



THE EASTERN BAND OF CHEROKEE INDIANS

Department of Human Resources *Tribal Employee Benefits & Compensation*

P.O. Box 554 • Cherokee, North Carolina 28719
Telephone: 828-359-6388
Fax: 828-359-0284

The Eastern Band of Cherokee Indians (EBCI) is pleased to invite your firm to submit a proposal in response to our **Request for Proposal (RFP)** for **Professional Services to Conduct a Comprehensive Position Classification and Compensation Analysis**.

This study will support our efforts to ensure equitable, competitive, and legally compliant compensation practices across our tribal government, including approximately 1,300 employees, 20 Tribal Boards and Committees, the Tribal Executive Office, and the Tribal Council.

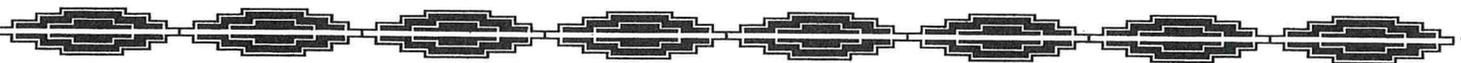
Key Dates:

Proposal Submission Deadline: Friday, December 12, 2025 by 4:00 PM EST

Project Start Date: Monday, January 12, 2026

If you have any questions about this RFP, please contact Whitney Reed, Manager of Benefits & Compensation, at whitreed@ebci-nsn.gov by Thursday, December 11, 2025.

We appreciate your interest in partnering with EBCI and look forward to reviewing your proposal.





Request for Proposal

PROFESSIONAL SERVICES TO CONDUCT A
COMPREHENSIVE POSITION CLASSIFICATION
AND COMPENSATION ANALYSIS



EASTERN BAND OF
CHEROKEE INDIANS

810 ACQUONI RD | P.O. BOX 554 | CHEROKEE,
NORTH CAROLINA 28719
WWW.EBCI.GOV

SCOPE OF THE RFP

This Request for Proposal contains instructions for submitting your proposal. It includes a description of the materials to be provided, the selection criteria, as well as other requirements for the proposal to be eligible for consideration.

INTRODUCTION

Eastern Band of Cherokee Indians (“EBCI”), a federally recognized sovereign Indian Nation located in Cherokee, North Carolina, is soliciting proposals from qualified and experienced Human Resources consultant entities to enter into an agreement to conduct a complete and comprehensive Position Classification and Compensation study of approximately 700 position descriptions held by approximately 1,300 Tribal employees. The study will include but not be limited to:

1. A market compensation study comparing employees’ base salaries with those found in the market
2. A determination of whether there are market compensation differentials, and if so, the extent of those differentials.
3. Classification of positions as exempt vs. non-exempt status consistent with Fair Labor Standards Act (FLSA)
4. Classification and policy for determining Hazard Pay for employees
5. Determination of the most appropriate salary grading model.

In addition to the above-mentioned 1,300 tribal employees, we are requesting a complete and comprehensive classification and compensation study including pension benefit, if applicable for:

1. approximately 20 Tribal Boards and Committees
2. Tribal Executive Office consisting of Principal Chief, Vice Chief and appointed positions.
3. Tribal Council

EBCI is organized as a municipal corporation governed by three distinct branches: Executive (Principal Chief and Vice-Chief), Legislative (Tribal Council) and Judicial (Cherokee Courts).

PURPOSE AND OBJECTIVES

The purpose of the Position Classification & Compensation Study is to address changes in Tribal operations and staffing over the last several years, which may have affected the type, scope and level of work being performed. The objective is to have a credible Classification & Compensation Plan that recognizes these changes; ensures positions performing similar work with essentially the same level of complexity, responsibility, and knowledge, skills and abilities are classified together; provides salaries commensurate with assigned duties; clearly outlines promotional opportunities and provides recognizable compensation growth; provides justifiable pay differential between individual classes; and maintains currency with relevant labor markets. In addition, the Tribe seeks recommendations on staff alignments, reporting relationships and organizational structure.

