

Frequently Asked Questions – Tribal Requests for Use of Federal Facilities

Can the Department of the Interior (“Interior”) grant tribes and tribal organizations permission to use federal facilities?

25 U.S.C. § 17, allows the Department to permit tribal governments and tribal organizations¹ to use Bureau of Indian Affairs (“BIA”) equipment, land, buildings, and other structures (“Federal Property”) if such use:

- ☐ Does not interfere with the purpose for which they are administered by the BIA, and
- ☐ Benefits Indians or Federal or federally funded programs.²

Is there a charge for this use?

As part of this use, the Department “may charge the user for the cost of the utilities and other expenses incurred for the use.”³

How can a tribe or tribal organization make a request to use Federal Property, including facilities?

Tribes or tribal organizations may request to use BIA Federal Property by making a request in writing to the BIA RD where the Federal Property is located, with copy to the appropriate Superintendent.⁴ The following information will be necessary for BIA to prepare the Facility Agreement⁵ (“License”):

☐ Tribal Information:

- Name of tribe or tribal organization to be identified in the License, including the name, address, phone number, and email address of the identified point of contact (“POC”) for the tribe or tribal organization.
- Tribal authorizing resolution, unless the request is from a tribal organization, in which case, the resolution should come from the governing body of the tribe to be served.

☐ Facility Information:

- The specific Federal Property requested, including, if applicable:
 - Location of the Federal property.
 - Property address (and building numbers, if applicable).
 - Areas within the building to be utilized (if only using part of a facility).

☐ Use Information:

- The dates and hours requested.

¹ 25 U.S.C. § 17 does not define “tribal organization.” The Department will use the definition found at 25 U.S.C. § 5304(l) which defines “tribal organization” as “the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities”.

² 25 U.S.C. § 17(a) (“The Secretary of the Interior may permit tribal governments and organizations and student organizations to use Bureau of Indian Affairs equipment, land, buildings, and other structures if such use does not interfere with the purpose for which they are administered by the Bureau and when such use benefits Indians or Federal or federally funded programs. The Secretary may charge the user for the cost of the utilities and other expenses incurred for the use. The amounts collected shall be credited to the appropriation or fund from which the expenses are paid and shall be available until the end of the fiscal year following the fiscal year in which collected. The Secretary’s decision to not permit a use under this section is final and shall not be subject to judicial review.”).

³ *Id.*

⁴ We are encouraging all tribes to submit requests by both mail and email to ensure the request is received in a timely manner, as some Departmental offices have been closed.

⁵ The Facility Agreement will be in the form of a Revocable License for Non-Federal Use of Property.

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- Purposed use of the Federal Property (e.g., hospitaling, shelter, temporary administrative operations, etc.), including any proposed changes to the Federal Property including any modifications to facilities or structures that will be built on land.
- Total square feet needed, if applicable.
- Explanation of how such use does not interfere with the purpose for which the Federal Property are administered by the BIA.
- Explanation on how such use benefits Indians or Federal or federally funded programs.
- Explanation of contingency for law enforcement and security issues that may arise during such use.
- Commitment by tribe or tribal organization to restoring the Federal Property to its intended purpose, at its own expense, and that it will not charge such costs to any BIA/BIE Federal award (including financial assistance, ISDEAA, contracts).

How will the Department respond to a tribe or tribal organization's request?

Step 1: Receiving Request

When a RD receives a request from a tribe or tribal organization to use Federal Property, the RD will follow the steps below to expeditiously process the request. If an ADD receives the request, the ADD must immediately forward the request to the RD.

Step 2: RD's Review of Request

On the same day that the RD receives the request from a tribe or tribal organization, the RD will:

- ☑ Provide a copy of the request to:
 - The Regional Facilities Specialist.
 - If appropriate, the ADD.

Upon receiving the request, the Regional Facilities Specialist will, within one business day:

- ☑ Reach out to the tribe or tribal organization if any additional information is needed or any License terms require negotiation based on the request.
- ☑ Ensure that the proposed use of the Federal Property does not interfere with the purpose for which they are administered by the BIA, coordinating with the appropriate ADD if necessary.
- ☑ Provide a copy of the request to the Deputy Bureau Director for Field Operations to ensure the proposed use is consistent with federally funded programs.
- ☑ Provide a copy of the request to the Director of the Office of Facilities, Property, and Safety Management to ensure alignment with facilities policies.

If the Tribe's proposed use interferes with the purpose for which the Federal Property is administered by the BIA, the Regional Facilities Specialist will inform the RD, and if appropriate, the ADD. The RD, in coordination with the ADD, will deny the request.

After the Regional Facilities Specialist completes the steps above, within one business day, they will draft a proposed License, using the License template as a guide. This may include any necessary follow-up with the tribe or tribal organization and engagement with the Regional Solicitor to address any legal questions. When the proposed License is drafted, the Regional Facilities Specialist will send the proposed License to the individuals identified in Step 3 for final review and approval.

