

A “How to” Guide for Requesting VA Recognition as a “Tribal Organization”

In order for an organization to assist Veterans or their survivors with their claims for benefits, the organization must be recognized by the Department of Veterans Affairs (VA) for that purpose. Until recently, organizations were limited to requesting VA recognition as a: (1) national organization, (2) State organization, or (3) regional or local organization. In March 2017, however, VA amended its regulations to allow for Tribal organizations to be recognized in a similar manner as State organizations. Please keep in mind that under this authority, VA recognizes organizations for the sole purpose of assisting Veterans and their survivors with claims for VA benefits and not for any other purpose.

Pursuant to 38 C.F.R. § 14.628(b)(2), a “Tribal organization” is an organization which is created, primarily funded, and controlled by one or more Tribal governments for the primary purpose of serving the needs of Native American Veterans. The regulation provides that only one Tribal organization may be recognized by VA for each Tribe. However, several Tribes may jointly create and fund one organization to seek recognition by VA.

In order for an organization to request VA recognition as a Tribal organization, the director or leader of the organization should submit a letter to the Secretary of VA. The letter should address all the requirements laid out in 38 C.F.R. § 14.628(b)(2) and (d) and include documentation to support the request. We have set forth the requirements for recognition below, and explain what supporting documents would enable us to grant your request. We also note ways that you may be able to strengthen your organization’s request for recognition.

1. A Tribal organization must have been established and primarily funded for the primary purpose of serving Veterans.

The request letter should:

- State the organization’s primary purpose;
- Explain how that purpose will serve the needs of Native American Veterans and their families;
- Identify the sponsoring tribal government(s);
- Confirm the sponsoring tribal governments are Federally recognized; and
- Confirm that the sponsoring tribal governments are not affiliated with any other Tribal organization that has been previously granted VA recognition to assist claimants on their benefit claims.

The supporting documentation should include:

- Documents that show the organization’s purpose and demonstrate the beneficial services that the organization provides to Veterans and their dependents. (*Examples:*

informational pamphlets, website addresses or printouts, meeting minutes, or progress reports);

- If the organization is funded and controlled by more than one tribal government, certifications from each government approving the forgoing request for VA recognition; and
- Documentation demonstrating that the sponsoring tribal governments are Federally recognized Tribes.

2. A Tribal organization must demonstrate a substantial service commitment to Veterans either by showing a sizable organizational membership or by performance of veterans' services to a sizable number of Veterans.

The request letter should include:

- A statement of the number of members and number of posts, chapters, or offices and their addresses;
- A statement indicating which of the following documents are included as supporting documentation: (a) the articles of incorporation, (b) constitution, (c) charter, and/or (d) bylaws of the organization (*We note that inclusion of all of these documents will not be necessary with every request and will depend on how the organization was established.*);
- A description of the services performed, or to be performed, in connection with programs administered by VA, with an approximation of the number of Veterans, survivors, and dependents served or to be served by the organization in each type of service designated; and
- A description of the type of services, if any, performed in connection with other Federal and State programs which are designed to assist Veterans and their dependents, with an approximation of the number of Veterans, survivors, and dependents served by the organization under each program designated. Examples of such services might include vocational or mental health counseling, housing assistance, or tax preparation.

The supporting documentation should include:

- A copy of the articles of incorporation, constitution, charter, and/or bylaws of the organization, as appropriate;
- Additional information that would be helpful in confirming membership numbers and the services that are provided (*e.g., Annual Progress Reports, Grant Applications, Internet Publications, etc.*).

3. A Tribal organization must commit a significant portion of its assets to Veterans' services and have adequate funding to properly perform these services.

It is helpful when the request letter:

- Describes the financial state of the organization, identifies any trends in the organization's financial solvency, and explains any anomalies that may present in enclosed financial statements (*e.g., explaining large contributions or expenditures*).

