

BUREAU OF INDIAN AFFAIRS – PALM SPRINGS AGENCY  
CHECKLIST FOR COMMERCIAL LEASES UNDER 25 CFR Subpart D §162.401-§162.444

VERIFIED BY BIA	DESCRIPTION	CROSS REFERENCE	COMMENTS:
	<b>IDENTIFYING INFORMATION</b>		
	Realty Specialist Assigned to Project		
	Lease Number Assigned:		PSL-_____ / TAAMS No. PSL0000____
	Allotment/Tract No., Section, Township & Range and Acres.		
	Lessor		
	Lessee		
	<b>REQUIRED DOCUMENTATION FOR A COMPLETE PACKAGE.</b>		<i>A lease package should contain a lease with all required language and provisions, supporting documents, and any applicable fees (see 25 CFR §§ 162.010 and 027).</i>
	<b>At least 3 originals of the lease</b> , signed by all parties. _____ Indian Landowner Lessor(s), if applicable. _____ If combined tracts, minimum consent obtained For each tract (25 CFR §162.020).	<b>Tab 1</b>	Title of Document:  How many submitted:
	<b>Case Initiation Letter</b> Received <i>(Letter of intent - explaining proposal.)</i> <i>(Encode in Realty Tracking)</i>	<b>Tab 2</b>	Date received:  Due Date for Acknowledgement Letter:
	<b>Administrative Fee</b> \$2,000  ___ \$250 Pre-review before executed document ___ \$250 for BIA additional services  Payable to the “ACBCI Commercial” Palm Springs Agency P.O. Box 2245 Palm Springs CA 92263	<b>Tab 3</b>	
<b>§ 162.438 WHAT DOCUMENTS ARE REQUIRED FOR BIA APPROVAL OF A BUSINESS LEASE?</b>			<b>LESSOR TO FILL OUT THIS PORTION BELOW</b>
	<b>(a) A lease executed</b> by the Indian landowners and the lessee that meets the requirements of this part; <ul style="list-style-type: none"> <li>• % percentage of Landowners consents: 1 to 5 = 90%, 6 to 10 = 80%, 11 to 10= 60%, 20 or more over 50%, and</li> <li>• With notary acknowledgements</li> </ul>		Percentage of Consents:
	<b>(b) For tribal land, a tribal authorization for the lease and, if applicable, meeting the requirements of §§ 162.420(a), 162.426(b), and 162.428(a), or a separate signed certification meeting the requirements of §§ 162.426(b) and 162.428(a)); (Resolution)</b>		

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	<p>(c) <b>A valuation</b>, if required under § 162.420 or § 162.421;</p> <p>___ Appraisal request signed by landowner(s); OR</p> <p>___ Compliance with applicable requirements for waiver of valuation. <i>(Signatures must have notary acknowledgements)</i></p> <p style="text-align: center;"><b><i>(this can take 4 to 6 months to process)</i></b></p>	<b>Tab 4</b>	<p>Process Appraisal Request</p> <p>___ Order from ACBCI</p> <p>___ Approved by OST's OAS</p>
	<p>(d) <b>Proof of insurance</b>, if required under § 162.437;</p> <p><b>Certificate of Liability Insurance Must state the following:</b></p> <p>Example: <i>Business Lease No. PSL-XXX, NAME OF LEASE</i> <i>Additional insured parties: The United States Department of Interior, Bureau of Indian Affairs-Palm Springs Agency, Indian landowners (Lessors) (names) or heirs of. . . and their Allotment(s): 12x, 12x</i></p>	<b>Tab 5</b>	<p>Expiration date:</p> <p>___ Liability Insurance</p> <p>___ Property Insurance</p>
	<p>(e) <b>A performance bond</b> or other security, if required under § 162.434;</p>	<b>Tab 6</b>	
	<p>(f) <i>Statement from the appropriate tribal authority that the proposed use is in conformance with applicable tribal law, if required by the tribe; (Resolution)</i></p>		
To be sent to Region for review	<p>(g) <b>Environmental and archeological reports</b>, surveys, and site assessments as needed to facilitate compliance with applicable Federal and tribal environmental and land use requirements, including any documentation prepared under § 162.027(b);</p> <p><b>ENVIRONMENTAL (as applicable):</b></p> <p>___ NEPA compliance. / ___ Categorical Exclusion (CEER).</p> <p>___ Environmental Impact Statement.</p> <p>___ Environmental Assessment</p> <p>___ Archaeological Report</p> <p>___ Biological Report</p> <p>___ Hydrology Report</p> <p>___ Traffic Count Report</p> <p>___ Geology Report</p> <p>___ CEQA Documents</p> <p>___ Tribal Habitat Conservation</p> <p>___ Fringe Toed Lizard</p> <p>___ Milk Vetch</p> <p>___ <i>Downtown Palm Springs Environmental Assessment, if property is in Sec.14, T4S, R4E</i></p>	<b>Tab 7</b>	
	<p>(h) <b>A restoration and reclamation plan</b> (and any subsequent modifications to the plan), if appropriate;</p>	<b>Tab 8</b>	
	<p>(I) Where the lessee is not an entity owned and operated by the tribe, <b>documents that demonstrate the technical capability of the lessee</b> or lessee's agent to construct, operate, maintain, and terminate the proposed project and the lessee's ability to successfully design, construct, or obtain the funding for a project similar to the proposed project, if appropriate;</p>	<b>Tab 9</b>	

