

INDIAN AFFAIRS

**FEE-TO-TRUST
ACQUISITIONS AND
RESERVATION PROCLAMATIONS
HANDBOOK**

52 IAM 12-H



Bureau of Indian Affairs
Office of Trust Services
1849 C Street, NW – Mailstop 4620 – MIB
Washington, DC 20240

#25-09, Issued: 1/15/25
Replaces #16-47, Issued: 6/28/16

FOREWORD

This handbook provides guidance to Bureau of Indian Affairs (BIA) Division of Real Estate Services (DRES) personnel (Realty staff) and Tribal Contract/Compact staff in preparing, reviewing, and processing fee-to-trust (FTT) acquisitions of fee or restricted fee lands by the United States of America for the beneficial use of individual Indian trust landowner(s) or federally recognized Tribes. The trust lands are administered under the jurisdiction of the BIA. The corresponding Indian Affairs Manual (IAM) chapter, 52 IAM 12: Processing FTT Applications, provides the general authorities and responsibilities, and is the official policy for processing FTT acquisitions.

This handbook also incorporates guidelines and requirements used by the BIA for reservation proclamation requests received from Tribes.

This handbook does not cover all scenarios that may happen in the field and is not intended to create additional requirements above what is required by the regulations governing FTT under 25 Code of Federal Regulations (CFR) Part 151 found at <https://www.ecfr.gov/current/title-25/chapter-I/subchapter-H/part-151>.



Digitally signed by BRYAN
MERCIER

Date: 2025.01.15 10:24:12 -05'00'

Bryan Mercier
Director, Bureau of Indian Affairs

Date

Table of Contents

Chapter 1: Purpose	1
1.1 Overview of FTT Acquisitions	1
1.2 Types of FTT Acquisitions	1
1.3 Reservation Proclamations.....	3
Chapter 2: Pre-Application Procedures	4
2.1 Pre-Application Process.....	4
2.2 Timeframes for Processing Acquisitions	4
2.3 Developing a Complete FTT Package	4
Chapter 3: Preliminary Review	6
3.1 Encoding the Application and Regulatory Timeframes.....	6
3.2 FTT Written Request and Package Review	6
3.3 Acknowledging Receipt of a FTT Written Request	9
3.4 Providing Notice of an Incomplete FTT Written Request.....	9
Chapter 4: Comprehensive Review	11
4.1 Mandatory Determination	11
4.2 UFJ	11
4.3 Land Description Review	11
4.4 Initial Site Inspection	12
4.5 Preliminary Title Review (PTO).....	14
4.6 Environmental Compliance Review	14
4.7 Notice of Application.....	16
4.8 Comments to Notice of Application	16
Chapter 5: Analysis and Notice of Decision	18
5.1 Clearance of PTO Objections	18
5.2 Prepare package for Determination	18
5.3 Providing Notice of Determination.....	18
5.4 Issuance of Public Notice.....	20
Chapter 6: Approval and Recordation	22
6.1 Final Site Inspection, Environmental Review and Title Evidence	22
6.2 Acceptance of Conveyance.....	23
6.3 Recordation	23
6.4 Final Title Opinion.....	24
Chapter 7: Proclamation Requests.....	25

7.1	BIA Review of Reservation Proclamation Requests Received from Tribes	25
7.2	Concurrent Acquisition Reservation Proclamation Requests	28
Chapter 8: Administrative Appeals and File Maintenance		34
8.1	Administrative Appeals	34
8.2	Decision Letter and Files	35
Chapter 9: Case Closeout		37
Definitions		38
Acronyms		39
Attachment 1: Fee-to-Trust Required Elements.....		41
Attachment 2: FTT Frequently Asked Questions.....		42
Attachment 3: Discretionary FTT Quick Reference Guide.....		45
Attachment 4: Mandatory FTT Quick Reference Guide.....		46
Attachment 5: Mandatory AIPRA FTT Quick Reference Guide		47
Attachment 6: Appeal Guidance		48
Attachment 7: Sample Notice of Reservation Proclamation Request.....		49
Attachment 8: Sample Reservation Proclamation Insert.....		51

Chapter 1: Purpose

The purpose of this handbook is to provide guidance to Realty staff on processing acquisitions of land held in fee or restricted fee status into trust status (i.e., “fee-to-trust” or “FTT”), and reservation proclamations. Specifically, this handbook describes procedures used by BIA to review and analyze FTT acquisitions or reservation proclamation requests from applicants using a streamlined and standardized process. These procedures include: (1) eligibility for an individual or Tribe to request the Secretary of the Department of the Interior (DOI) to take title to land in trust; (2) acquisition requirements; (3) processing of written requests for trust acquisitions; and (4) criteria used by BIA to evaluate trust acquisition requests. This handbook also incorporates guidelines and requirements used by the BIA for reservation proclamation requests received from Tribes.

The Indian Reorganization Act (IRA), 48 Stat. 984, 25 U.S.C. § 5101 *et seq.*, provides the Secretary of the DOI with the discretion to acquire trust title to land or interests in land in trust for the benefit of Tribes or individual Indians. Congress may also authorize the Secretary to acquire land into trust under statutes other than the IRA.

The Secretary bases the decision for a trust acquisition on the evaluation of the criteria set forth in Title 25 CFR Part 151 and any applicable policy. Approval is required by the Secretary to acquire title, with the exception of certain mandatory acquisitions.

All references to “days” within this handbook are to calendar days, not business days, unless otherwise noted. All references to agency staff or programs within this handbook are to BIA agency staff and programs unless otherwise specified.

1.1 Overview of FTT Acquisitions

Given the complexity involved in processing FTT, it is important to understand the differences in the types of acquisitions as well as the related requirements. Acquisitions can be discretionary or mandatory and may include whole or undivided interests of fee land.

Considering the complexities of FTT it should be understood that each acquisition is different and requires an independent analysis. Within this handbook the FTT process is standardized however each acquisitions requirements can vary based on the written request.

Subsequent written requests from one Tribe should not refer to information previously provided.

1.2 Types of FTT Acquisitions

There are separate operating procedures for each type of acquisition titled as follows:

Discretionary acquisition: A trust acquisition authorized by Congress that does not require the Secretary to acquire title to any interest in land to be held in trust by the United States on behalf of an individual Indian or a Tribe. The Secretary has the discretion to accept or deny the request for any such acquisition.

Discretionary FTT applications involve the acquisition in trust of whole or undivided interests in land held in fee pursuant to 25 CFR 151. Discretionary FTT applications can be on-reservation, contiguous, or off-reservation.

- **On-Reservation-** Pursuant to 25 CFR 151.9, an individual Indian or Tribe desiring to acquire land in trust status must file a written request for approval of such acquisition with the Secretary. The request need not be in any special form or format but should include the identity of the parties, a description of the land to be acquired, and other information which would show that the acquisition fulfills the criteria of 25 CFR Part 151.
- **Contiguous** - Pursuant to 25 CFR 151.10, an individual Indian or Tribe desiring to acquire land in trust status must file a written request for approval of such acquisition with the Secretary. The request need not be in any special form or format but must include the identity of the parties, a description of the land to be acquired, and other information which would show that the acquisition fulfills the requirements of 25 CFR Part 151.
- **Off-Reservation** - Pursuant to 25 CFR 151.11, an individual Indian or Tribe desiring to acquire land in trust status must file a written request for approval of such acquisition with the Secretary. The request need not be in any special form or format but must include the identity of the parties, a description of the land to be acquired, and other information which would show that the acquisition fulfills the requirements of 25 CFR Part 151.

Initial Indian acquisition: An initial trust land acquisition is for when a Tribe does not have a reservation or land held in trust. Pursuant to 25 CFR 151.12, a Tribe desiring to acquire land in trust status must file a written request for approval of such acquisition with the Secretary. The request need not be in any special form or format but must include the identity of the Tribe, a description of the land to be acquired, and other information which would show that the acquisition fulfills the requirements of 25 CFR Part 151.

Mandatory acquisition: A trust acquisition directed by Congress or a judicial order that requires the Secretary to accept title to land into trust or hold title to certain lands in trust by the United States, for an individual Indian or Tribe. The Secretary does not have the discretion to accept or deny the request to accept title of land into trust.

When the mandatory acquisition authority requires the Secretary to acquire some amount of land or land within a certain geographic area but does not specify the specific lands to be acquired or allows the Tribe or Individual to decide which land is to be acquired. The Tribe or individual seeking to fulfill the mandatory trust acquisition must file a written request for approval of such acquisition with the Secretary. The request need not be in any special form or format but must include the identity of the Tribe, a description of the land to be acquired, and other information which would show that the acquisition is mandated, including title evidence that may be required and reviewed in coordination from the Regional Office of the Solicitor (SOL).