SCOPE OF WORK

The study must include a review of all current and pending job descriptions. The position descriptions serve as the basis for the analysis. The approach to the study should include benchmarks, survey, and data verification process used. The EBCI has significantly increased its capacity for virtual meetings and while some in-person meetings may be necessary the selected consultant may elect to use virtual platforms to accomplish the scope of work. The project shall include, but is not limited to the following activities:

A. Classification Plan

1. Consultant to meet with staff to discuss study and agree on methodology and Position
2. Description Questionnaire (PDQ) to be used
3. Consultant to meet with Department Heads and mid-management staff to explain study and processes to be used
4. Consultant to conduct interviews and/or job audits. Interviews and job audits may be conducted individually or in groups based upon classification
5. Consultant to compare PDQ, interview and job audit results to existing job descriptions
6. Consultant to update and/or create class specifications as needed to uniformly reflect distinguishing characteristics, essential job functions, minimum qualifications, working conditions, license requirements, regulatory requirements, standby/call-out responsibilities for all classifications
7. Consultant to identify management, supervisory, professional, technical, and general employees, including FLSA status (exempt/non-exempt)
8. Consultant to determine and label positions that are considered “hazardous” and “safety sensitive”
9. Consultant to draft and submit proposed class specifications for review by Tribal Executive Committee. Consultant will recommend, if appropriate, classification series and levels within the series (i.e. I/II, Senior/Lead, etc.). In addition, Consultant to review reporting/organizational structure and make suggestions
10. Consultant to finalize class specifications and recommend appropriate classification for each position, including correction of identified discrepancies between existing and proposed classifications
11. Consultant to propose salary grading models

B. Compensation Survey

1. Consultant to determine appropriate labor market for compensation survey (e.g., Western North Carolina, Region, State and Indian Country)
2. Consultant to conduct salary survey by comparing annual midpoint base salary for each existing classification. Included in the survey will be the benefit structure for the selected entities
3. Consultant to recommend appropriate salary range for each existing or proposed position based on the Classification Plan and on the compensation, survey results, and internal relationships and equity
4. In addition to Number 3 above, Consultant to recommend salary range for each position based on median and mean salary of the comparable industries, company size and geographic location. In addition, consultants recommend and prepare a new salary step plan using existing EBCI salary plan as a basis
5. Consultant to recommend compensation strategy for “red circled” staff, i.e. those who have progressed beyond his/her pay grade’s maximum salary

6. Provide recommended increase and adjustment to current salary table in warranted and increases for the next ten years
7. Provide recommended salary increases to employees who increase in education / training experience gained by individual when higher degree or certificate is not required for position
8. Consultant to recommend a model salary structure for EBCI to adapt. (Federal Comp structure, NC Govt structure, municipal structure, or hybrid).
9. Consultant shall perform a separate scope of work and recommendations regarding compensation of Tribal Boards and Commissions, Tribal Officials including consistency in pension years of service based on time spent as an elected official.

C. Study Conclusion

1. Consultant to prepare written report of recommendations, including discussion of methods, techniques and data used to develop the Classification & Compensation Plan for employees.
2. Consultant to prepare written report of recommendations, including discussion of methods, techniques and data used to develop the Classification & Compensation Plan for elected officials and board members.
3. Consultant to provide instructional information to allow EBCI staff to conduct individual salary audits and adjustments consistent with study methods until the next formal study is conducted.
4. Consultant to attend meetings, as requested, throughout the process with managers, employees, the Executive Committee and/or Tribal Council to explain methodology, survey results and recommendations.

PROPOSAL FORMAT

Each proposal should be organized to clearly address the following requirements, as a minimum:

1. Agents and Address

List the address, email address, telephone and FAX numbers of the office from which the services are to be provided and identify the person to serve as project manager. Resumes summarizing the qualifications and experience of the individuals who will be conducting the study must be provided.

2. Statement of Methods and Procedures

Provide a statement describing the Scope of Work as you understand it, and describe the approach, means, methods and procedures to be employed to gather the data, analyze findings and develop recommendations as requested. Provide a sample Position Description Questionnaire (PDQ). Provide a statement describing secondary Scope of Work for the supplemental proposal if responding to this option.

