

§ 9-135. Procuring Entity of the Muscogee Nation Complaint Process

At any time during an employer's utilization by MCN, the procuring entity may file a complaint with CESO against employer.

A. Any complaints from a procuring entity must be presented in a written format and submitted to the CESO Manager to be considered a formal complaint.

B. Once a formal complaint has been filed, CESO will look at all submitted documents and meet with all parties involved and attempt to reach an informal agreement.

C. Complaints may range from but not limited to: poor products/goods, work, or services rendered or engaged in behavior in non-compliance with contract provisions, rules, regulations, or laws.

D. Any employer receiving complaints from MCN or any of the procuring entities under the MCN shall be placed under review by the Debarment Committee.

§ 9-136. Debarment

CESO shall maintain and publish a list of companies and individuals who have been officially debarred through procedures carried out by the Debarment Committee. All employers must agree to not utilize any company or individual on the debarment list. CESO will develop policies and procedures to carry out the debarment process. CESO shall make available an electronic copy of debarred vendors.

§ 9-137. Debarment Committee

The CESO Debarment Committee shall consist of two representatives from the National Council, the Secretary of the Nation and Commerce, the Secretary of Interior Affairs and the Secretary of Housing.

§ 9-138. Project Evaluation requirements

All Departments upon completion of a covered contract will complete a CESO Project Evaluation form and return to CESO.

§ 9-139. Filing of complaints by CESO on behalf of CESO Certified Vendors

If a CESO Certified Vendor has cause to believe that MCN has failed to comply with this Law the CESO Certified Vendor may file a complaint with CESO. Any complaint must be submitted to the CESO Manager in writing, detailing areas the CESO Certified Vendor feels they were aggrieved. The CESO Manager will investigate and attempt to achieve an informal settlement. Overseeing Cabinet member will also be notified of complaint against their department. Departments found to have failed to comply will receive training on the Law and procurements reviewed for six months.

§ 9-140. Filing of complaints by CESO and proceedings there on generally

If CESO staff has cause to believe that an employer, contactor, subcontractor, or union has failed to comply with this Law or any rules, regulations or orders of the Contracting and Employment Support Act, it may file a complaint with the CESO Manager and notify such party of alleged violations. The CESO Manager will attempt to achieve an informal settlement of the matter, but if an informal settlement cannot be achieved, CESO may impose penalties as provided in § 9-141 herein. Should any entity fail to comply with orders of CESO, CESO may pursue a civil legal action against the entity in the Muscogee (Creek) Nation District Court.

§ 9-141. Penalties for Violations of chapter and rules, regulations or orders

Any employer, contractor, subcontractor or union who violates this Law or rules, regulations or orders of the CESO shall be subject to penalties for the violation.

A. Penalties including, but not limited to:

1. Denial of the right to commence or continue business within the jurisdiction of the Muscogee (Creek) Nation.
2. Suspension of operations within the jurisdiction of the Muscogee (Creek) Nation.
3. Payment of back pay and damages to compensate any injured party.
4. An order to summarily remove employees hired in violation of this Law or rules, regulations or orders of CESO.
5. Imposition of monetary civil penalties.
6. Prohibition from engaging in future operations within the Muscogee (Creek) Nation boundaries.

7. An order requiring employment, promotion, and training of MCN citizens and citizens of other Federally Recognized tribes injured in the violation.
8. An order requiring changes in procedures and policies necessary to eliminate the violation.
9. An order making any other provision deemed necessary to alleviate, eliminate, or compensate for any violation.

B. The maximum monetary penalty which may be imposed is five thousand dollars (\$5,000.00) for each violation. The penalties will be graduated as follows:

1. The first violation will incur a fine of two hundred dollars (\$200.00).
2. The second violation will incur a fine of one thousand dollars (\$1,000.00).
3. The third violation will incur a fine of five thousand dollars (\$5,000.00).

C. Each day during which a violation exists shall constitute a separate violation.

D. Monetary penalties assessed by CESO may be doubled if it is shown that the violation occurred egregiously or with reckless or wanton behavior.