Mandatory American Indian Probate Reform Act (AIPRA) Trust Acquisition: This applies to undivided fractional interests owned in fee by an eligible Tribe or individual Indian. A mandatory AIPRA trust acquisition is authorized in accordance with the Indian Land Consolidation Act of 1983, as amended by the Act of November 7, 2000, also known as AIPRA, pursuant to the provisions of 25 U.S.C. § 2216(c) which is a mandatory authority. The Secretary does not have discretion to deny the request to accept title of land into trust as long as the applicant meets the requirements.

Gaming acquisition: A trust acquisition identified by the Tribal applicant as “gaming,” is reviewed by BIA and routed to the Office of Indian Gaming (OIG) for processing pursuant to the regulations at 25 CFR Part 151.

1.3 Reservation Proclamations

Reservation Proclamation means a formal declaration issued by the Secretary or designee proclaiming that certain lands are a new reservation or an addition to an existing reservation. A reservation proclamation can encompass multiple trust parcels, or a portion of a parcel taken into trust.

The DOI Secretary is authorized by the IRA to proclaim reservations under 25 U.S.C. § 5110. Reservation proclamations can only be issued for completed trust acquisitions made pursuant to an authority conferred by the IRA. However, Tribes may choose to submit a reservation proclamation request for lands previously accepted in trust or with their FTT written request for a new acquisition.

When a Tribe submits a written request for a reservation proclamation, the first step is to determine the trust status of the underlying land. If the land is already in trust, the proclamation request will be processed as a post-FTT reservation proclamation request. If the Tribe submits a new FTT acquisition package and is seeking to acquire the land in trust *and* have it proclaimed as reservation, the proclamation request will be processed as a concurrent trust acquisition and reservation proclamation.

Chapter 2: Pre-Application Procedures

The procedures, documents, and timeframes in this section should be discussed with the applicant prior to the submission of a FTT request (see “Fee-to-Trust Required Elements” Attachment 1). Required documents and review processes are different depending on the acquisition type.

2.1 Pre-Application Process

The following documents, including the review and timeframes required, should be discussed with the applicant upon request. These documents require separate review and approval from the below corresponding positions and agency:

- Survey, plat or map and legal land description – Geodata Examination & Validation (GDEV) or Bureau of Land Management (BLM) Indian Land Surveyor (BILS)
- 59 IAM 5, Pre-Acquisition and Environmental Site Assessments – BIA Environmental Contact
- Environmental documentation – BIA National Environmental Policy Act (NEPA) Coordinator
- Title Evidence and Under Federal Jurisdiction (UFJ) Analysis Documentation¹² – SOL

2.2 Timeframes for Processing Acquisitions

There are established regulatory timeframes for the review and issuance of a decision of acquisition for discretionary FTT acquisitions. There are currently no established regulatory timeframes for review and approval of mandatory FTT acquisitions, though some statutes mandating certain acquisitions may prescribe timeframes.

After the BIA is in possession of a complete acquisition package, the Secretary shall:

- 1) Notify the applicant within 30 days in writing that the acquisition package is complete; and
- 2) Issue a decision on a request within 120 days after issuance of the notice of a complete acquisition package.

2.3 Developing a Complete FTT Package

The chart in this section clarifies how the Department and applicants work together to develop a

¹ Pursuant to 25 CFR § 151.4(c) In order to be eligible for trust acquisitions under section 5 of the IRA, no additional “under Federal jurisdiction” analysis is required under this part for Tribes for which the Department has previously issued an analysis finding the Tribe was under Federal jurisdiction.

² Refer to Region for specific guidance to determine if UFJ Analysis should be requested before receipt of written request or with title review.

complete acquisition package. Some of the requirements are provided by the applicant, while some are developed by the Department. Once a complete package is assembled, the Department must notify the applicant within 30 days and then issue a decision on the acquisition within 120 days.

Section	Applicant	Department
§ 151.8(a)(1)	A signed letter from the Tribal government supported by a Tribal resolution or other act, or if an individual applicant, a signed letter.	None.
§ 151.8(a)(2)	Documentation from the applicant explaining purpose, and, if an individual, need.	No Department contribution is needed to complete this component of the package. Rather, the Department will consider this information in coming to a decision.
§ 151.8(a)(3)	Statement identifying statutory authority for the acquisition. If the acquisition relies on satisfying the IRA's first definition of Indian, the statement should include evidence that the Tribe was under Federal jurisdiction in 1934 consistent with § 151.4.	The Department will determine whether statutory authority exists based on the Tribe's submission. If the Tribe relies on the IRA's first definition of "Indian," to establish such authority, then the Department will review all relevant evidence to determine whether the Tribe was under Federal jurisdiction consistent with § 151.4.
§ 151.8(a)(4)	An aliquot legal description of the land and a map, or a metes and bounds land description and survey, including a statement of the estate to be acquired, <i>e.g.</i> , all surface and mineral rights, surface rights only, surface rights and a portion of the mineral rights, etc.	Concurrence that the description is legally sufficient.
§ 151.8(a)(5)	Information, or permission to access the land to gather such information, allowing the Department to comply with NEPA and 59 IAM 5 regarding hazardous substances.	The Department will develop or adopt and complete NEPA analyses, including any required public process, and develop or adopt Phase I and Phase II Environmental Site Assessments produced under 59 IAM 5.
§ 151.8(a)(6)	Evidence of marketable title; Mandatory acquisitions may not require evidence of marketable title.	Preliminary Title Opinion.
§ 151.8(a)(7)	None (applicant replies to comment letters are invited but not required for a complete acquisition package)	Notification letters to State and local governments and any response letters.
§ 151.8(a)(8)	Statement that any existing encumbrances on title will not interfere with the applicant's intended use	None.
§ 151.8(a)(9)	None unless warranted by specific application	None unless warranted by specific application.

Chapter 3: Preliminary Review

This chapter documents the tasks required by Realty staff to review a FTT written request, review all regulatory requirements and record the conveyance document (if the application is approved). These steps should be initiated and completed within the first 45 days upon receipt.

3.1 Encoding the Application and Regulatory Timeframes

To meet the regulatory and other required timeframes, the BIA must track all FTT acquisitions from receipt through the process to completion. This tracking is done by:

- 1) Encoding the FTT written request into the Trust Asset and Accounting Management System (TAAMS) Acquisition & Disposal (A&D) Module within three days of receipt; and
- 2) documenting all activities within the TAAMS A&D Module within three days of receipt of any additional information from the applicant or others, including scanning all documents into the case.

Note: Pending FTT applications submitted **prior to** January 11, 2024, will be reviewed under the regulations in effect on the date of submittal, unless the applicant provided a written request for the FTT application be reviewed under the revised regulatory framework.

3.2 FTT Written Request and Package Review

The applicant is responsible for submitting FTT requests to the BIA agency that has jurisdiction over the land or through the FTT Portal. If the applicant is an Indian Tribe, the written request must be a signed Tribal letter requesting trust status supported by a Tribal Resolution or other act of the governing body of the Tribe, and if the applicant is an individual Indian, it must be a letter signed by said individual requesting trust status.

All written requests must include the following:

- Statement of request. A statement that the applicant is requesting approval of a trust acquisition by the United States of America for their benefit.
- Identification of applicant(s). If the applicant is a Tribe, the written request must state the Tribal name as it appears in the list of Indian Entities Recognized by and Eligible to Receive Services from the United States Bureau of Indian Affairs as published in the Federal Register, or as it appears in a federally approved Tribal Constitution.
- Legal land description. This is a description of real property in legally acceptable terms that is definite, legally defensible, and susceptible to only one interpretation.
- Statutory authority for the acquisition.

- If the applicant is an individual Indian, the need for additional land, amount of trust or restricted Indian land already owned, and information or a statement addressing the degree which the applicant needs assistance in handling their affairs. (See 25 CFR 151.9(a)(2))
- The current use of the property and any proposed changes in land use (if applicable).

Written requests must be supported by the following documents:

- Tribal resolution or other act of the governing body of the Tribe or if the applicant is an individual Indian, the individuals written request must be a signed letter requesting trust status. (See 25 CFR 151.8(a)(1))
- Any information in support of the Tribal applicant being “under Federal jurisdiction” in 1934. (See 25 CFR 151)
- Any information that allows the Secretary to comply with the National Environmental Policy Act (NEPA) and 59 IAM 5. (See 25 CFR 151.15)
- A map depicting the boundary and general location of the subject property.
- A draft deed for the acquisition. The deed must conform to local statutory recording requirements.
- The applicant must submit title evidence as part of a complete acquisition package consisting of: (See 25 CFR 151.14):
 1. Vesting deed or other conveyance instrument providing evidence of the applicant’s title or, if the applicant does not yet have title, the deed providing evidence of the transferor’s title and a written agreement or affidavit from the transferor that title will be transferred to the United States on behalf of the applicant to complete the acquisition in trust; and
 2. Either:
 - a. a current title insurance commitment; or
 - b. the policy of title insurance issued to the applicant or current owner, and an abstract³ of title dating from the time the policy of title insurance was issued to the applicant or current owner to the present; or
 - c. a preliminary title report or equivalent document prepared by a title company in place of an abstract of title for purposes of this paragraph (a)(2)(ii) if the applicant provides evidence that the title company will not issue an abstract of

³ The Department will look to the appropriate licensing authority for qualifications for the preparer of the abstract of title. An abstract of title means a compilation of all instruments of public record which in any manner affect title to the parcel of real property. “To the present” means a date as close to the date of the review as possible.

title based on practice in the local jurisdiction, subject to the requirements of paragraph (b) of this section.

