



**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
PALM SPRINGS AGENCY**

**PROCESSING
COMMERCIAL LEASEHOLD DEED OF TRUST INSTRUCTIONS**

APPROVAL IS SUBJECT TO 25 CFR § 162.457-460

**REQUIRED DOCUMENTATION MUST BE SUBMITTED TO THIS OFFICE
AS A COMPLETED PACKAGE FOR REVIEW AND APPROVAL.**

**INCOMPLETE PACKAGES WILL BE RETURNED,
WE WILL NOT REVIEW A DEED OF TRUST UNTIL ALL
THE REQUIRED DOCUMENTS HAVE BEEN SUBMITTED.**

WITHOUT PRIOR APPROVAL OF THE SECRETARY THE TRANSACTION IS INVALID

**SUBMITTIAL PACKAGE – REQUIREMENTS
(SEE CHECKLIST FOR REQUIRED DOCUMENTATION)**

REQUEST:

Upon your request for processing a Deed of Trust (DOT), a Realty Specialist assigned to your lease will notify you, either by phone, email or letter.

If you have a request for an Estoppel, BIA will use its own standard form, NO EXCEPTIONS.

CASE INITIATION LETTER (Cover letter):

You must provide a letter stating your purpose for your request, and justified your reasons why it is in beneficial to the Lease and to the landowners.

If you require us to review a Draft of your DOT, before you execute it, you must submit all supporting documents along with the Draft before we will review it. A Checklist is provided for you on what documents are required by BIA for approval. If you cannot provide all the required documents you must justify your reasons in writing. NO EXCEPTIONS

CONSENTS OF LESSOR:

It is the responsibility of the Lessee to notify all the landowners of a proposed leasehold mortgage and provide BIA proof of mailing.

It is the responsibility of the Lessee to obtain consents, if consents are required per the lease. You must provide a written explanation of the need for obtaining the landowners information.

If you request BIA to obtain consents, there will be an administration charge of \$250 for each landowner(s) signature.

REVIEW:

Upon review the Realty Specialist will notify you of their findings and will work with you in processing the DOT for approval. If your submittal package requires corrections, the Realty Specialist assigned to your lease will contact you either by phone, e-mail or letter informing you of any corrections or discrepancies with your package.

DEED OF TRUST:

As required, (2) originals must be submitted, [1- original for BIA; and 1-original to Client}. If you would like more than one back then you must submit (3) originals.

1. Title of your DOT must state "Leasehold Deed of Trust" if not your document must state leasehold interest (land).
2. The DOT must state, the amount and maturity date, preferably on the first page.
3. There shall be no cross-default/cross-collateralization provision in the DOT regarding the Master Lease.

CERTIFICATION OF PROMISSORY NOTE:

As required, 1 certified promissory note:

1. **Blue Ink Certification** stamp stating "**CERTIFIED TO BE A TRUE AND CORRECT COPY**" must be located on each and every page and be signed. If located on front page, it may not cover any printed material.
2. **Only use blue ink for certification stamps.** Any other certification stamp colors used will automatically be returned. No handwritten certification language will be accepted.

LENDER'S APPRAISAL:

As required per the checklist, the Lender's Appraisal is needed, so we may assess the Market Value of the property in ratio to the loan amount of the DOT.

Property may not be over-encumbered (LTV > 80%). The term of a loan may never exceed the term of the lease and the Borrower(s) must match vesting, verbatim.

LEGAL DESCRIPTION:

If the legal description is attached as an exhibit to the DOT, it must be correctly identified (i.e., Exhibit "A") and attached thereof.

The body of the legal description must be verbatim to original documents, whichever applies: Lease, Amendment to Lease, Supplemental Agreement, etc. No additional language may be added.

PRIOR DEEDS OF TRUST:

If there are past DOTs, for current title holder, then one of the following must be provided for each DOT:

- a. **Blue Ink Certified** copy of the Reconveyance
- b. Trustee and Beneficiary must match that of the DOT in file; if not provide documentation to tie all entities together. **Blue Ink Certified**
- c. Closing Statement (signed by the parties) from Escrow which demonstrates the loan is being paid in full and a letter from lender indicating current payoff amount. **Blue Ink Certified**
- d. Lender of payoff must match the Lender from the BIA approved DOT in file; if not provide documentation to tie all entities together **Blue Ink Certified**.

UNAUTHORIZED DEEDS OF TRUST (UDOT)

Any UDOT's found, must be rectified, before we can proceed with our review. The following will and may apply:

- a. We will need a copy of the DOT, **Blue Ink Certification**.
- b. Administration Fees Cost to BIA: \$2,000 per UDOT
- c. Notification to Lessor or their representative, and any penalties they may assert.

Once this has been rectified, then we will proceed with our review.

APPROVAL OF DEED OF TRUST

Upon receiving the executed DOT, we have 20 days from receipt of a completed package consisting of the executed leasehold mortgage, proof of required consents, and required documentation to approve or disapprove the leasehold mortgage. When we receive a leasehold mortgage that meets these requirements, we will notify the parties of the date we receive it, via phone, e-mail or by letter.

DISAPPROVAL OF A DOT:

162.460

a. We may disapprove a leasehold mortgage of a business lease only if at least one of the following is true:

- (1) The Indian landowners have not consented and their consent is required per the lease;
- (2) The lessee's mortgagees or sureties have not consented;
- (3) The requirements of this subpart have not been met; or
- (4) We find a compelling reason to withhold our approval in order to protect the best interests of the Indian landowners.

b. In making the finding required by paragraph (a)(4) of this section, we may consider whether:

- (1) The leasehold mortgage proceeds would be used for purposes unrelated to the leased premises; and
- (2) The leasehold mortgage is limited to the leasehold.

PICKING UP DOCUMENTS

A. Upon BIA approval a notification will be sent via email to the individual listed on the cover letter.

B. If you are out of the area or would prefer to have your documents mailed out this should be indicated within the cover letter.

1. Either by Couriers, FedEx, or UPS, along with the type of shipment (standard overnight, first overnight, priority mail, etc.).
2. Couriers picking up corrections and/or approvals must sign-in at the front desk and also sign a receipt of acknowledgement of the documents received from BIA.

If you have further questions, please contact the Realty Specialist assigned to your Lease.