3. Structure and Content of Work Product

Describe the way in which the work product will be structured and presented upon completion. Include computer and software compatibility information.

4. Work Schedule

Provide a timeline indicating tasks required and the start/completion dates for each. It is expected the work will commence as soon as possible after January 1, 2026 and be completed on or before May 31, 2026.

5. References

All proposals should include names, addresses, telephone numbers, and contact people at five (5) other public jurisdictions for which comparable services have recently been rendered. Preference given for experience working with Tribal Nations.

6. Fee

The fee proposal shall include:

- a. A total cost estimate and not to exceed amount for the work described under Scope of Work.
- b. A rate schedule for computing any extra work not specified in the contracted Scope of Work, including hourly rates for all positions plus unit costs for incidental expenses; and
- c. Amount to be deducted from total cost estimate because consultant is conducting (or has conducted in the past six months) salary surveys of comparable jurisdictions/positions, the data from which can be shared rather than independently gathered.
- d. Separate Fee Schedule is required if responding to the Supplemental Proposal for the Tribal Boards and Commissions Compensation study.

This RFP is part of a competitive procurement process which helps to serve the best interest of the EBCI. It also provides firms with a fair opportunity for their services to be considered. The process of competitive negotiation being used in this case should not be confused with the different process of competitive sealed bidding. The latter process is usually used where the goods or services being procured can be described precisely and price is generally the determinative factor. With competitive negotiation however, price is not required to be the determinative factor, although it may be, and EBCI has the flexibility it needs to negotiate with firms to arrive at a mutually agreeable relationship.

For ease of reference, each firm receiving this RFP is referred to as a "firm" and the firm selected to provide services for EBCI is referred to as the "Selected Firm." This RFP states the instructions for submitting proposals, the procedure, and criteria by which a firm may be selected.

The firm selected will have demonstrated the highest capability/desire with respect to the following:

- Quality
- Price

REQUEST FOR PROPOSAL (RFP) COORDINATION

The point of contact for this Request for Proposal (RFP) shall be:

Name and title:	Whitney Reed, Manager – Benefits & Compensation
Division:	Human Resources
Program:	Benefits and Compensation
Address:	PO Box 554, Cherokee, NC 28719
Telephone:	(828) 359-6388
Email:	whitreed@ebci-nsn.gov

RFP SCHEDULE OF EVENTS

November 24, 2025	Issue RFP
December 12, 2025	RFP due back by close of business – 4:30 pm EST
December 15-18, 2025	Evaluations and Interviews conducted; Negotiations ensue
January 7, 2026	Notice of Award, Contract Finalized

RFP AMENDMENT AND CANCELLATION

The EBCI reserves the right to amend this RFP in writing at any time. The Tribe also reserves the right to cancel or reissue at its sole discretion. If an amendment is issued, it will be provided to all by an advertisement in the Cherokee One Feather (the Tribe’s newspaper), and distribution through the Tribe’s Employment Rights Office. Vendors must respond to the final written RFP and any exhibits, attachments, and amendments. If it becomes necessary to revise any part of this RFP, pertinent information will be issued to all parties who have submitted a letter of intent to propose.

SELECTION PROCESS

The following is a general description of the process by which the vendor will be selected: All proposals must be received by the issuing agency not later than the date and time specified in the “RFP Schedule of Events.” All proposals must be delivered in electronic format (PDF) sent to: saratees@ebci-nsn.gov with subject “EBCI Compensation RFP”.

Proposal must have the information listed in the proposal format section of this request for this proposal. An oral presentation of up to three firms may be required after written proposals are received by EBCI. If the EBCI requires such a presentation, the Issuing Office will schedule a time and place. Each firm should be prepared to discuss and substantiate any of the areas of the proposal it submitted. Negotiations will be conducted by EBCI on the firms’ financial proposals and proposed terms and conditions. Oral presentations will be conducted in a virtual format.

Notice of Award: EBCI will notify finalists in writing of the final award.