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Sent to BLM for review	(j) <b>A preliminary plan</b> of development that describes the type and location of any permanent improvements the lessee plans to construct and a schedule showing the tentative commencement and completion dates for those improvements, if appropriate;	<b>Tab 10</b>	
Sent to BLM for review	(k) <b>A legal description</b> of the land under § 162.418;	<b>Tab 11</b>	
	(l) If the lease is being approved under 25 U.S.C. 415, information to assist us in our evaluation of the factors in 25 U.S.C. 415(a); and		Yes or No
	(m) If the lessee is a corporation, limited liability company, partnership, joint venture, or other legal entity, except a tribal entity, information such as organizational documents, certificates, filing records, and resolutions, that demonstrates that:  (1) The representative has authority to execute a lease; <i>(Signing Authority)</i>  (2) The lease will be enforceable against the lessee; and  (3) The legal entity is in good standing and authorized to conduct business in the jurisdiction where the land is located.  <b>Corp. Financials</b> <input type="checkbox"/> <i>Income Statement</i> <input type="checkbox"/> <i>Pro Forma</i> <input type="checkbox"/> <i>Balance Sheet</i> <input type="checkbox"/> <i>Business Plan</i> <input type="checkbox"/> <i>Credit Report</i> <input type="checkbox"/> <i>Feasibility Analysis</i>	<b>Tab 12</b>	
<b>Other Documents BIA requires:</b>			
	<b>Preliminary Title Report</b> <i>(if developed)</i>	<b>Tab 13</b>	
	<b>Certified and signed escrow instructions</b> , if applicable.	<b>Tab 14</b>	
	<b>Proof of compliance with permits</b> , if required by lease: ___ Tribal    ___ State    ___ County    ___ City	<b>Tab 15</b>	
BIA	<b>BIA to Run a Title Status Report</b> ___ Verify legal and acreage is correct ___ No outstanding encumbrances	<b>Tab 16</b>	
BIA	BIA to do <b>Accounting reconciliation of income</b> for lease compliance. <i>(if land has existing lease)</i>	<b>Tab 17</b>	
<b>§162.413 MANDATORY PROVISIONS A LEASE MUST CONTAIN.</b>			
	(a) <u>All business lease must identify:</u>		
	(1) The tract or parcel of land being leased;	Pg.	<b>Art. ____</b> , Land Description
	(2) The purpose of the lease and authorized uses of the leased Premises	Pg.	<b>Art. ____</b> , Purpose of Lease

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	(3) The parties to the lease;	Pg.	Art. ____, Parties
	(4) The term of the lease; (see §162.411)	Pg.	Art. ____, Term
	(5) The ownership of permanent improvements and The responsibility for constructing, operating, maintaining, and managing permanent improvements under § 162.415;	Pg.	Art. ____, Removal of Improvements
	(6) Payment requirements and late payment charges, including interest;	Pg.	Art. ____, Rentals –
	(7) Due diligence requirements under § 162.417 <i>(Does not apply to leases for religious, educational, recreational, cultural or other public purposes)</i>	Pg.	Art. ____, Improvements & Completion
	(8) Insurance requirements under § 162.437; and __ <i>Must identify lease number and allotment</i>	Pg.	Art. ____, Public Liability Insurance – Art. ____, Fire and Damage Insurance
	(9) Bonding requirements under § 162.434. <i>If a performance bond is required, the lease must state that the lessee must obtain the consent of the surety for any legal instrument that directly affects their obligations and liabilities. For Tribal land see § 162.434 (2)(f)(1) we may waive requirement . . .</i>	Pg.	Art. ____, Bonding
	(b) Where a representative executes a lease on behalf of an Indian landowner or lessee, the lease must identify the landowner or lessee being represented and the authority under which the action is taken.	Pg.	Art. ____,
<b>(c) ALL BUSINESS LEASES MUST INCLUDE THE FOLLOWING PROVISIONS:</b> <i>If the proposed lease does not identify each of the items as required or include the mandatory provisions (exactly as worded in the 25 CFR § 162.413), the lease package will be returned as incomplete.</i>			
	(1) The obligations of the lessee and its sureties to the Indian landowners are also enforceable by the United States, so long as the land remains in trust or restricted status;	Pg.	Art. __, Lessee's obligations
	(2) There must not be any unlawful conduct, creation of a nuisance, illegal activity, or negligent use or waste of the leased premises;	Pg.	Art. __ Unlawful Use
	(3) The lessee must comply with all applicable laws, ordinances, rules, regulations, and other legal requirements under § 162.014;	Pg.	Art. __ Unlawful Use

