

The ITARA Demonstration Project Information Series

Supporting Tribal Self-Determination, Economic
Growth, and Community Development



Presented by
Bureau of Indian Affairs
Trust Services

THE ITARA DEMONSTRATION PROJECT

- Welcome to the Bureau of Indian Affairs' Information Series for the Indian Trust Asset Reform Act (ITARA) Demonstration Project.
- This Series provides guidance for Tribes who would like to participate in the ITARA Demonstration Project.
- Participating Tribes will have the opportunity to develop Indian Trust Asset Management Plans (ITAMP), as well as tribal regulations for surface leasing transactions and/or forest land management activities.
- Tribes that have adopted tribal regulations, approved by the Secretary, may also opt out of the Secretarial approval requirements for tribal leases and forest land management decisions.

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- On June 22, 2016, the Indian Trust Asset Reform Act was signed into law.
- The **H**elping **E**xpedite and **A**dvance **R**esponsible **T**ribal **H**ome Ownership (HEARTH) Act was signed into law on July 30, 2012.
- Like the HEARTH Act, provisions of ITARA promote tribal self-determination.
- Both may be used by Tribes to exercise their inherent sovereignty over their own tribal lands.

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- The HEARTH Act authorized Tribes to process and approve leases under their own leasing regulations, provided the regulations have been reviewed by the BIA and approved by the Secretary.
- ITARA authorized the same for forest land management activities.
- Tribes participating in the demonstration project may develop and implement tribal forestry regulations to specifically meet their own needs.
- To obtain approval authority for just surface leasing transactions, Tribes may use the HEARTH Act and need not join the demonstration project. The HEARTH Act is still good law.

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- To participate in the demonstration project, Tribes must:
 - Submit a written application to the Secretary.
 - Have land held in trust for the benefit of the Indian Tribe.
 - Have, or be in the process of obtaining, an approved Forest Management Plan (if the Tribe intends to include forest land management activities in their ITAMP).
- The Secretary will not consider applications that do not:
 - State that the Tribe is requesting to participate in the demonstration project and
 - Include a copy of the tribal resolution or other appropriate action by the governing body of the Tribe in support of or authorizing the application.
- Tribes should include in their applications a summary of their goals for participation and the assets they intend to include in their ITAMP to allow the Secretary to meaningfully select participants.

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- Tribes selected for participation will be notified in writing.
- Once selected, Tribes must submit a proposed Indian Trust Asset Management Plan (ITAMP) to the BIA for approval.
- Tribes may submit proposed tribal regulations for forest land management activities and / or surface leasing activities for BIA approval (or incorporate tribal surface leasing regulations approved under the HEARTH Act).

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- Under ITARA, 25 U.S.C. § 5613(a)(2), proposed ITAMPs must:
 - Identify the trust assets that will be subject to the ITAMP.
 - Establish trust asset management objectives and priorities.
 - Allocate trust asset management funding that is available.
 - Identify any functions or activities relating to the management of the trust assets that the Tribe has compacted or contracted under the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 5301 et seq.).
 - Establish procedures for nonbinding mediation or resolution of any dispute between the Tribe and the United States relating to the trust asset management plan.
 - Include a process for the Tribe and the federal government to conduct evaluations to ensure that trust assets are being managed in accordance with the ITAMP.
 - Identify federal regulations that will be superseded by the ITAMP.
- **Tribes are encouraged to go above and beyond these minimum requirements and to include as much information as they feel is necessary to develop a thorough ITAMP.**

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- Tribes are encouraged to review the following resources prior to submitting their ITAMPs.

For Forestry:

- The Indian Trust Asset Reform Act, 25 U.S.C. § 5601, et seq.
- National Indian Forest Resources Management Act, 25 U.S.C. § 3101, et seq.
- 25 C.F.R. Part 163.

For Surface Leasing:

- The HEARTH Act, 25 U.S.C. § 415(h).
- 25 C.F.R. Part 162.
- BIA's HEARTH Act Guidance, available at <https://www.bia.gov/bia/ots/hearth>.

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- For Tribes interested in approving their own **forest land management activities**:
 - The tribal resolution or other action of the governing body of the Tribe that authorized the Tribe's participation in the project, must expressly authorize the inclusion of a tribal approval authority provision in the Tribe's ITAMP.
 - The Tribe must have tribal forestry regulations, approved by the Secretary, which are expressly incorporated by reference into the Tribe's ITAMP.
- Requirements for approval of tribal forestry regulations:
 - Must be consistent with 25 C.F.R. Part 163.
 - Must provide for an environmental review process that includes:
 - Identification and evaluation of significant effects of the proposed action on the environment
 - A period for public notice and comment related to any significant impacts of the proposed activity on the environment
 - The Tribe's response to relevant and substantive public comments on environmental impacts prior to tribal approval of the activity.

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- For Tribes interested in approving their own **surface leasing transactions**:
 - The tribal Resolution or other action of the governing body of the Tribe that authorized the Tribe's participation in the Project, must expressly authorize the inclusion of a tribal approval authority provision in the Tribe's ITAMP, **AND**
 - The Tribe must have tribal surface leasing regulations that have been approved by the Secretary pursuant to the HEARTH Act, and which are expressly incorporated by reference into the ITAMP, **or**
 - The Tribe must submit proposed tribal surface leasing regulations to the BIA under ITARA. Proposed regulations must be approved by the Secretary before they can be effective.

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- Submit documents, along with required tribal signatures, a cover letter requesting review and approval, and any applicable authorizing resolutions to:

Ms. Johnna Blackhair, Acting Deputy Bureau Director
BIA-Office of Trust Services 1849 C Street, NW, MS 4620-MIB
Washington, D.C. 20240

Concurrently, email a PDF and Word version of the submission to:
Pete Wakeland, Chief, Forestry and Wildland Fire Management.
Peter.wakeland@bia.gov

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The review of an ITAMP is coordinated by the BIA Central Office, Division of Forestry and Wildland Fire Management; Office of the Solicitor; and the Midwest, Northwest, and Eastern Oklahoma Regional Foresters.

Pete Wakeland, Chief, Forestry and Wildland Fire Management

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Phone (202) 208-6407

Roger Jensen, Forest Products Forester

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(612) 725-4521

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Hollie Neighbors, Regional Forester, Eastern Oklahoma Regional Office
3100 W. Peak Blvd.
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(918) 871-1138

If you have questions about submitting an ITAMP for review under the Indian Trust Asset Reform Act, please contact Pete Wakeland or the Regional Forester for your Region.