Preference will be given to qualified Indian contractors who qualify under the Tribe’s contracting preference law.

THIS IS NOT A CONTRACT OR AN OFFER TO CONTRACT - Firms submitting proposals are cautioned that this is a request for proposals, not a request to contract, or an offer to contract, or an acceptance of any proposal or offer. The Eastern Band of Cherokee Indians reserves the unqualified right to reject all proposals when such rejection is deemed to be in the best interest of the Tribe. Additionally, only submitted written questions may be addressed in Addenda; oral questions and responses are not official and do not change the requirements of this RFP. The firm that is selected and successfully negotiates agreeable terms will contract for services with the Eastern Band of Cherokee Indians. This RFP will be attached to the contract to serve as the scope of work, either as it is originally proposed or mutually agreed in modification.

CONTRACT TERMS

Upon execution of the contract, a copy of this RFP will be attached to the contract, and all conditions of this RFP will become conditions of the contract unless specific terms of the RFP are deleted by other terms of the contract.

Upon acceptance, the terms and conditions of your proposal will be effective on date of contract approval by the EBCI and will continue until terminated under the provisions of the contract agreement.

If the Selected Firms do not perform services in accordance with the terms and conditions of the contract, EBCI may cancel their contract immediately after thirty (30) days written notice and the Selected Firm's inability to cure such failures.

FINANCIAL STABILITY

If requested, prior to contract negotiations and award, the selected firm may be required to furnish appropriate documentation to substantiate the financial stability of the firm to undertake this project. The firm and/or its principal administrators/managers/owner(s) will be subject to a background investigation for criminal or civil violations. The Contractor (if applicable) will be subject to an investigation of judgments or pending civil and criminal activity. A credit report will be requested. The Contractor will be required to hold appropriate automobile, workers compensation, and \$1,000,000.00 liability insurance. The Tribe will not contract without proof of the aforementioned insurance.

APPLICABLE LAWS AND PROCESSES

The selected entity shall be required to follow all requirements of the EBCI, Tribal Employment Rights Office and other applicable rules and regulations. These will be strictly adhered to where applicable.

As a sovereign nation, the EBCI makes and enforces its own business activity regulations on tribal land. Any of them may be applicable to your proposal. They can be found at www.municode.com. Click on "online library", then on "North Carolina", then on "Cherokee Indians Eastern Band Code of Ordinances" to get to the Cherokee code of Ordinances.

Key laws to be aware of in making your proposal:

- Cherokee Code Chapter 92, Article V, Tribal Business Preference Law
- Cherokee Code Chapter 105, Taxation

Many federal laws apply as well and are enforced either by the relevant federal or tribal agency. Tribal Licenses can be obtained through the EBCI Tribal Finance office, 828-359-6000, for a modest price.

Must be willing to sign and adhere to the attached contract agreement. (Attachment A) containing the following:

- Sovereign Immunity. Nothing in this Agreement constitutes a waiver of the Tribe's sovereign immunity.
- Governing Law. This Agreement shall be governed by and construed in accordance with the law of the Tribe or, in the absence of Tribal law, federal or North Carolina law. In all circumstances this

Agreement shall be subject to recognition of the sovereign rights, powers, authorities, and immunities of the Tribe as a federally recognized Indian Tribe under Federal and Tribal law.

You do not need to reply to this Request for Proposal if your company is not willing to sign the contract agreement as stated in Attachment A.

Additional Information Pertaining to RFP:

1. Prices are to be guaranteed for ninety (90) days during the evaluation process.
2. During the evaluation of the firm’s proposal, the issuing party may request additional financial or reference information which may be needed to determine the company’s ability to provide the services proposed.
3. EBCI reserves the right to reject any or all proposals received. Non-acceptance of a firm’s proposal will mean that one or more proposals were deemed more advantageous to EBCI or that all proposals were rejected. Firms whose proposals are not accepted will be notified after a contractual agreement between EBCI and the selected firm exists, or EBCI rejects all proposals.
4. If a firm cannot comply nor has an alternative proposal to any specification listed, an exception request must be made in writing. Any specification without a specific written request must be made in writing. Any specifications without a specific written exception will be assumed to be met by such firm. When a contract is awarded and a specification is later found not to be met, this may be grounds for the termination of the agreement between EBCI and the Selected Firm.

