

**PUEBLO OF LAGUNA
INDIAN PREFERENCE APPEALS PANEL
RULES & PROCEDURES**

SECTION 1: THE INDIAN PREFERENCE APPEALS PANEL (“IPAP”)

The Indian Preference Act (“Act”) established the IPAP and grants authority to a three-body panel selected by the Governor of the Pueblo of Laguna to address compliance with the Act.

The following may be appealed to the IPAP:

- A. Appeal of an Employment Compliance Program (“ECP”) decision issued to an Employer pursuant to the Indian Preference Act;
- B. Appeal of the ECP’s denial of certification as an Indian-Owned and Controlled Business pursuant to the Indian Preference Act.

SECTION 2. CONTENT OF APPEAL

- A. To initiate an appeal, the person or business/employer (“Appellant”) appealing a decision of the ECP shall file a written “Notice of Appeal” with the IPAP, with a copy sent to the ECP, within three (3) business days of the receipt of the ECP’s decision. The Notice of Appeal shall summarize the ECP’s decision being appealed, a statement indicating that Appellant has exhausted all remedies provided in the Act prior to initiating an appeal, a summary of the factual and legal basis for the appeal, and the relief requested. A copy of the ECP’s decision shall be submitted with the Notice of Appeal.
- B. Appellant shall file the Notice of Appeal at the Pueblo of Laguna Governor’s Office with a copy delivered to the ECP office.

SECTION 3. SCHEDULING OF APPEAL HEARING

Upon receipt of a Notice of Appeal that has been timely filed, the IPAP shall establish a hearing date, time and location and shall issue written notification to the parties of the hearing. All hearings shall be scheduled within a reasonable amount of time as soon as possible.

SECTION 4. REQUEST TO RESCHEDULE IPAP HEARING

- A. Any request for an extension of a IPAP hearing date must be submitted in writing to the IPAP Chairperson no fewer than three (3) days prior to the hearing. Upon receipt of a request, the IPAP Chairperson shall promptly rule on the request and immediately notify the parties of its decision.

- B. If both parties mutually submit a request for a continuance because there is a possibility of settling the matter, the request for a continuance may be submitted at any time.

SECTION 5. DISCLOSURE OF WITNESSES/DOCUMENTS

- A. Each party shall provide to the IPAP with a copy to the other party, a list of potential witnesses, the approximate length of their testimony, the subject matter and relevance of their testimony, and any requests for subpoenas to compel attendance of witnesses no later than ten (10) business days prior to the date set for hearing. The IPAP may deny, in its discretion, any subpoena requests where the party has failed to establish the relevance of the testimony.
- B. Each party shall provide a reasonable opportunity for the other party to review any relevant documents to be used at the hearing as soon as possible, but no later than five (5) business days prior to the date set for hearing. Requests for subpoenas to compel discovery of documents shall be made to the IPAP no later than ten (10) business days prior to the hearing.

SECTION 6. IPAP HEARING PARTICIPANTS

Only the Appellant, the ECP, the Contracting Officer, and any witnesses that may be called by the parties, may attend the IPAP hearing. The parties may be represented by legal counsel or by an advocate at the hearing.

SECTION 7. HEARING PROCEDURE

- A. The IPAP Chairperson shall preside over the hearing and shall take whatever action is necessary to ensure an equitable and expeditious hearing. The IPAP need not strictly adhere to the rules of evidence, but shall ensure that due process is afforded to the parties. Witnesses shall be excluded from the hearing until such time as they are called upon to testify. The Chairperson may limit the number of witnesses when testimony would be unduly repetitious, and exclude any person from the hearing for contemptuous or inappropriate misbehavior that obstructs the hearing. The Appellant shall have the burden to prove by a preponderance of the evidence that the ECP was incorrect in their decision by the ECP is incorrect or unwarranted;
- B. The IPAP Chairperson shall open the proceedings and read the allegations of the appeal;
- C. The Appellant may give an opening statement;
- D. The ECP may give an opening statement;

- E. The Appellant may call any witnesses and submit any documentary evidence in support of its position and the ECP shall be afforded the opportunity to cross-examine each witness. Witnesses will be sworn under oath by the Chairperson prior to testifying;
- F. The ECP may call any witnesses and submit any documentary evidence in support of its decision and the Appellant shall be afforded the opportunity to cross-examine each witness. Witnesses will be sworn under oath by the Chairperson prior to testifying;
- G. Upon the conclusion of the testimony and receipt of evidence, the Appellant shall be afforded the opportunity to give a closing statement in support of his or her position;
- H. Upon the conclusion of the testimony and receipt of evidence, the ECP may give a closing statement in support of its position; and
- I. The IPAP shall convene in closed session to determine whether the Appellant has proved that the ECP's decision should be overturned; and if so, to determine what relief is required.

SECTION 8. IPAP DECISION

The IPAP shall render a written decision within five (5) business days after the date of the hearing and the parties shall be notified in writing of the decision. All decisions of the IPAP shall be valid and in force, and final.