3. The applicant may choose to provide title evidence meeting the title standards issued by the U.S. Department of Justice (DOJ)⁴ in lieu of the evidence required above.

Note: The proposed insured should state, “The United States of America in trust for [insert legal name of the applicant (for Tribes, the legal name is the name as found in the Federal Register or a federally approved Tribal Constitution)].”

After reviewing title evidence, the Secretary shall notify the applicant of any liens, encumbrances, or infirmities that the Secretary identified and may seek additional information or action from the applicant needed to address such issues. The Secretary may require elimination of such liens, encumbrances, or infirmities prior to acceptance of the land in trust status.

- Copies of any documents cited in the title evidence, the land description, and on a Record of Survey.
- Written Tribal consent for nonmember acquisitions must be provided when the applicant is an individual Indian who is not a member of the Tribe with jurisdiction and does not already own an undivided trust or restricted interest in the parcel of land to be acquired. (See 25 CFR 151.7).

Written requests may also be supported by the following information, if applicable:

- Any relevant leases and disclaimers of interest.
- Any documentation describing efforts taken to address potential conflicts of land use that may arise as a result of the FTT acquisition.
- Any signed cooperative agreements relating to the FTT acquisition. (e.g., Examples include utilities, fire protection, and solid waste disposal).
- Agreements that have been negotiated with the State or local government (e.g., an example is Payment in Lieu of Taxes (PILT)).
- Description of those services not required of the state or local government(s) to the property because they are provided by the Tribal government.

⁴ If the applicant chooses to comply with DOJ’s title standards, they must comply with the requirements of that process. For example, the applicant may submit a preliminary commitment, or a binder of title evidence with a commitment to issue final title insurance on the current American Land Title Association (ALTA) U.S. Policy Form. The proposed policy coverage must meet the minimum title insurance required by the DOJ title standards, or the alternate title evidence submitted by the Tribe.

- When the applicant is a Tribe who is not the Tribe with jurisdiction and does not already own an undivided trust or restricted interest in the parcel of land to be acquired, written Tribal consent for the Tribal acquisition of land must be provided.

Note: The applicant may submit any additional information or justification to assist in reaching a decision.

3.3 Acknowledging Receipt of a FTT Written Request

Within 10 days of receipt, Realty staff must complete a comprehensive review of the written request for the items identified above and the authorized BIA official must formally acknowledge receipt of the request.

This formal acknowledgement must be in writing (see L1 FTT Acknowledgement Letter) and include the “FTT Frequently Asked Questions” (see Attachment 2) and the “Discretionary Fee-to-Trust Quick Reference Guide” (see Attachment 3) *or* the “Mandatory Fee-to-Trust Quick Reference Guide” (see Attachment 4) *or* “Mandatory AIPRA Fee-to-Trust Quick Reference Guide (Attachment 5), depending on the applicable fee-to-trust acquisition.

Note: Realty staff must notify OIG of the gaming FTT written request, if applicable.

3.4 Providing Notice of an Incomplete FTT Written Request

Within 10 days of determining a written request is **incomplete**, Realty staff must identify all missing information or documentation that is required and materials submitted that do not have appropriate signatures, dates, or other deficiencies that would prevent a complete review of the written request and notify the applicant.

- 1) Prepare a written notice to the applicant that includes the following information, and send it by certified mail, return receipt requested (see L2 Original 30-Day Notice of Incomplete). *Note:* for gaming FTT acquisitions, a copy of the incomplete notice must be sent to OIG.
 - a. A statement that the written request is incomplete.
 - b. Specify what information or documentation was omitted or required and explain why the requested information is necessary.
 - c. Notify the applicant that they must provide the omitted or required documentation or information to BIA within 30 days of the applicant’s receipt of the written notice.
- 2) If the applicant does not provide the omitted or required documentation or information to BIA within the noted timeframe, BIA must immediately send the applicant a Final Notice stating that BIA did not receive the information, and the written request will be inactivated and returned within 45 days from receipt of the **original notice** and removed

from the active caseload unless the responsive information is received (see L3 FTT Final Notice of Incomplete).

Note: For gaming FTT acquisitions, consult with OIG prior to issuing the Final Notice of incomplete.

- 3) If the applicant does not provide the omitted or required documentation or information to BIA within the noted timeframe of the Final Notice, BIA must immediately notify the applicant that the written request has been inactivated and is being returned (see L4 FTT Return of Incomplete FTT Application).

Note: Applicants do not have administrative appeal rights for written requests for trust acquisition that are inactivated because they are incomplete.

Chapter 4: Comprehensive Review

4.1 Mandatory Determination

Realty staff will consult with the SOL for Mandatory Determinations. A written determination that a statute or judicial order mandates the acquisition is required and must be requested from the SOL by Realty staff within 30 days from receipt of a complete written request. If the SOL has already issued a written determination that a specific statute or judicial decree mandates an acquisition, another acquisition may be processed under the same mandatory authority using that written determination.

Upon a determination that the statute or judicial decree mandates the acquisition, realty staff in consultation with the SOL will determine whether the parcel meets any additional criteria required by the statute or judicial decree. If information from the applicant is necessary to demonstrate that the parcel meets the criteria, contact the applicant to request the information.

4.2 UFJ

Realty staff will consult with and submit all documents to the SOL to prepare an analysis of whether the Tribal applicant was under federal jurisdiction in 1934 for inclusion in the decision, if applicable⁵. They should consult with the SOL as early in the process as possible (i.e., as soon as it has been determined a written request is complete) so that the SOL has sufficient time to prepare a Carcieri opinion.

The Department will determine whether statutory authority exists based on the Tribe's submission. If the Tribe relies on the IRA's first definition of "Indian," to establish such authority, then the Department will review all relevant evidence to determine whether the Tribe was under Federal jurisdiction consistent with 25 CFR 151.4

Note: For Tribes for whom the SOL has already prepared an analysis of whether the Tribal applicant was under Federal jurisdiction in 1934, BIA may rely on that analysis.

4.3 Land Description Review

Realty staff will determine if the land descriptions are simple or complex.

If the description is **simple**, Realty staff will initiate a Realty Land Description Review (RLDR).

An RLDR must be completed by a trained individual within 30 days of receipt of the written request. All trained Realty staff who process FTT acquisitions will be qualified to perform a RLDR for all FTT acquisitions that contain an aliquot part, true government lot, or lot block

⁵ An opinion whether a tribal applicant was under Federal jurisdiction in 1934 (a "Carcieri opinion") is only required for applications submitted pursuant to 25 U.S.C. § 465 and that rely on the first definition of "Indian."

subdivision (LBS) description⁶. If complex issues are identified during the RLDR process, Realty staff must submit a request to the Land Description Examination & Validation (LDEV) request link, attach the checklist documents, and submit within 30 days from receipt of the written request.

If the description is **complex**, Realty staff will request a LDEV from GDEV within 10 days from receipt of the written request. Realty staff will complete the LDEV request form, attach the checklist documents, and submit the request as one PDF to GDEV via the LDEV Request site.

An LDEV is completed by a member of the GDEV Team within 30 days of receipt of the LDEV request. They will examine and validate the land description, including an acreage calculation using industry standard, proprietary GIS mapping software. This examination and validation is intended to verify that the description is accurate, correctly describes the subject property, and is consistent throughout the acquisition documents (commitment for title insurance, [survey] maps, deeds, etc.).

The GDEV Team member assigned the request will have 30 days to complete their review and return the LDEV as complete, incomplete, or non-concur. If more time is needed to perform the review, the GDEV Team member will notify the requester, and an extension up to 30 days may be taken.

If an incomplete LDEV is received from the GDEV Team, the Realty Point of Contact (POC) will perfect the request or notify the applicant within three days following the process at “3.4 Providing Notice of an Incomplete FTT Written Request” within this handbook. If a non-concur LDEV is received, the GDEV Team will initiate consultation with BILS as needed and provide recommendations to the Realty POC for the applicant to resolve the non-concur LDEV.

If the Realty staff is a Tribal employee processing FTT acquisitions for a Tribe, it is a conflict of interest for the Tribal employee to prepare a RLDR for the Tribe; however, the Tribal employee can prepare a RLDR for an Individual Indian applicant.