EVALUATION PROCESS

EBCI will evaluate each proposal considering price, quality and comprehensiveness of services. Exceptions taken to the proposal, any warranties offered, and other things, which EBCI considers important and applicable, will also be considered. EBCI will utilize a three – step evaluation process. A proposal must satisfy the requirements of all three steps to be considered.

STEP 1	Each proposal will be evaluated first upon documented compliance with the specifications. Any non-compliant response may be cause for the rejection of a proposal.
STEP 2	Proposals will then be evaluated for performance within referenced criteria. Quality of proposal information submitted and supporting material will be used by EBCI to determine the Selected Firm.
STEP 3	Those proposals found to be compliant (based upon the written documents) will then be ranked according to cost.

ATTACHMENT A

EASTERN BAND OF CHEROKEE INDIANS
CHEROKEE, QUALLA BOUNDARY (NC)

INDEPENDENT CONTRACTOR AGREEMENT

Part 1 of 2

1. **PARTIES.** This is an Agreement between the Eastern Band of Cherokee Indians (“Tribe”), a federally recognized Indian Tribe and _____, (“Contractor”).

2. **TAXPAYER NUMBER.** Contractor must submit with this Agreement a completed and signed [IRS Form W-9](#) indicating Contractor’s federal Taxpayer’s Identification Number (TIN), personal Social Security Number (SSN) or Employer Identification Number (EIN), whichever is appropriate according to the official instructions to IRS Form W-9, even if Contractor has submitted to the Tribe an IRS Form W-9 previously. Contractor’s TIN, SSN, or EIN is _____.

3. **CONTACT PERSONS.** Communications and notices regarding this Agreement must be given to the persons named in this paragraph to be effective.

For Contractor:

Name and title:	
Company:	
Address:	
Telephone:	
Email:	

For EBCCI:

Name and title:	Sarah Teesateskie, Secretary of Human Resources
Division/Program:	Eastern Band of Cherokee Indians
Address:	PO Box 554, Cherokee, NC 28719
Telephone:	(828) 359-6388
Email:	saratees@ebci-nsn.gov

4. **SUMMARY OF PURPOSE OF AGREEMENT.**

5. **TIME OF PERFORMANCE.**
Contractor shall begin work on _____ and shall complete work on _____

6. **SCOPE OF WORK.** Contractor shall furnish all services, personnel, labor, goods, equipment, tools, materials, supplies, transportation, tests and supervision required to complete the Work described in this paragraph or on attached page if more space is needed:

7. **CONTRACT PRICE.** The total contract price shall not exceed \$ _____

8. **PAYMENT.** The Tribe shall pay Contractor according to the payment option chosen in this paragraph. Contractor must submit documentation supporting its entitlement to payment as required by the Tribe. The Tribe will not pay any amount greater than the contract price unless it has agreed to in a properly executed written amendment to this Agreement. If applicable, ten percent (10%) of the contract price will be retained by the Tribe until final inspection and acceptance of Work by the Tribe.

Choose payment method:

Payment by schedule

PAYMENT 1:	\$	DATE:
PAYMENT 2:	\$	DATE:
PAYMENT 3:	\$	DATE:
TOTAL CONTRACT PRICE NTE:	\$	

9. **LIQUIDATED DAMAGES.** If Contractor fails to complete its Work on time, subject to changes in the time of performance as provided in this Agreement, Contractor shall pay to the Tribe, as liquidated damages, the sum of \$ _____ for each consecutive calendar day that terms of this Agreement remain unfulfilled. This sum is agreed to be a reasonable and proper measure of damages which the Tribe will sustain per day if Contractor fails to complete its Work within the stipulated time. In no way shall costs for liquidated damages be construed as a penalty on the Contractor.