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	(4) If historic properties, archeological resources, human remains, or other cultural items not previously reported are encountered during the course of any activity associated with this lease, all activity in the immediate vicinity of the properties, resources, remains, or items will cease and the lessee will contact BIA and the tribe with jurisdiction over the land to determine how to proceed and appropriate disposition;	Pg.	Art. ____, Arch, cultural, Historic
	(5) BIA has the right, at any reasonable time during the term of the lease and upon reasonable notice, in accordance with § 162.464, to enter the leased premises for inspection and to ensure compliance; and	Pg.	Art. ____, Inspection
	(6) BIA may, at its discretion, treat as a lease violation any failure by the lessee to cooperate with a BIA request to make appropriate records, reports, or information available for BIA inspection and Duplication.	Pg.	Art. ____, Accounting
<b>(d) UNLESS THE LESSEE WOULD BE PROHIBITED BY LAW FROM DOING SO, THE LEASE MUST ALSO CONTAIN THE FOLLOWING PROVISIONS:</b> <i>The BIA may treat any provision of a lease document that violates Federal law as a violation of the lease.</i>			
	(1) The lessee holds the United States and the Indian landowners harmless from any loss, liability, or damages resulting from the lessee's use or occupation of the leased premises; and	Pg.	Art. ____, Indemnification
	(2) The lessee indemnifies the United States and the Indian landowners against all liabilities or costs relating to the use, handling, treatment, removal, storage, transportation, or disposal of hazardous materials, or the release or discharge of any hazardous material from the leased premises that occurs during the lease term, regardless of fault, with the exception that the lessee is not required to indemnify the Indian landowners for liability or cost arising from the Indian landowners' negligence or willful misconduct.	Pg.	Art. ____, Hazardous Materials
	<b>(e)</b> We may treat any provision of a lease document that violates Federal law as a violation of the lease.	Pg.	Art. ____ General Provisions
	§ 162.412 <b>Option to Renew- A proposed lease must state if there is an option to renew</b> , and if so, provide for a definite term for the renewal period	Pg. ____	Art. _____

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	<b>ADDITIONAL CONSIDERATIONS</b>		
	§162.412 If there is an option to renew:  ___ <i>A definite term for the renewal period.</i> ___ <i>The time and manner in which the option must be exercised or is automatically effective.</i> ___ <i>Confirmation of renewal must be submitted to BIA, unless lease provides automatic renewal.</i> ___ <i>Whether Indian landowner consent to the renewal is required.</i> ___ <i>Lessee must provide notice of the renewal to the Indian landowners, sureties and mortgagees.</i> ___ <i>Additional consideration due upon exercise of an option to renew or start of the renewal term.</i> ___ <i>Other conditions for renewal (e.g., lessee not be in violation of the lease at renewal).</i>		
	<b>Sublease, Assignment, Transfer</b> <i>Consent requirements for approval?</i>	Pg. ____	Art. ____
	<b>Status of subleases</b> <i>Consent requirements for approval?</i>	Pg. ____	Art. ____
	<b>Agreements for Utility Facilities</b> (Service Line Agreements)	Pg. ____	Art. ____
	<b>ROWs for streets &amp; Utility</b> <i>Consent requirements for approval?</i>	Pg. ____	Art. ____
	<b>Encumbrance</b> <i>Consent requirements for approval?</i>	Pg. ____	Art. ____
	<b>Defaults</b>	Pg. ____	Art. ____
	<b>Rents</b>	Pg. ____	Art. ____
	<b>Payment Due Date(s)</b>	Pg. ____	Art. ____
	<b>CPI Adjustments</b>	Pg. ____	Art. ____
	<b>CPI Index Used</b>	Pg. ____	Art. ____
	<b>% Percentage Rental</b>	Pg. ____	Art. ____
	<b>Inducement Payment</b> <i>(If Applicable)</i>	Pg. ____	Art. ____
	<b>Subleasehold Transfer Fees</b>	Pg. ____	Art. ____
	<b>Subleasehold Encumbrance Fees</b>	Pg. ____	Art. ____
	<b>Past Due Rental</b>	Pg. ____	Art. ____
	<b>Improvements And Completion Of Development</b>	Pg. ____	Art. ____
	<b>Estoppels</b>	Pg. ____	Art. ____
<b>Other Documents that MUST have BIA Approval:</b>			
	<input type="checkbox"/> <b>Deeds of Trust &amp; Modifications</b>		<input type="checkbox"/> <b>Addendums</b>
	<input type="checkbox"/> <b>Assignments</b>		<input type="checkbox"/> <b>Amendments and/or Supplements</b>

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	<input type="checkbox"/> Subleases		
<b>Additional Comments:</b>			

**We have 60 days from receipt of a “COMPLETE PACKAGE”, the executed Lease, proof of required consents, and required documentation to approve or disapprove.**