

**TITLE 7
EMPLOYMENT AND CONTRACTING RIGHTS FEE**

59-07-01 Employment and Contracting Rights Fee.

Prior to commencement of work on the Reservation, the covered employer shall pay all fees provided in this Ordinance. The covered employer may require by written contract that the general contractor pay the applicable TERO fees. An employment and contracting rights fee shall be imposed upon covered employers in order to raise revenue for the operation of the TERO program. The covered employer is liable for the employment and contracting rights fee and must include such a fee in the solicitation of bids.

59-07-02 Covered Employers and Contracting Fees

For each contract, regardless of the amount, a fee of ~~3%~~ 5.5% of the total contract shall be assessed. The fee of ~~3%~~ 5.5% shall apply to the total final contract amount which shall include all subsequent increases. The liability for the fee imposed by this Section lies with the general contractor. A subcontractor shall not be liable for the contracting fee, unless the subcontractor agrees in writing to pay only its portion of the ~~3%-~~ 5.5% contracting fee applicable to the general contractor.

59-07-03 Covered Employers and Employment Fees

Covered employers shall pay a fee of one and a half percent of the covered employer's payroll. This fee shall be paid quarterly. Tribal non-profit entities, which include, without limitation, the Sisseton-Wahpeton Community College, Tiospa Zina Tribal School and Enemy Swim Tribal School and other non-profit entities are exempt from paying the employment fee.

59-07-04 Payment of Fee and Petition For Payment of Fee in Installments

Where good cause is shown to the satisfaction of the TERO Director, the covered employer may be allowed to pay the fee in installments. The Director may authorize the covered employer to pay a minimum of one-half of the TERO fee prior to commencement of work on the Reservation, and pay the remain one half of the TERO fee when half of the project is complete. Any covered employer or contractor who fails to pay the fee imposed shall be subject to the penalties provided under TITLE 9.

59-07-05 Collection and Deposit of Fee

The TERO Director shall be responsible for the collection of all TERO fees in a timely manner. The Director shall immediately notify any delinquent party of the fee, the percentage, the specific amount due, if known, the date due, and the possible consequences if the contractor fails to comply. The Director's written notice shall clearly reference the amount of fee due, the basis for the fee and the due date. However, failure to receive the notice shall not relieve the covered employer of its obligation to pay the fee. If the Director or Commission has reasonable cause to believe that a covered employer may flee the Commission's jurisdiction before the fee is collected, the Commission may utilize the provisions in Titles Nine and/or Ten, Confiscation and Sale, notwithstanding the above procedures. The Director shall deposit all fees with the Tribe in accordance with the Tribal Financial Management System, identified as a separate line item of the appropriate TERO account. TERO may only utilize the fees in accordance with the budgets approved by the TERO Commission and the Tribal Council.