10. **OTHER TERMS AND CONDITIONS.** If the Contractor is supplying deliverables such as documents, drawings, designs, environmental assessments, master plans, maps, and other similar items, the Contractor shall supply the deliverables in hardcopy and in the digital / electronic format specified by the Tribe.

11. **LIST OF AGREEMENT DOCUMENTS.** This Agreement incorporates by reference the documents described in this paragraph. Attach the following documents:

- a. Parts 1 and 2 of this Agreement
- b. [IRS Form W-9](#), completed and signed by Contractor
- c. Proof of insurance
- d. Attachments (if any, list here)

This Agreement is executed by the following authorized persons on the dates indicated below.

CONTRACTOR: _____	EASTERN BAND OF CHEROKEE INDIANS _____
Authorized Signature: _____	Authorized Signature: _____
Print Name: _____	Print Name: <u>Michell Hicks</u>
Title: _____	Title: <u>Principal Chief</u>
Date: _____	Date: _____
Approved as to form: _____	Date: _____

INDEPENDENT CONTRACT AGREEMENT

Part 2 of 2

1. Independent Contractor. Contractor is an independent contractor under this Agreement. Contractor is not the Tribe's employee, agent, partner or joint-venturer for any purpose, including the accrual of employee benefits. Contractor may not represent or bind the Tribe in any dealings between Contractor and third parties. Employees furnished by Contractor are Contractor's employees exclusively.

2. Warranty. Contractor warrants that information, documents and other deliverables it provides to the Tribe are complete, accurate, timely and responsive to the requests of the Tribe, that professional services meet or exceed applicable standards of care and professional conduct, that goods are new and of good quality and are fit for the particular purpose for which they are provided, and that labor is performed in a good and Workmanlike manner. At the request of the Tribe and at Contractor's expense, Contractor shall promptly correct, replace or repair any defective or deficient deliverables, goods, services or labor for a period of one year after completion of Work under this Agreement. This paragraph does not diminish the Tribe's rights against Contractor with respect to the time within which the Tribe may commence proceedings to establish Contractor's liability with respect to Contractor's obligations other than specifically to correct, repair or replace Work.

3. Indian Preference. If Contractor finds it necessary to hire additional goods or services, or to subcontract on the Qualla Boundary, to perform the Work described in this Agreement, Contractor shall comply with Tribe's laws providing employment and subcontracting preference for qualified enrolled members of the Tribe and other Indian tribes. Contractor shall contact the Tribal Employment Rights Office (TERO) to obtain contracting and hiring requirements and a list of certified businesses to which preference shall be given. Contractor shall also comply with applicable federal requirements concerning Indian preference in contracting and employment.

4. Insurance. Before commencing Work, Contractor shall furnish to the Tribe certificates of insurance showing:

- a. Commercial general liability insurance with limits of not less than \$1,000,000 per occurrence and in the aggregate, and naming Tribe as an additional insured;
- b. Automobile liability insurance with coverage for owned, hired, and non-owned automobiles, with limits of not less than \$1,000,000;
- c. Worker's compensation insurance as required by North Carolina statute (i.e., Contractor has 3 or more regular employees), and including employer's liability coverage;
- d. If applicable, errors and omissions insurance; and
- e. If applicable, professional malpractice insurance.

Contractor shall continuously maintain required insurance during this Agreement. Having adequate insurance coverage is a material obligation of this Agreement.

If there is a lapse of any of Contractor's required coverages, the Tribe may order cessation of Contractor's work, order Contractor and all his equipment off Tribal property, and shall stop payments to Contractor reflecting work done from the date of lapse, until a current Certificate of Insurance showing resumption of coverages adequate to the Tribe (which may exceed those listed in this Agreement if the lapse has created a change in risk to the Tribe) is provided to the Tribe's Contact Person shown in this Agreement. Additionally, the Tribe may void this Agreement or impose additional reasonable conditions upon Contractor, such as obtaining a satisfactory result from inspection of Contractor's work to date, before allowing Contractor to resume work.

