

# INDIAN AFFAIRS DIRECTIVES TRANSMITTAL SHEET

(modified DI-416)

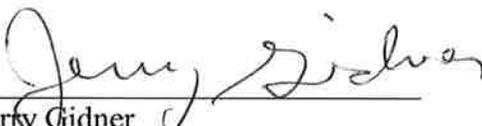
DOCUMENT IDENTIFICATION NUMBER 76 IAM 14	SUBJECT <b>Indian Land Consolidation Program Purchase of Trust and/or Restricted Land Interests at Probate</b>	RELEASE NUMBER #08-06
FOR FURTHER INFORMATION Indian Land Consolidation Center, BIA		DATE <b>MAR 13 2008</b>

**EXPLANATION OF MATERIAL TRANSMITTED:**

Pursuant to the 130 DM 3.4, the Indian Land Consolidation Center is responsible for establishing land consolidation polices, providing technical advice and assistance to Regions with regard to the implementation of the land acquisition program. The Center is also responsible to provide oversight, direction, monitoring and program evaluation for the Indian Land Consolidation Program.

Attached is a policy concerning the land consolidation program that is effective as stated in the chapter. The attached policy applies only to land sale transactions involving the Indian Land Consolidation Program pursuant to the 1983 authority of The Indian Land Consolidation Act, as amended in 2000 and 2004. Please assure that the appropriate Agency Superintendent, BIA and contract staff receive a copy of the policy (policies) and implement them immediately.

Please direct any questions to the Indian Land Consolidation Center at (715) 682-0310.

  
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Jerry Gidner  
Director, Bureau of Indian Affairs

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**FILING INSTRUCTIONS:**

Remove: None

Insert: 76 IAM 14

# INDIAN AFFAIRS MANUAL

- 1.1 Purpose.** This policy establishes the procedures for the purchase of fractionated land interest(s) in trust or restricted land by the Indian Land Consolidation Program (ILCP) from an estate.
- 1.2 Scope.** This policy applies to all Bureau of Indian Affairs (BIA) offices in the regions where the ILCP is acquiring or has acquired fractional land interests.
- 1.3 Policy.** Effective immediately, the following policy will be implemented with regard to the purchase of fractional interests by the ILCP at Probate.
  - A.** The ILCP will receive from BIA Probate a listing of all decedent's fractional interests that represent less than 5 percent of the entire undivided ownership of each parcel of land in a decedent's estate with a death date of June 20, 2006 or later, prior to or at the same time that the probate file is referred to Office of Hearings and Appeals (OHA).
  - B.** The Consolidated Acquisition Center (CAC) upon receipt will review the listing and identify what interests the ILCP will purchase under the current purchasing strategy and if all the interests have a calculated value from a current fair market parcel value. If the value is not current or does not have a determined value, the ILCP will request one from the Office of Appraisal Services (OAS).
  - C.** The Consolidated Acquisition Center will forward a letter ("Bid") to OHA identifying which land interest(s), if any, the ILCP would like to purchase and what the program is willing to pay for the selected land interests. The letter to the OHA must be timely. If a delay in providing the value is necessitated because of the lack of a current value, the OHA must be notified and a timeline given. The OHA may want to include within the "Notice of Hearing" any interest shown by the ILCP.
  - D.** If the Office of Hearings and Appeals receive a "bid" from the ILCP, the ILCP will receive the "Notice of Hearing/Purchase at Probate."
  - E.** Upon completion of the OHA scheduled Hearings, OHA will provide "Notice" to the ILCP if it is the successful bidder for any of the interests bid upon. The "Notice" states that upon receipt of the purchase price the interest(s) will be transferred to the tribe. It will also identify the parcel(s), interest(s) sold, purchase price, and the account number where the purchase price is to be deposited.
  - F.** When the CAC receives the "Notice" of a successful bid, the ILCP will prepare a SF-1081 Form, requesting the transfer of the purchase price from the acquisition to the estate account defined in the "Notice." This transfer request will be made account through the Document Library with the "Notice" received from OHA used as the transaction document justification and faxed to the Office of the Special Trustee (OST).

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Purchase of Trust and/or Restricted Land Interests at Probate

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**G.** OST should promptly notify the OHA when the purchase price is received in the designated account. The Consolidated Acquisition Center should advise the OHA that payment has been made.

**H.** Sale of the interests is by "Probate Order." The order will confirm that the interests purchased by the Secretary for the Tribe were transferred upon receipt of payment. This type of acquisition by the ILCP is encumbered by a purchase lien and the encumbrance will be cited within the probate order as follows. {"All revenue from land interest(s) purchased by the United States Government under this order is encumbered by the United States of America until the purchase price has been repaid or the encumbrance is released by the Secretary"}.

**I.** The appeal period for the "Probate Order" is 60 days; the CAC will view the "title" of those parcels in which the interests were purchased 15 days after the date the order becomes final to ensure encoding on title is correct for the interests purchased.

## 1.4 Authority.

**A. The American Indian Probate Reform Act** of October 27, 2004, P. L. 108-374 (118 Stat. 1773)

**B. The Indian Land Consolidation Act** of November 7, 2000, amended P.L. 106-462 (114 Stat. 1991). Section 206 of the amended act allows the Secretary to sell to eligible purchasers, trust or restricted interest(s) in land from the estate of an individual passing by intestate succession after June 20, 2006. The interest(s) eligible for sale are those interest(s) that if passing to an heir through the probate proceeding, represent less than 5% of the entire undivided ownership of the land. The definition of eligible purchaser includes the Secretary on behalf of an Indian Tribe with jurisdiction over the interest(s).

## 1.5 Responsibilities.

- A.** Director, Bureau of Indian Affairs (BIA) is responsible for the development of National Policy affecting Indian lands.
- B.** Director, Indian Land Consolidation Center is responsible for coordinating the Bureau's nationwide program to consolidate fractionated interests in Indian lands pursuant to statutory requirements.
- C.** Deputy Director, Field Operations, BIA is responsible for overseeing the Regional Directors and disseminating policy to them.
- D.** Deputy Director, Trust Services, BIA is responsible for assisting in the dissemination of trust resource policy and information to the Regional Directors.
- E.** Regional Directors, BIA are responsible for carrying out policy as directed, and for overseeing the implementation of policy either directly or via Agency Superintendents.