



MERO

**MASHANTUCKET EMPLOYMENT RIGHTS OFFICE
REQUEST FOR DESIGNATION OF
KEY POSITION BY TRIBAL COUNCIL**

**For Key Designation under Title 33,
the Tribal and Native American Preference Law**

The Tribal and Native American Preference Law, 33 M.P.T.L. ch. 1 §5(h)(i) provides, in part, for the designation of a key position by the Tribal Council, provided the designation identifies the criteria relied upon and how the position meets the criteria. Claims under the law involving a position designated in this manner by the Tribal Council are, in most cases, subject to immediate dismissal. An employer may request key position designation by submitting a fully completed Request form with accompanying documentation to: Mashantucket Employment Rights Office (“MERO”) at MERO@mptn-nsn.gov or MERO, 2 Matt’s Path, P.O. Box 3060, Mashantucket, CT 06338-3060.

The requested key position designation is based on the information provided by the Employer on this form, including attachments. In most cases there is no opportunity to provide additional information, so please make certain all information the Employer wishes to have considered is included.

Employer Name: _____

Name of Employer’s Business on the Reservation: _____

Position for which Key Designation Requested: _____

Classification: Full-time Part-time Other: _____

Total number of employees at Business on the Reservation anticipated within the next 6 months: _____

Total number of employees in Position anticipated within the next 6 months: _____

Number of subordinates reporting to Position: _____

Title of position to which Position answers: _____

Location of position to which Position answers: On the Reservation Off the Reservation

Other positions on the Reservation that the Employer has designated or intends to designate as key directly or through a request to Tribal Council: _____

Please enclose a copy of each requested document. If the Employer does not maintain the document, please check the applicable box.

- The position description for the Position.
- An organizational chart for the Employer’s Reservation location.

Does the Employer offer training to employees, including Native American employees, to develop the skills for potential advancement to the Position? Yes No

Definition: A "Key Position" includes a high-level managerial or critical function position such that the Employer would risk significant damage or loss if the position were not filled with the best qualified candidate regardless of preference, or a position held or to be held by an individual holding a substantial ownership interest in the Employer, or a position that has a substantial impact on the ability of the Employer to execute its strategic objectives, or a position that directly enhances the strategic capabilities of the Employer.

Please indicate the basis/bases on which the Employer is requesting a "key" designation and provide an explanation as to how the Position meets the criteria. Each basis must be addressed separately and include (but is not limited to) response to the specific requests identified below.

- I. The Position is a high-level managerial position such that the Employer would risk significant damage or loss if the Position were not filled with the best qualified candidate regardless of preference.
 - Explain what makes the Position a "high-level managerial position"
 - Identify the "risk [of] significant damage or loss" of not selecting the best qualified candidate.

- II. The Position is a critical function position such that the Employer would risk significant damage or loss if the Position were not filled with the best qualified candidate regardless of preference.
 - Explain what makes the Position a "critical function position."
 - Identify the "risk [of] significant damage or loss" of not selecting the best qualified candidate.

- III. The Position is held/to be held by an individual holding a substantial ownership interest in the Employer.
 - Identify the individual who holds or will hold an ownership interest and the amount of the interest.
 - If the interest has not yet vested, explain when it will vest.
 - If the ownership is not a majority interest, explain how the ownership interest is "substantial."

- IV. The Position has a substantial impact on the ability of the Employer to execute its strategic objectives.
 - Identify "strategic objectives" of the Employer that are affected by the Position.
 - Explain how the Position "has a substantial impact on the ability of the Employer to execute" the identified strategic objectives.

- V. The Position directly enhances the strategic capabilities of the Employer.
 - Identify "strategic capabilities" of the employer that are enhanced by the Position.
 - Explain how the Position "directly enhances" the identified strategic capabilities.

Please indicate the total number of pages (documents and explanation) attached: _____

Submitted by (Print Name): _____ Date: _____

Position: _____ Phone: _____ Email: _____

The MERO will contact the Employer with the Tribal Council's determination, within approximately 21 days of the submission of the request. If the Tribal Council declines the request, there is generally no opportunity for reconsideration of the decision; however, the Employer maintains its defenses under the law. Accordingly, if the Employer's designation of the Position as key is challenged by an applicant or employee under Title 33, the Employer bears the burden of proving the key position by a preponderance of the evidence.

Below for MERO Use Only _____

Request No. _____

Date Filed: _____