4.4 Initial Site Inspection

An initial Certificate of Inspection and Possession (CIP) is **not** required but may be beneficial in certain situations (e.g., encroachments, gaps, or overlaps identified on title evidence). A CIP is not required for mandatory acquisitions, unless the statute mandating the acquisition requires it.

If a CIP is conducted, the following should be completed early in the acquisition process:

- 1) Conduct an inquiry. Ask the landowner and any occupants whether there are any third-party rights encumbering the land.

⁶ If the Realty staff is a Tribal employee processing FTT acquisitions for a Tribe, it is a conflict of interest for the Tribal employee to prepare a RLDR for the Tribe; however, the Tribal employee can prepare a RLDR for an Individual Indian applicant.

- 2) Conduct a physical inspection of the land. Compare condition and use of property as described in submitted documents. Examples of things to check during inspection include:
 - Persons living on the property not shown as record owner(s).
 - Work being done by contractors.
 - Change in use other than noted in written request.
 - Lack of access to property.
 - Location of existing utility lines, roads, etc., not defined in title evidence.
- 3) Prepare a CIP. The CIP (including the inquiry and physical inspection, above) may be prepared by:
 - a duly authorized BIA or another federal employee; or
 - a Tribal employee or contractor, if they are not also an employee of the landowner, and the CIP is approved by BIA or another federal employee.⁷

The CIP may be completed using the appropriate TAAMS system generated form (see F9 FTT Certificate of Inspection & Possession (Form #1) and F10 FTT Certificate of Inspection & Possession (Form #2)). Form # 1 is designed to be completed by one individual. Form #2 is designed to be completed by two individuals -- one individual completes the inspection and the other individual inquiries with the landowner regarding use and any occupants. Also note the following:

- No portion of the CIP forms may be deleted or scratched out.
 - All blanks must be filled in.
 - If a particular blank is not applicable to an acquisition, it should be filled in with "N/A".
 - Both forms anticipate that additional information can and often will be added to the CIP, especially if the inspection or inquiry reveals possible possessory rights of others in the property.
- 4) Issues with CIP. If there are any issues identified in the CIP in relation to possessory rights or interests, consultation with the SOL may be needed prior to providing written notice.

⁷ Tribe A employee/contractor can complete a CIP for Tribe B.

Realty staff should send a notice to the applicant identifying the issues in the CIP and require curative action within 30 days of receipt of the notice. The applicant must provide documentation of curative action or submit a plan for curative action and request an extension of time within 30 days of receipt of the notice.

4.5 Preliminary Title Review (PTO)

A PTO is required and must be requested from the SOL by Realty staff within 30 days from receipt of a complete written request. A PTO is not required for mandatory acquisitions, unless the statute mandating the acquisition requires it. The PTO request should be in the form of a memorandum (see F12 FTT Request for PTO Memorandum) and the following documents should be attached:

- Title evidence, including supporting documentation that appears in Schedule B-II of a title commitment or policy and abstract (all items “of record”), and vesting deed (as listed above).
- A draft deed in trust to the United States, conforming to local statutory recording requirements.
- Property boundary and location maps, if applicable.
- Initial CIP *if one has been completed*.
- The written request for trust acquisition. If the applicant is an Indian Tribe, a Tribal resolution or other act of the governing body which adequately demonstrates it has been duly authorized by the Tribe.
- A copy of any agreement (such as a lease or right-of-way) currently applicable to the property or cited in title evidence.
- If the property is identified as a lot in a subdivision, a copy of the plat (which may contain restrictions) and, if there are any deed restrictions, a copy of each document that creates the restrictions.

Note: This step may need to be repeated upon request from the SOL or if there are material changes to the title evidence. If so, Realty staff will request an Interim Title Opinion (ITO) from the SOL.

4.6 Environmental Compliance Review

Any federal action, such as conveyance in trust, requires NEPA compliance. In order to expedite the process, the Realty staff should encourage applicants to provide any required NEPA documents for review and approval with the application package in order to allow time for reviewing the analysis. NEPA documents require approval by the agency/Tribal Environmental/Cultural Coordinator and approving official. Expertise in NEPA compliance can

usually be found at the local agency and/or regional office. Realty staff are encouraged to check with the Tribe for additional requirements from the Tribal Environmental and Historic Preservation Office. Environmental staff reviews and ensures the environmental document addresses the federal action and its potential environmental and adverse impacts, and that the document follows all applicable federal environmental, land use, historic preservation, and cultural resource laws and ordinances. Additionally, staff should verify that the environmental document has been signed by the appropriate authorizing officials, and that the document is not older than five years.

Realty staff should initiate all requests for NEPA and 59 IAM 5 compliance in the Tracking System for NEPA within 30 days of receipt of a complete written request, including:

- All relevant environmental documentation included in the written request must be submitted in the Tracking System for NEPA. Realty staff must update environmental staff on any changes to the written request.
- NEPA and 59 IAM 5 compliance review for every discretionary FTT transaction must be completed by environmental staff in the Tracking System for NEPA. Realty staff is responsible for retrieving and reviewing the documentation from the Tracking System for NEPA.

The Secretary will comply with the terms of 59 IAM 5, so long as such guidance remains in place and binding. If the Secretary approves a request for the acquisition of land in trust status, the Secretary may then require, before formalization of acceptance pursuant to 25 CFR 151.16, that the applicant provide information updating a prior pre-acquisition environmental site assessment conducted under 59 IAM 5.

If no Recognized Environmental Conditions (RECs) or other environmental issues of concern are identified in the pre-acquisition environmental site assessment, no additional assessment is needed prior to issuing a NOD.

If RECs or other environmental issues of concern are identified in the pre-acquisition environmental site assessment or before formalization of acceptance, the Secretary must notify the applicant and may seek additional information or action from the applicant to address such issues of concern.

Mandatory Acquisitions

The environmental review requirements of NEPA and 59 IAM 5 are **not** applicable to mandatory acquisitions, unless the statute mandating the acquisition requires it. Nevertheless, it is still important for the Department to understand any environmental hazards that might be present on the lands it must acquire or any potential legal liabilities. To do this, the BIA must perform the following:

- Within 30 days of receipt of a complete written request Realty staff must request an initial site inspection in the Tracking System for NEPA to satisfy its due diligence requirement.
- Environmental staff shall document the results of the site inspection.

However, completion of the initial site inspection and the findings of the inspection are not a precondition to approving the mandatory acquisition.

Note: If the acquisition is for the purposes of gaming, the environmental compliance review must be performed in accordance with guidance from the OIG and the Indian Gaming Regulatory Act.

4.7 Notice of Application

The NOA can be issued as soon as Realty staff receives a complete written request but within 15 days of receipt of a concurrence of the land description. The NOA is not applicable to mandatory acquisitions.

The NOA must be sent to the state and local governments with regulatory jurisdiction over the land to be acquired. The notice will inform the state or local government that each will be given 30 days to provide written comments to rebut the presumption of minimal adverse impacts to regulatory jurisdiction, real property taxes, and special assessments. If the state or local government responds within 30 days, a copy of the comments will be provided to the applicant, who will be given a reasonable time in which to reply if they choose to do so in their discretion, or request that the Secretary issue a decision. The NOA must be sent by certified mail, expedited delivery or courier service that provides delivery confirmation.

The notice should include the following information (see L6 FTT Notice of Land Acquisition Application):

- Applicant Name.
- Land Description; and
- General description of current use and purpose.

In consultation with the applicant, the option of posting the written request on a website to make it easily accessible to the public (with confidential information redacted) should be considered.

Note: This step may be repeated during the process, as needed, if a significant amount of time lapses between the date of the NOA and the Notice of Decision (NOD). Refer to Region for specific guidance.

4.8 Comments to Notice of Application

Realty staff must provide all written comments in response to the NOA to the applicant within

seven days after expiration of the comment period. Specifically, copies of all NOA comments should be provided to the applicant by certified mail, expedited delivery, or courier service that provides delivery confirmation, for their written response (see L7 FTT Notice of Application Comments). Not applicable to mandatory acquisitions.

The applicant is not required to respond. If the applicant chooses to respond the regulations state that the applicant has a reasonable amount of time to provide BIA its written response to the comments. BIA has determined that 30 days, with the opportunity for an extension, is a reasonable amount of time.

Chapter 5: Analysis and Notice of Decision

5.1 Clearance of PTO Objections

Realty staff will notify the applicant of the any objections within 15 days of receipt of the PTO. This is not applicable to mandatory acquisitions, unless the statute mandating the acquisition requires a PTO. The SOL may require the elimination of liens, encumbrances, or infirmities (i.e., defects) that make title to the land unmarketable prior to taking final approval action on the acquisition and will require elimination prior to such approval.