- States that there are no limitations on the organization's funding that would affect its ability to represent Veterans before VA. *An example of a limitation that would affect an organization's funding would be if the organization was entirely funded by a VA Cemetery grant that was specifically given for the purpose of building a Veteran cemetery.*

The supporting documentation should include:

- A copy of the most recent financial statement of the organization indicating the amount of funds allocated for conducting particular veterans' services (VA may, in cases where it deems necessary, require an audited financial statement); and
- A separate statement, signed by the head of the organization, certifying that use of the organization's funding is not subject to limitations imposed under any Federal grant or law which would prevent it from representing claimants before VA.

4. A Tribal organization must maintain a policy and capability of providing complete claims service to each claimant requesting representation or give written notice of any limitation in its claim service with advice concerning the availability of alternative sources of claims service.

The request letter should include:

- A statement indicating that the organization intends to represent claimants in their claims before VA regional offices and before the Board of Veterans' Appeals (BVA) and an explanation of the organization's capabilities to do so (*e.g., explaining that the organization has adequate staffing and travel funds to attend hearings*); or
- If the organization does not intend on representing claimants before the BVA, a statement explaining its policy addressing how it will select claimants for representation and the proposed method of informing claimants of this policy, with advice concerning the availability of alternative sources of representation.

If the organization does not intend to represent each claimant requesting assistance, the supporting documentation should include:

- Evidence of any association or agreement, if one exists, with an affiliated VA-recognized veterans service organization—generally a national or State organization—in which that organization agrees to assume representation before the BVA, so long as it is consistent with the claimant's wishes. (*VA encourages networking between VA-recognized organizations*);
- A copy of the current, or proposed, policy outlining when and how claimants will be informed of the organization's limitations in providing representation and of the availability of alternative sources of claims representation.
- A copy of the written notification (*e.g., a handout that will be provided to Veterans and their families during the initial consultation meeting*).

5. A Tribal organization must take affirmative action, including training and monitoring of accredited representatives, to ensure proper handling of claims.

The request letter should include:

- A statement of the skills, training, and other qualifications of current paid or volunteer staff personnel for handling veterans' claims;
- A description of the organization's plan for recruiting future representatives; and
- A description of the organization's plan to train its representatives, including the number of hours of formal classroom instruction, the subjects to be taught, the period of on-the-job training, a schedule or timetable for training, the projected number of trainees for the first year, and the name(s) and qualifications of those primarily responsible for the training.

It is helpful if the supporting documentation includes:

- Copies of the staff's resumes; and
- Copies of the training materials.

6. A Tribal organization is prohibited from charging or accepting a fee or gratuity for the services it provides to VA claimants and from representing to the public that its VA recognition is for any purpose other than providing claims representation.

The request letter should include:

- A statement that neither the organization nor its accredited representatives will charge or accept a fee or gratuity for service to a claimant;
- A statement that neither the organization nor its accredited representatives will represent to the public that the organization has been recognized by VA for any purpose other than claimant representation; and
- The names, titles, and addresses of officers and the official(s) authorized to certify representatives.

The letter request for recognition should be sent to the Secretary of Veterans Affairs, c/o Office of Tribal Government Relations at the following address:

2805 Dodd Rd. Suite 250, Eagan, MN 55121

VA's Office of Tribal Government Relations (OTGR) will collect and review the requests for completeness. If the request and supporting documentation does not contain all of the information necessary to make a decision, OTGR will give the tribal government(s) the opportunity to supplement their requests. Once the request has been accepted as complete, OTGR will notify the tribal government(s) that the request has been forwarded to the VA Office of the General Counsel (OGC) for evaluation of the qualifications of the prospective Tribal organization. OGC will make a recommendation to the Secretary of Veterans Affairs, who will make the final decision as to whether the organization will be recognized.

Peter Vicaire of OTGR is available to answer any questions that you may have regarding the VA recognition process and may be reached at (651) 405-5676 or Peter.Vicaire@va.gov.