All insurance must satisfy the laws of North Carolina and shall be obtained from companies authorized to provide such coverage and authorized by the North Carolina Commissioner of Insurance to do business in North Carolina. Limits of coverage do not limit the Contractor's liability or obligations under this Agreement.

In all agreements with Subcontractors, Contractor must impose all conditions in this paragraph upon Subcontractor.

5. Amendments. This Agreement may not be amended orally or by performance. Any amendment must be made in a writing properly executed by both parties. Amendments that increase the Contract Price or the Tribe's agency budget must be signed by the Principal Chief to be effective.

6. Time is of the Essence. Contractor shall diligently and in good faith prosecute the Work describe in this Agreement. Contractor understands that delays in performance may cause substantial economic damages to the Tribe.

7. Termination by Mutual Consent. This Agreement may be terminated at any time by mutual written consent of the parties.

8. Termination for Convenience. The Tribe may terminate this Agreement at any time by providing three (3) calendar days written notice to Contractor. Such termination is effective in the manner specified in the written notice. Upon such termination, the Tribe shall pay Contractor for Work performed to the date of termination. Contractor shall accept the payment as full and final payment and shall make no claim of any kind against the Tribe, including any claim for additional payment.

9. Termination for Default. If Contractor fails or refuses to supply sufficient and properly skilled labor or sufficient and appropriate goods, equipment or material, or fails to diligently prosecute Work, or is in default or breach of any provision of this Agreement, the Tribe may terminate this Agreement upon three (3) calendar days written notice. Upon termination, Contractor shall immediately stop Work and remove its employees, if any, from the Tribe's property. If applicable, the Tribe may complete the Work in whatever way it determines best, and at completion of the Work shall pay Contractor for the value of the Work performed by Contractor (excluding profit) but unpaid prior to the termination, less any costs incurred by the Tribe to correct any deficiencies or defects attributable to Contractor's Work.

10. Tribe May Void Agreement if Debt is Owed. Tribe may declare this Agreement void if it determines at any time before the date scheduled for beginning performance or before performance actually begins, whichever is later, that according to records maintained by the Budget and Finance Division, Contractor is past due on any personal or business debt owed to Tribe.

11. Assignment. Contractor may not assign any interest in this Agreement without the Tribe's prior written consent.

12. Contractor Must Keep Records; Access and Right to Audit. Contractor shall maintain all fiscal records relating to this Agreement in accordance with generally accepted accounting principles, and shall maintain any other records pertinent to this Agreement in a manner so as to clearly document Contractor's performance. The Tribe shall have a right to access the fiscal and other records of Contractor that are pertinent to this Agreement to perform examinations and audits. Contractor shall retain and keep accessible all the fiscal and other records for a minimum of three (3) years following final payment and termination of this Agreement, or until the conclusion of any audit or controversy related to this Agreement, whichever is later.

13. Subcontracts. Contractor shall not subcontract any Work without the Tribe's prior written consent. Subcontracts must state that the subcontractor is bound by this Agreement as if the subcontractor were the Contractor. The Tribe's consent to a subcontract does not relieve Contractor of its duties or obligations under this Agreement.

14. Return of Tribe's Records. Upon termination or completion of this Agreement, Contractor shall return to the Tribe all materials, records, equipment and supplies in Contractor's possession or control that are the Tribe's property or relate to the Tribe's business, unless released to Contractor in writing by Tribe.

15. Confidentiality. Contractor may have access to confidential information regarding the Tribe, its employees, its members and its future plans. This information is valuable to the Tribe, is the sole property of the Tribe and is acquired by Contractor in confidence. Unless otherwise provided herein, Contractor shall not provide or disclose to a third party any information acquired during this Agreement if that information is treated as confidential by the Tribe, and is not otherwise known in the public domain by proper means.

16. Conflicts of Interest. During this Agreement, Contractor, its employees, and agents shall not to enter any activity, employment, or business arrangement that conflicts with the Tribe's interests. Contractor shall advise the Tribe immediately of any activity, employment, or business arrangement contemplated by Contractor that may be a conflict.

17. Work Product Is Property Of Tribe. Any Work product that results from this Agreement is the exclusive property of the Tribe and may be used fully and freely by the Tribe.