Notify the applicant of objections outlined in the PTO, but **DO NOT SEND THE PTO TO THE APPLICANT, AS IT IS ATTORNEY-CLIENT PRIVILEGED INFORMATION.**

- Require that the applicant provide documentation within 30 days to show that objections identified in the PTO have been cleared; or
- If an objection will require more than 30 days to clear, the applicant must submit a plan of curative action and request an extension of time within 30 days of receipt of the notice. If the applicant does not respond or follow through with curative action within the 30-day period or any granted extension(s), refer to “Section 3.4 Providing Notice of an Incomplete FTT application.”

5.2 Prepare package for Determination

- 1) Notify the applicant within 30 days in writing that the acquisition package is complete; and
- 2) Issue a decision on a request within 120 days after issuance of the notice of a complete acquisition package.

5.3 Providing Notice of Determination

For discretionary decisions the Secretary presumes that the Tribal community will benefit from the acquisition. The analysis and NOD must be based on the facts contained in the record. Include appeal language per 25 CFR Part 2, and correspond to the following factors in 151.9(a)-(d), 151.10(a)-(d), 151.11(a)-(c), or 151.12(a)-(d):

- The existence of statutory authority for the acquisition and any limitations contained in such authority. Consult with the SOL to prepare an analysis of whether the Tribal applicant was under federal jurisdiction in 1934 for inclusion in the decision, if applicable. BIA should consult with the SOL as early in the process as possible (i.e., as soon as BIA has determined an application is complete) so that the SOL has sufficient time to prepare an opinion.
- If the land is to be acquired for an individual Indian, the amount of trust or restricted land already owned by that individual, and the degree to which he/she needs assistance in handling their affairs.

- The purposes for which the land will be used.
- If the land to be acquired is in fee status, whether the BIA is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.
- If the land to be acquired is for establishing a Tribal land base or protecting Tribal homelands; protecting sacred sites or cultural resources and practices; establishing or maintaining conservation or environmental mitigation areas; consolidating land ownership; reducing checkerboarding; acquiring land lost through allotment, protecting treaty or subsistence rights; or facilitating Tribal self-determination, economic development, or Indian housing, or for other reasons the Secretary determines will support Tribal welfare, state that the Secretary gives greater weight to acquisitions that serve these needs. (See 25 CFR 151.9(b)).
- For requests involving land within or contiguous to the boundaries of an Indian reservation, or for an initial Indian acquisition, state the Secretary presumes the acquisition will further the Tribal interests described in the purpose and that the adverse impacts to local governments' regulatory jurisdiction, real property taxes, and special assessments will be minimal.
- Include information pertaining to the NOA:
 - o The date the NOA was sent to the state and local governments and if any written comments received.
 - o State that comments received in response to the NOA were sent to the applicant, and state if a reply was received from the applicant.
 - o Provide a brief description of the written comments and replies.
 - o State that all comments and replies received were considered and made a part of the record.

All gaming acquisition Findings of Fact must be prepared by Realty staff pursuant to the procedures outlined by OIG for preparation of a NOD for the AS-IA's consideration. The Findings of Fact must include a formal transmittal of the full administrative record to the OIG and be immediately transmitted after issuing.

After the decision has been approved, promptly address and send the original decision to the applicant with a copy to the state and local governments having regulatory jurisdiction and any interested parties that have made themselves known to the BIA in writing.

Mandatory Acquisitions

For mandatory decisions, the analysis and NOD must be based on the facts contained in the record. If a decision is made to deny the acquisition because the request does not satisfy the requirements of the mandatory acquisition authority, provide the written notice of the determination and notice of the right to appeal pursuant to 25 CFR Part 2 to the Tribe or individual Indian. If the decision is to proceed with the mandatory acquisition, address and send

the original decision to the applicant.

5.4 Issuance of Public Notice

After the decision has been issued, Realty staff with jurisdiction will promptly prepare a Public Notice of the decision to acquire land in trust pursuant to 25 CFR 151.13(d)(2)(iii) and the right to administratively appeal that decision (see F2 FTT Public Notice Superintendent Decisions, or F3 FTT Public Notice Regional Director Decisions).

The Public Notice must include the following:

- A statement that a decision to acquire land in trust has been made and that there is a 30-day administrative appeal period.
- A legal description of the land.
- Instructions on how to obtain a copy of the BIA decision, including a website and/or physical location where a copy of the decision will be available.

The Public Notice must be published in a newspaper of general circulation serving the affected area, when the approval is at the regional or BIA Agency level. Complete this step at the same time, or as closely as possible, to sending the original decision to the applicant.

Realty staff should ensure that a copy of the decision is publicly available on the website and/or at a physical location identified in the Public Notice.

After expiration of the 30-day appeal period (see [Attachment 6: Appeal Guidance](#) for more information), confirm whether an appeal has been filed with the IBIA. If an appeal has been filed with the IBIA, then consult with the SOL on next steps, including the preparation of the administrative record.

After the decision has been issued for a mandatory acquisition, *promptly*:

- Publish the Public Notice in a newspaper of general circulation serving the affected area, when the approval is at the Regional or Agency level.
- Make a copy of the decision publicly available on the website and/or at a physical location identified in the Public Notice and ensure a copy of the decision is available at that location by the time the Public Notice is published.

Once administrative remedies are exhausted and the decision is final for the Department, Realty staff will proceed.

Mandatory Decision

As near in time as possible to sending the original decision to the applicant, prepare a Public Notice of the mandatory acquisition, including:

- 1) A statement that BIA intends to acquire land in trust as required by a statute or judicial order and that there is a 30-day administrative appeal period.
- 2) A citation to the mandatory authority.
- 3) Instructions on how to obtain a copy of the BIA decision, including a website and/or physical location where a copy of the decision will be available.
- 4) A legal land description of the land.

Chapter 6: Approval and Recordation

6.1 Final Site Inspection, Environmental Review and Title Evidence

Final CIP

A final CIP is required and should be initiated as soon as the NOD is issued. Final CIPs prepared more than 180 days prior to acceptance are not acceptable. Complete the final CIP in the same manner as stated under “4.4 Initial Site Inspection” (above).

Compare the final CIP with the PTO and initial CIP (if completed).

If there are any issues identified in the final CIP in relation to possessory rights or interests, consultation with the SOL may be needed.

59 IAM 5

To comply with 59 IAM 5, the following specific components may need to be completed or updated within 180 days of acquisition: a) Interviews with owners, operators, and occupants; b) Searches for recorded environmental cleanup liens; c) Government records reviews; d) Visual inspections of the site and adjoining properties; and e) The declaration by an Environmental Professional that all appropriate inquiries into the previous ownership and uses of the property have been conducted.

Realty staff should submit a request for an update in the Tracking System for NEPA, if needed, and ensure that no recognized environmental conditions or other environmental issues of concern are identified in the update.

Title Evidence

To limit the potential liability of the United States against third parties, Realty staff should obtain updated title evidence from the applicant immediately prior to acceptance and either acknowledge or extinguish any new third-party rights accruing after the issuance of the PTO.

The updated title evidence should show that nothing has occurred since the PTO that might affect the title adversely. If there are material changes (e.g., additional exceptions, provisions, terms, conditions, or legal description changes) to the title evidence, then Realty staff will request an ITO from SOL.

Curative Actions

If there are any issues with the final CIP, 59 IAM 5, or title evidence requiring curative action, Realty staff should send a notice to the applicant within 30 days of receipt of the notice. The applicant must provide documentation of curative action or submit a plan for curative action and request an extension of time within 30 days of receipt of the notice.

Once the applicant provides curative action items, Realty staff will review the documentation

and determine if the departmental requirements have been met then proceed.

Not applicable to mandatory acquisitions, unless the statute mandating the acquisition so requires.

6.2 Acceptance of Conveyance

Realty staff must complete and review the following prior to formal acceptance:

- Final CIP.
- Compliance with 59 IAM 5 must be completed.
- Receipt of updated title evidence from the applicant immediately prior to formal acceptance and request an ITO if there are material changes to the title evidence.
- Confirmation that the file contains documentation that all PTO objections have been met.
- Confirmation that the fully executed deed to trust status is suitable for county recording and meets the requirements of the PTO.
- Compliance with 25 CFR Part 151.

Once the above has been satisfied, the formal acceptance of conveyance (AOC) must immediately be completed in TAAMS.

Note: All gaming acquisitions are approved by the AS-IA through the OIG guidance and procedures, and the AOC is completed by the applicable field office.

6.3 Recordation

This must be initiated as soon as the conveyance is accepted:

- 1) Realty staff must immediately notify the Land Titles and Records Office (LTRO) that the signed deed and AOC have been submitted through TAAMS for recording.
- 2) The processing office has the discretion to submit documents for recording in addition to the signed deed and AOC; upon receipt, the LTRO will also record these documents.
- 3) LTRO must record the signed deed and AOC (and any additional documents) within two business days of receipt of the notice above.