E. Attorney Fees and Cost of pursuing or defending an action of CESO may be awarded to the prevailing party.

§ 9-142. Filing of complaints by MCN Citizens and Citizens of other Federally Recognized Tribes and proceeding thereon generally; Penalties for retaliatory actions by employers against employees filing complaints

If any MCN Citizen or Other Indian believes that an employer has failed to comply with this Law or rules, regulations or orders of CESO, or if they believe he or she has been adversely discriminated against by an employer because he or she is a Indian, they may file a complaint with CESO specifying the alleged violation. Upon receipt of the complaint, CESO shall investigate and attempt to achieve an informal settlement of the matter. If an informal settlement cannot be achieved, the individual or CESO may take further action as provided for by law.

If any employer fires, layoffs or penalizes in any manner any MCN Citizen or Other Indian employee for utilizing the individual complaint procedure, or any other right provided herein, the employer shall be subject to the penalties provided by Section 9-140 of this Law.

Nothing in this Law shall prohibit the aggrieved MCN Citizen or Other Indian from pursuing from the employer other remedies available by law.

This Law does not provide any cause of action for employees of the Muscogee (Creek) Nation its entities or wholly owned corporations.

§ 9-143. Contracting and Employment Support Appeals Board

The CESO Appeals Board of the Muscogee (Creek) Nation shall consist of the Attorney General, a member of the National Council, the Secretary of the Nation and Commerce, the Secretary of Interior Affairs and the Secretary of Housing.

§ 9-144. Conduct of Hearings

If any employer or person feels aggrieved by a decision made by CESO, CESO Certification Committee or CESO Debarment Committee they may appeal that decision to the CESO Appeals Board. The CESO Appeals Board shall hold a hearing in accordance with this law and will either confirm or deny CESO's decision.

A. Hearings shall be governed by the following rules and procedure:

1. All parties may present testimony of witnesses and other evidence and may be represented by counsel at their expense.
2. The Appeals Board may have the advice and assistance at the hearing of counsel which shall be provided by the Nation.
3. The chairman of the Board or the vice-chairman shall preside and the Board shall proceed to ascertain the facts in a reasonable and orderly fashion.
4. The Hearing may be adjourned, postponed and continued at the discretion of the Board.
5. At the final close of the hearings, the board may take immediate action or take the matter under advisement.
6. The Board shall notify all parties forty-five (45) days after the last hearing or of its decisions in the matter.

§ 9-145. Notice of Hearings

The CESO Appeals Board shall have the power and duty to hear employer appeals of CESO's decisions denying certification of the employer as an Indian owned economic enterprise. The CESO appeals Board shall have the power to either affirm or reverse CESO's Certification decision, but will not have the power to award any other form of remedy in the cases brought to this Law.

The CESO Appeals Board shall have the power to create rules as may be necessary to perform the duties and functions delegated to the CESO Appeals Board.

If a hearing is requested by the Board, an individual, an employer, or union pursuant to this section, a written notice of the hearing shall be given to all concerned parties stating the nature of the hearing and the evidence to be presented.

The notice shall advise such parties of their right to be present at the hearing, to present the testimony of witnesses and other evidence and to be represented by counsel at their own expense.

§ 9-146. Appeals from decisions of Contracting and Employment Support- Appeals Board

There shall be no right of further appeal of any claim beyond the CESO Appeals Board.

§ 9-147. Severability

The provisions of this Law are severable and if any part or provision hereof shall be held void, the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this law.

SECTION THREE. EFFECTIVE DATE. This Act shall become effective upon proper approval and execution in accordance with the requirements of the Muscogee (Creek) Nation Constitution.

ENACTED by the Muscogee (Creek) National Council on this 15th day of December, 2018.

IN WITNESS WHEREOF, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



Lucian Tiger III, Speaker
National Council
Muscogee (Creek) Nation

CERTIFICATION

I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of Sixteen members with Sixteen members attending this meeting on the 15th day of December, 2018 and that the above is in conformity with the provisions therein adopted by a vote of 15 in favor, 0 against and that said Law has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.

Alicia Stroble

Alicia Stroble, Acting Recording Secretary
Muscogee (Creek) National Council

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature on this 21st day of December, 2018 to the above Law, **NCA 18-199** authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.

James R. Floyd

James R. Floyd, Principal Chief
Muscogee (Creek) Nation