18. Indemnity and Hold Harmless. Contractor shall indemnify and hold harmless the Tribe from and against all liabilities (including, but not limited to, all claims, demands, suits, losses, costs, damages, settlements, fines, fees, penalties and other expenses, including attorney's fees), for injury or death of any person, or damage or destruction of property, caused by any act or omission by Contractor, its officers, employees, agents, subcontractors, or independent contractors, arising out of or resulting from the performance of Work.

19. Attorneys fees and other charges. Contractor shall pay reasonable attorneys fees and other costs incurred by the Tribe to enforce this Agreement upon Contractor's breach or default.

20. Sovereign Immunity. Nothing in this Agreement constitutes a waiver of the Tribe's sovereign immunity.

21. Governing Law. This Agreement shall be governed by and construed in accordance with the law of the Tribe or, in the absence of Tribal law, federal or North Carolina law. In all circumstances this Agreement shall be subject to recognition of the sovereign rights, powers, authorities, and immunities of the Tribe as a federally recognized Indian Tribe under Federal and Tribal law.

22. Personal Jurisdiction and Venue. Contractor consents to the personal jurisdiction of the Cherokee Court. Legal actions shall be adjudicated in Cherokee Court.

23. No Arbitration or Mandatory Mediation. The parties agree that any provisions allowing or requiring arbitration or mandating mediation of disputes in any of the documents associated with this Independent Contractor Agreement shall not apply. This shall not prevent the parties from resolving any disputes through voluntary mediation.

24. Compliance with Laws, Rules and Polices. Contractor shall comply with all federal, state, and Tribal laws, rules and regulations applicable to Work.

25. Permits and Licenses. Contractor shall obtain, continuously maintain during this Agreement, and pay for all licenses and permits required to perform this Agreement.

26. Taxes. Contractor shall pay all taxes, fees, assessments and premiums of any kind payable on its employees and operations. On the Tribe's demand, Contractor shall substantiate that all taxes and other charges have been paid.

27. Safety. Contractor shall establish and enforce safe Working procedures during its performance of this Agreement in accordance with all federal, state, and Tribal laws.

28. Age Limits. Contractor shall not allow any person under 18 years-of-age to participate in the performance of Work on property owned or leased by Tribe.

29. Cleanup. Contractor shall keep its Work areas clean of debris and excess materials. If Contractor fails to clean up as required, the Tribe may clean up and deduct the cost from payments due to Contractor.

30. Hazardous Materials. Contractor shall handle and dispose of hazardous materials in compliance with applicable federal, state and Tribe laws.

31. Force Majeure. Neither the Tribe nor Contractor are responsible for delay or default caused by fire, riot, acts of God, war or other causes beyond the reasonable control of the Tribe or Contractor, respectively. Contractor shall, however, make all reasonable efforts to remove or eliminate the cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

32. Singular, Plural, etc. Whenever context requires, the singular includes the plural number and vice versa, and any reference to gender includes the masculine, feminine or neuter.

33. Captions. Captions in this Agreement are for convenience only and do not define or limit this Agreement.

34. No Waiver. If the Tribe does not insist upon strict compliance with any provision of this Agreement, or does not exercise options provided herein, that action or inaction is not a waiver of the Tribe's right to require strict compliance or exercise its options.

35. Effective Date. This Agreement is effective when executed by both parties, evidenced by the signatures of both parties on the signature page. If the parties sign the Agreement on different dates, the date the last party signed is the date of execution.

36. Entire Agreement. This Agreement is the entire Agreement of the parties. It supersedes all prior undertakings or Agreements, written and oral, between the Tribe and Contractor. It may be modified only in writing as provided herein.

37. Severability. If any provision of this Agreement or its application to any person or circumstance is held invalid, it is to that extent deemed omitted, and the balance of the Agreement shall remain enforceable.

38. Conflict. If a conflict is found to exist between the express terms of this Independent Contractor Agreement and any document associated with this Independent Contractor Agreement, then the terms of this Independent Contractor Agreement shall prevail.