Realty staff will immediately send a request to the applicant to record the deed in the appropriate county recorder's office. Alternatively, if it is in the applicant's best interests, the BIA may record the deed in the appropriate county records office to assist the applicant.

6.4 Final Title Opinion

- 1) Obtain the original county-recorded deed and updated title evidence from the applicant.

Note: If the applicant does not provide the county-recorded deed and updated title evidence within 30 days, when requested by the appropriate realty office, LTROs must encode in TAAMS a standardized note on title that reads: “Final title evidence has not been provided and the United States cannot warrant title until such evidence is received.”

- 2) Realty staff will submit the county-recorded deed to the LTRO as a follow-up non-recordable document.
- 3) Realty staff must request a FTO from SOL immediately upon receipt of the original county-recorded deed and updated title evidence. The request should be in the form of a memorandum, noting whether the application was processed as on-reservation, contiguous, off-reservation, or an initial Indian acquisition, and the following documents should be attached:

- NEPA and 59 IAM 5 compliance;
- Copy of the county-recorded Deed in Trust and AOC;
- Final title evidence to the date of county recordation;
- PTO and ITO (if applicable);
- Land Description Review;
- Evidence of corrective actions including certifications of non-interference, disclaimers of interest or acknowledgements of interests or restrictions; and
- Final CIP.
- Affidavit of Publication (optional).

Note: LTROs are to remove the TAAMS encoded note when advised by the appropriate Realty Office in writing that an FTO has been received.

Chapter 7: Proclamation Requests

7.1 BIA Review of Reservation Proclamation Requests Received from Tribes

BIA's review of a reservation proclamation starts with the receipt of a request from a Tribe. Tribal requests for reservation proclamations for land that was already acquired in trust should be submitted to the BIA office with jurisdiction and must include:

- 1) A Tribal resolution requesting the reservation proclamation. The resolution should include:
 - A citation to Tribal authority for the action.
 - The legal land description for the land in question.
 - A brief justification for the reservation proclamation. For example, a Tribe may seek a reservation proclamation to clarify land status, or to support a request for funding from a state or federal agency.
 - A brief statement of the use for the land, such as housing or agricultural.
- 2) The request should include a map, plat, or survey that depicts the location of the subject land in relation to the present reservation, or other trust and restricted lands, where applicable.
- 3) A copy of the trust deed.

Within 10 days of receipt, Realty staff must complete a comprehensive review of the request for the items identified above. The authorized BIA official must formally acknowledge receipt of the request and notify DRES that a request has been received.

If the request is incomplete, Realty staff will need to identify missing documents and notify the applicant.

If the request is complete, Realty staff will do the following:

- Verify the acreage and legal land description in the Tribal resolution matches the TSR, the Legal Land Description Review (LDR), and the trust deed.
 - If they do not match, an explanation should be provided by the applicant for the discrepancy, if known.
 - If an LDR has not been previously issued, Realty staff must request an LDR from the BILS.

Note: legal land descriptions must be suitable for publication in the Federal Register and meet the requirements of the BLM's Specifications for Descriptions of Land: For use in Land Orders, Executive Orders, Proclamations, Federal Register Documents, and Land Description Databases (Revised 2017).

The Tribe may submit multiple trust parcels as one request or only a portion of a trust parcel to be proclaimed as reservation. If the Tribe requests that only a portion of the trust parcel be

proclaimed as reservation, the Tribal resolution must specify that fact and include the legal land description of only the requested portion. BIA should ensure the BILS provides a new LDR and legal land description for the requested portion.

Provide Notice Letter to State and Local Governments

A notice is required and must be prepared by Realty staff within 30 days of receipt of a complete request. The notice letter should be sent to state and local governments (see Attachment 7: Sample Notice of Reservation Proclamation Request). The notice letter will include the following information:

- A statement that the BIA has received a request to proclaim reservation status to certain lands.
- The legal land description(s) and map(s) of the parcel(s) requested to be proclaimed a reservation.
- A statement that the DOI Secretary may proclaim an Indian reservation or add lands to existing reservations, supported by a reference to Section 7 of the IRA of June 18, 1934 (48 Stat. 984; 25 U.S.C. § 5110).
- A statement that the Office of the AS-IA reviews all Tribal requests for adding land to a reservation and prepares the proclamation and notice for submission to the Federal Register.
- A statement that the letter provides a notice of the proposed action, and such action is simply an administrative function that allows the Tribe to take advantage of special federal assistance programs.

Prepare Reservation Proclamation Memorandum

The Regional Director is responsible for preparing a draft reservation proclamation memorandum to the BIA Director through DRES, Office of Trust Services, Central Office. The regional office will work with the BIA agency to ensure the proclamation memorandum is complete. The requirements for the reservation proclamation memorandum from the Regional Director through DRES to the BIA Director are as follows:

- State that the Tribal resolution from the Tribe is authorized by the Tribe's governmental organization.
- Provide a brief history of the land acquisition.
- Provide the acreage of the subject land, the statutory authority conferring trust status, and the date of trust status.

- Provide a legal land description of the subject land. If the TSR, the LDR, and the trust deed acreages and legal land descriptions do not match, state the reason.
- State whether any comments were received from the notices to state and local governments.
- If comments were received, describe the contents of the comments.
- Provide a justification and recommendation for reservation status.

Prepare Attachments for Reservation Proclamation Memorandum

This step addresses the required attachments for the reservation proclamation memorandum discussed above. Please provide the documents in the following order:

- 1) Copy of the resolution enacted by the Tribe that cites Tribal authority for action and requests the reservation proclamation.
- 2) Copy of the document(s) that transfers title of the property into trust status for the Tribe. Document(s) must clearly show date of approval for trust status covering subject land(s). In most cases, a trust deed with legal land description will suffice.
- 3) A plat, map, plot, or survey that depicts the location of the subject land in relation to the present reservation, or other trust or restricted lands. If a new reservation, provide a map showing subject land and current Tribal headquarters.
- 4) LDR of lands being proclaimed reservation.
- 5) Evidence that a notice of the proposed action has been provided by the BIA to the state, county, and municipal governments within whose jurisdiction such land is located, as required above.
- 6) Submission of any comments and/or remarks (resulting from the notices) received by the BIA.

Submission of proof of compliance with NEPA. Compliance with 59 IAM 5 is not required. Any federal action requiring approval by the Secretary must be evaluated for NEPA compliance. Based on the Tribe's intended use of the property, the action may qualify as a Reservation Proclamation Categorical Exclusion (CE: 516 DM 10.5 J) if there will be no changes in the use of the land. If so, only a Categorical Exclusion Exception Review (CEER) Checklist is needed. However, if the use of the property changes or extraordinary circumstances exist, an Environmental Assessment (EA) or Environmental Impact Statement (EIS) may be needed.

- 7) Certified TSR of lands being proclaimed reservation.

- 8) A Draft Briefing and Communication Plan for Department Clearance.
- 9) A Draft Reservation Proclamation document.
- 10) A Draft Federal Register Notice document.

Submit Reservation Proclamation Memorandum to the BIA Director

Once the reservation proclamation memorandum is complete, the Regional Director submits the memorandum and all supporting documents to DRES, OTS Central Office.

DRES reviews the proclamation memorandum within 10 days of receipt to ensure it is complete. Within 30 days, DRES will consult with the SOL and the regional BIA office, make a recommendation on the Tribe's request, and finalize a memorandum for signature by the BIA Director.

DRES will immediately submit the signed BIA Director memorandum to the AS-IA, who reviews the materials and determines whether to issue the reservation proclamation document. If the AS-IA decides to issue the reservation proclamation, notice of the decision is published in the Federal Register. DRES will provide a copy of the Federal Register notice and original signed proclamation to the BIA Regional Director.

Submit Reservation Proclamation for LTRO Recording

This step must be initiated as soon as the Federal Register notice and original signed proclamation are received by the BIA Regional Director. Within 10 days of receipt, Realty staff will submit the Federal Register notice and original signed proclamation to LTRO for recording as a new legal document. The LTRO should record the document as a Secretarial Order (SO).

Final Notification and Case Completion

The Regional Director will provide notice to the Tribe that the reservation proclamation request has been completed and will provide a copy of the Federal Register notice and original signed proclamation within 10 days of LTRO recording.

7.2 Concurrent Acquisition Reservation Proclamation Requests

BIA Review of Reservation Proclamation Requests Received from Tribes

When the BIA Regional Director has reviewed the reservation proclamation request for land that is not yet in trust and finds it is the subject of a pending FTT acquisition, the Regional Director must ensure the reservation proclamation request includes:

- 1) A Tribal resolution requesting the reservation proclamation. If the Tribe submitted a resolution as part of a FTT written request, the request can be included as part of the same Tribal resolution requesting that BIA acquire land in trust status. The resolution should include:

- A citation to Tribal authority for the action.
 - The legal land description for the land in question.
 - A brief justification for the reservation proclamation. For example, a Tribe may seek a reservation proclamation to clarify land status, or to support a request for funding from a state or federal agency.
 - A brief statement of the use for the land, such as housing or agriculture.
- 2) The written request must include a map, plat, or survey that depicts the location of the subject land in relation to the present reservation, or other trust and restricted lands, where applicable.