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Step 3: Final Review and Approval

Once the proposed License is completed, the Regional Facilities Specialist will provide it to the following individuals:

- ☐ Deputy Bureau Director for Field Operation.
- ☐ Director of the Office of Facilities, Property, and Safety Management.
- ☐ Director of the BIA.
- ☐ Deputy Assistant Secretary for Management.
- ☐ If applicable, Deputy Bureau Director School Operations of BIE.
- ☐ If applicable, Director of BIE.

The final review and approval process should not take longer than a two business days.

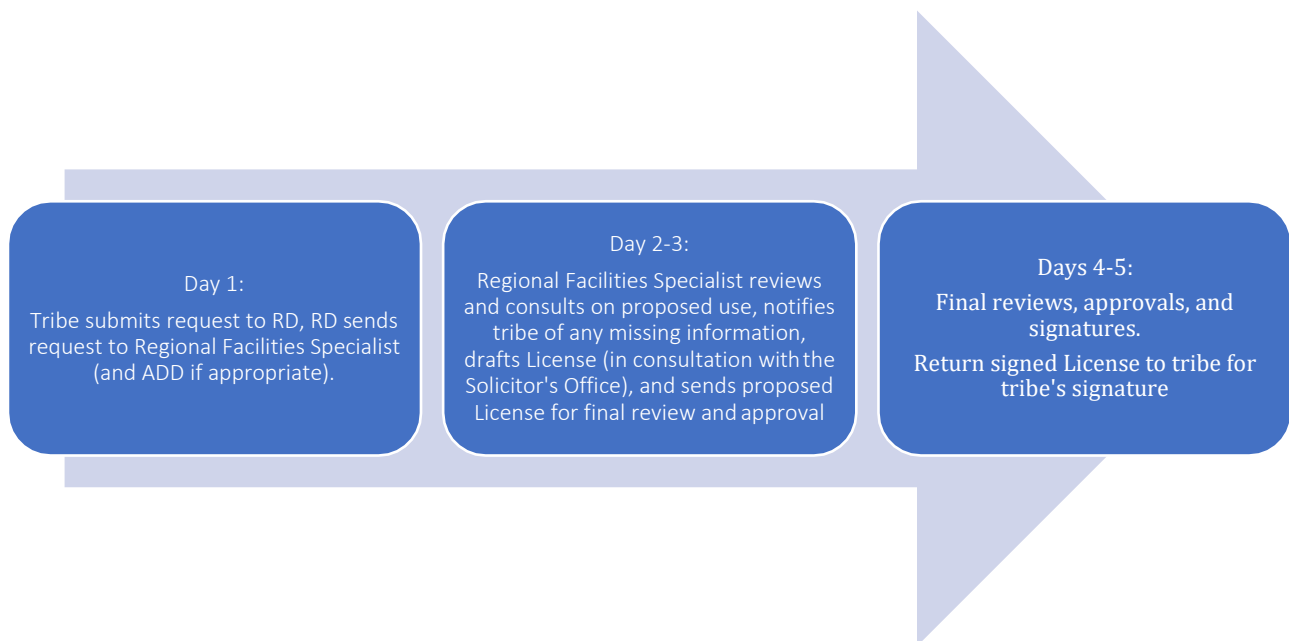
Following final review and approval, the final version of the License will be signed by the following:

- ☐ RD, and if applicable, the ADD.
- Deputy Assistant Secretary – Management.

Step 4: Send Final, Signed License to the Tribe or Tribal Organization

Once the License is approved and signed, and the RD received the appropriate tribal resolution, the RD will send the final, signed version of the License to the tribe or tribal organization for their approval and signature.

Below is a flow chart of the process:



Is there a template License that tribes and tribal organizations can review?

Yes, the Department has created a template License, attached, to help facilitate and expedite requests for use of federal facilities.

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Do tribes need to follow this process if they want to use Federal Property, including facilities, as part of their request to FEMA for Public Assistance?

The Department is aware that FEMA has provided tribes with information on requesting Public Assistance from FEMA as either a Recipient or Subrecipient, based on President Donald Trump’s nationwide emergency declaration for the COVID-19 pandemic (March 13, 2020) (“President’s March 13 Emergency Declaration”). On March 24, 2020, FEMA provided tribes with a [fact sheet](#) which included additional information about the assistance FEMA can provide to tribal governments as either Recipients or Subrecipients during the nationwide COVID-19 emergency.

The Department is aware that tribes may want to request the use of Federal Property as part of their request to FEMA for Public Assistance as a Recipient or a Subrecipient under the President’s March 13 Emergency Declaration. Because the President’s March 13 Emergency Declaration did not provide the Department with additional authority to approve tribal use of Federal Property, the Department will still need to use its authority found under 25 U.S.C. § 17 to approve such a request.

If a tribe plans to request Public Assistance from FEMA, and that request includes the use of Federal Property, tribes are encouraged to submit a request to the Department to use that Federal Property as laid out above.