Within 10 days of receipt, Realty staff must complete a comprehensive review of the request for the items identified above. The authorized BIA official must formally acknowledge receipt of the request and notify DRES that a request has been received.

Provide Notice to State and Local Governments in FTT Decision

BIA should prepare a NOD and, in addition to the information required above, the following information should be included to meet the proclamation criteria of providing notice to state and local governments.

- A statement that the BIA has received a request from the Tribe to proclaim reservation status to certain lands that are the subject of the Tribe's FTT written request.
- The legal land description(s) and map(s) of the parcel(s) requested to be proclaimed a reservation.
- A statement that the DOI Secretary may proclaim an Indian reservation or add lands to existing reservations, supported by a reference to Section 7 of the IRA of June 18, 1934 (48 Stat. 984; 25 U.S.C. § 5110).
- A statement that the Office of the AS-IA reviews all Tribal requests for proclaiming a reservation or adding land to a reservation and prepares the proclamation and notice for submission to the Federal Register.
- A statement that the decision provides a notice of the proposed action, and such action is simply an administrative function that will allow the Tribe to take advantage of special federal assistance programs.
- A statement that a reservation proclamation may only be issued after the land is acquired in trust.

In addition to the information required above, when a BIA official issues the NOD, the following statement should also be included, see Attachment 8: Sample Reservation Proclamation Insert for BIA Notice of Decision:

- A statement that, immediately following the expiration of the 30-day administrative appeal period, if no appeal is filed, the BIA official will recommend that the AS-IA issue the recommended proclamation. If an appeal is filed, and a final decision is issued affirming the BIA official's decision, BIA will immediately recommend that the AS-IA issue the recommended proclamation.

Prepare Reservation Proclamation Memorandum

Regardless of whether the FTT decision is made by a BIA official or the AS-IA, the Regional Director is responsible for preparing a reservation proclamation memorandum to DRES. The BIA regional office will work with the BIA agency to ensure the application and proclamation memorandum are complete.

When the BIA official issues the FTT decision:

The Regional Director should prepare and submit a memorandum through DRES to the BIA Director within 10 days of acceptance of a trust deed.

When the AS-IA issues the FTT decision:

For non-gaming FTT acquisitions, the reservation proclamation memorandum should be prepared while the Regional Director prepares the FTT memorandum recommending whether the land should be taken into trust. The Regional Director should include the reservation proclamation language in the recommendation memorandum for the FTT acquisition.

For gaming FTT acquisitions, the reservation proclamation memorandum should be prepared while the Findings of Fact is prepared for the OIG prior to the AS-IA's issuance of a FTT decision. The Regional Director should include the reservation proclamation language in the Findings of Fact for the FTT acquisition.

Contents of the Regional Director's reservation proclamation memorandum:

- State that the Tribal resolution from the Tribe is authorized by the Tribe's governmental organization.
- Provide a brief history of the land acquisition.
- Provide the acreage of the subject land and, if the region issued the underlying FTT decision, the statutory authority conferring trust status and the date of trust status. If the land is not yet in trust, note that the trust deed will be provided immediately upon issuance.

- Provide a legal land description of the subject land. If the TSR, the LDR, and the trust deed acreages and legal land description do not match, state the reason.
- State whether the reservation proclamation language (see Attachment 8) was included in the NOD.
- State whether any comments were received from the notices to state and local governments.
- Provide a justification and recommendation for reservation status.

Prepare Attachments for Reservation Proclamation

This step addresses the required attachments for the reservation proclamation memorandum discussed above. Please provide the documents in the following order:

- 1) Copy of the resolution enacted by the Tribe that cites Tribal authority for action and requests the reservation proclamation.
- 2) For Track A, a copy of the document(s) that transfer(s) title of the property into trust status for the Tribe. Document(s) must clearly show date of approval for trust status covering the subject land(s). In most cases, a trust deed with legal land description will suffice.
- 3) A plat, map, plot, or survey that depicts the location of the subject land in relation to the present reservation, or other trust or restricted lands.
- 4) LDR of the lands being proclaimed reservation.
- 5) For Track A, evidence that a notice of the proposed action has been provided by the BIA to the state, county, and municipal governments within whose jurisdiction such land is located, as required when issuing the NOD.
- 6) Submission of any comments and/or remarks (resulting from the notices) received by the BIA.
- 7) Submission of proof of compliance with NEPA. Compliance with 59 IAM 5 is not required. Any federal action requiring approval by the Secretary must be evaluated for NEPA compliance. Based on the Tribe's intended use of the property, the action may qualify as a Reservation Proclamation Categorical Exclusion (CE: 516 DM 10.5 J) if there will be no changes in the use of the land. If so, only a Categorical Exclusion Exception Review (CEER) Checklist is needed. However, if the use of the property changes or extraordinary circumstances exist, an Environmental Assessment (EA) or Environmental Impact Statement (EIS) may be needed.
- 8) Certified TSR of the lands being proclaimed reservation.

9) A Draft Briefing and Communication Plan for Department Clearance.

10) A Draft Reservation Proclamation document.

11) A Draft Federal Register Notice document.

Submit Reservation Proclamation Memorandum

If the BIA official issues the FTT decision:

Once the reservation proclamation memorandum is complete, the Regional Director should submit it to DRES within 10 days of approving the trust deed.

DRES reviews the proclamation memorandum within 10 days of receipt to ensure it is complete. Within 30 days, DRES will consult with the SOL and the regional BIA office, make a recommendation on the Tribe's written request, and finalize a memorandum for signature by the BIA Director.

DRES will immediately submit the signed BIA Director memorandum to the AS-IA, who reviews the materials and determines whether to issue the reservation proclamation document. When the AS-IA issues the reservation proclamation, notice of the decision is published in the Federal Register. DRES will provide a copy of the Federal Register notice and original signed proclamation to the BIA Regional Director.

If the AS-IA issues the FTT decision:

For non-gaming FTT acquisitions, the Regional Director should submit the reservation proclamation memorandum and the FTT memorandum recommending whether the land should be taken into trust to DRES.

For gaming FTT acquisitions, the Regional Director should submit the reservation proclamation memorandum to the DRES and the Findings of Fact with the proclamation language to the OIG.

If AS-IA approves the decision, the notice of decision is published in the Federal Register. DRES will immediately provide a copy of the notice of decision and published Federal Register notice to the Regional Director for completion. The Regional Director must transmit the approved trust deed to DRES within 10 days. DRES reviews the proclamation memorandum within 10 days of receipt of the approved trust deed to ensure it is complete. Within 30 days, DRES will consult with the SOL and the regional BIA office and finalize a memorandum for signature by the BIA director.

DRES will immediately submit the signed BIA Director memorandum to the AS-IA, who reviews the materials and determines whether to issue the reservation proclamation document. When the AS-IA issues the reservation proclamation, notice of the decision is published in the Federal Register. DRES will provide a copy of the Federal Register notice and original signed

proclamation to the BIA Regional Director.

Submit Reservation Proclamation for LTRO Recording

This step must be initiated as soon as the Federal Register notice and original signed proclamation are received by the BIA Regional Director. Within 10 days of receipt, Realty staff will submit the Federal Register notice and original signed proclamation to LTRO for recording as a new legal document. The LTRO shall record the document as a SO.

Final Notification and Case Completion

The Regional Director will provide notice to the Tribe that the reservation proclamation request has been completed and will provide a copy of the Federal Register notice and original signed proclamation within 10 days of LTRO recording.

Chapter 8: Administrative Appeals and File Maintenance

A decision is not a final agency action until administrative remedies are exhausted under 25 CFR Part 2 and under 43 CFR Part 4, subpart D, or until the time for filing a notice of appeal has expired and no administrative appeal has been filed. Administrative appeals are governed by 25 CFR Part 2 and by 43 CFR Part 4, subpart D.

The administrative appeal period begins on:

- the date of receipt of written notice by the applicant or interested parties entitled to notice or;
- the date of first publication of the notice for unknown interested parties

Any party who wishes to seek judicial review of an official's decision must first exhaust administrative remedies under 25 CFR Part 2 and under 43 CFR Part 4, subpart D.

If there is an appeal, the file is placed in suspended status.

There must be no further action taken on the FTT until all administrative remedies have been exhausted and a final decision regarding the appeal has been rendered. Depending on the outcome of the appeal, the FTT file is either closed and no further action is taken, or the FTT process is continued. While the file is in a suspended status, an Administrative Appeals case file is established for all incoming documentation regarding the appeal. Once the appeal has been decided, the appeal decision will be incorporated within the FTT file.

The decision-maker must compile an administrative record in order to defend a decision on an appeal before the Regional Director or IBIA. The DOI SOL issued an internal memorandum with standardized guidance on compiling an administrative record dated June 27, 2006. Please contact the SOL for any applicable revisions or updates.

The Regional Director will issue a decision on an appeal from a FTT decision within 90 days of receipt of all pleadings. A decision from the IBIA is likely to take longer.

8.1 Administrative Appeals

The regulations at 25 CFR 2.213 and 43 CFR 4.335 require the BIA to assemble and transmit the record within 20 days after receipt of a notice of appeal or upon request or notice from the decision maker or the IBIA.

The following is key guidance for preparing an administrative record:

1. Assemble the Administrative Record

- It is best to assemble the administrative record during the course of decision making rather than after the fact upon receipt of a notice of appeal.

- Consists of original documentation (not photocopies).
- Documents are to be placed in reverse chronological order by date issued or date received with the most recent document on top.
- All documents should be single-sided without staples, dated, and legible.
- Each document must be individually separated and tabbed with the number corresponding to the index.

2. Prepare an Index

- An index references the contents of the administrative record.
- Each document tab number in the folder must correspond to the number on the index.
- Enter the document date, the subject matter, and the number of pages of each document.
- No document should be added or removed from the administrative record.
- Any additional pre-decisional documents discovered after the administrative record has been submitted should be sent to the SOL for possible supplementation to the administrative record.
- Include a privilege log for all privileged materials and indicate the material withheld or redacted and a brief justification.

3. SOL Review/Approval

- Send a paper copy (not electronic) of the administrative record with the index to the SOL for review/approval.
- After the administrative record is approved, prepare exact duplicates for the office's use as a working file while the matter is under appeal, and for the SOL use in handling the appeal.

If any other office is involved, also prepare a duplicate file for that office.

8.2 Decision Letter and Files

The BIA will maintain the record on its decision to approve or deny a FTT application. Even if a BIA letter is not classified as a decision, it may be considered a decision if it has the effect of denying relief to an appellant or otherwise adversely affecting someone.

Additionally, the following guidance should be followed by Realty staff relative to

documentation and files:

- Written contemporary records are preferable to reconstructed statements.
- A Log Sheet should be created for each file to document activities associated with the file/project.
- **ONLY** include the records that were considered directly or indirectly by the approving official when he/she made the decision.
- The decision should appear in the first paragraph of the decision letter.
- A decision should be clearly identified as a decision.
- A decision should be distinguished from other forms of communication, such as an informational letter.
- Subject matter of the decision should be clearly described.
- After discussion, explain the ruling in more detail if appropriate.
- The end of the decision must inform the addressee of procedures for appeal under 25 CFR Part 2 and include the language provided in 25 CFR § 2.104.

If BIA cannot find an address for a non-Indian, the person's name should be included on the distribution sheet and their address should be typed as "unknown.". If the person is an Indian and their address is unknown or in estate, a copy of the decision letter is sent in "care of" the Superintendent at their home agency.

All known addresses, unknown addresses, and those in care of the Superintendent's address must be typed out and attached to the decision under cc: See Distribution List.

When preparing the Administrative Record, **DO NOT** include the memorandum requesting the Administrative Record.

Chapter 9: Case Closeout

Realty staff must initiate this as soon as the LTRO has been notified that an FTO has been received:

- 1) Return the original recorded documents to the office that is responsible for maintaining custody of the record in accordance with the BIA records schedule.
- 2) Provide a copy of the recorded documents to the applicant.
- 3) Provide a certified Title Status Report (TSR) as evidence of active title and ownership to the applicant.
- 4) Provide a recorded copy of the deed showing trust status to the BLM to update their records.
- 5) Close out the electronic case file in the FTT system of record.

Definitions

For the definition of terms used in this handbook, refer to the definitions section in 25 CFR Part 151 as well as those provided in this section.

Discretionary trust acquisition means a trust acquisition authorized by Congress that does not require the Secretary to acquire title to any interest in land to be held by the United States in trust for an individual Indian or a Tribe. The Secretary has discretion to accept or deny the acquisition.

Encumbrance is any burden, obstruction, or impairment on the use of the land that depreciates it in value or impedes its transfer, such as an easement, lien, mortgage, or deed, or claim, or any other restriction of any kind.

Gaming acquisition means the acquisition of lands where the actual gaming operations will occur. This does not include lands that are acquired to supplement the actual lands the gaming establishment will or does reside upon. This does not include parcels acquired for parking lots, hotels, golf courses, gift shops, etc.

Mandatory trust acquisition is a trust acquisition directed by Congress or a judicial order that requires the Secretary to accept title to land by the United States to hold in trust for an individual Indian or Tribe. The Secretary does not have the discretion to accept or deny the acquisition.

Reservation Proclamation means a formal declaration issued by the Secretary or designee proclaiming that certain lands are a new reservation or an addition to an existing reservation. A reservation proclamation can encompass multiple trust parcels, or a portion of a parcel taken into trust.

Trust acquisition is the act or process by which the Secretary acquires title to any interest in land to be held in trust by the United States for the benefit of an individual Indian or a Tribe.

Acronyms

AIPRA	American Indian Probate Reform Act
ALTA	American Land Title Association
AOC	Acceptance of Conveyance
AR	Administrative Record
AS-IA	Assistant Secretary – Indian Affairs
BIA	Bureau of Indian Affairs
BILS	BLM Indian Land Surveyor
BLM	Bureau of Land Management
CATEX	Categorical Exclusion
CFR	Code of Federal Regulations
CIP	Certificate of Inspection and Possession
DM	Department Manual
DOI	Department of the Interior
DOJ	Department of Justice
DRES	Division of Real Estate Services
EA	Environmental Assessment
EIS	Environmental Impact Statement
ECRM	Environmental Compliance Review Memorandum
FTT	Fee-to-trust
FTO	Final Title Opinion
FONSI	Finding of No Significant Impact
GDEV	Geodata Examination & Validation
GIS	Geographic Information Systems
IA	Indian Affairs
IAM	Indian Affairs Manual
IBIA	Interior Board of Indian Appeals
IGRA	Indian Gaming Regulatory Act
IRA	Indian Reorganization Act
ITO	Interim Title Opinion
LBS	Lot Block Subdivision
LDEV	Land Description Examination & Validation
LDR	Legal Land Description Review
LTRO	Land Titles and Records Office
NEPA	National Environmental Policy Act
NOA	Notice of Acquisition
NOI	Notice of Incomplete
NOD	Notice of Decision
OIG	Office of Indian Gaming
PILT	Payment in Lieu of Taxes
POC	Point of Contact
PTO	Preliminary Title Opinion
RLDR	Realty Land Description Review

SO	Secretarial Order
SOL	Office of the Solicitor
TAAMS	Trust Asset and Accounting Management System
TSR	Title Status Report

Attachment 1: Fee-to-Trust Required Elements

Fee-to-Trust Required Elements

<i>All applicants should submit:</i>	Y	N	Comment
Written Request			
A statement that the applicant is requesting approval of a trust acquisition by the United States of America for their benefit			
Identification of applicant(s). If the applicant is a Tribe, the written request must state the Tribal name as it appears in the list of <i>Indian Entities Recognized and Eligible to Receive Services From the United States Bureau of Indian Affairs</i> as published in the Federal Register, or as it appears in a federally approved Tribal Constitution			
Legal land description. This is a description of real property in legally acceptable terms that is definite, legally defensible, and susceptible to only one interpretation			
The purpose for which the property is to be used, and the current use of the property			
If the applicant is a Tribe, a Tribal resolution or other act of the governing body of the Tribe			
A map depicting the boundary and general location of the subject property			
A draft Deed for the acquisition. The deed must conform to local statutory recording requirements			
Vesting deed or conveyance instrument			
Title evidence meeting the requirements of 151.13			
Copies of any documents cited in the title evidence, the land description, and on a Record of Survey			
<i>Individual applicants should also submit:</i>			
Evidence of eligible Indian status of the applicant			
Amount of trust or restricted Indian land already owned by the applicant			
Information or a statement from the applicant addressing the degree which the applicant needs assistance in handling their affairs			
Written Tribal consent for nonmember acquisitions must be provided when the applicant is an individual who is not a member of the Tribe with jurisdiction and does not already own an undivided trust or restricted interest in the parcel of land to be acquired			
<i>Tribal applicants may also submit:</i>			
Any information in support of the Tribal applicant being “under Federal jurisdiction” in 1934			
Any documentation describing efforts taken to address identified jurisdictional problems and potential conflicts of land use that may arise as a result of the FTT acquisition			
Any signed cooperative agreements relating to the FTT acquisition. Examples include utilities, fire protection, and solid waste disposal			
Agreements that have been negotiated with the State or local government. An example is payment in lieu of taxes (PILT)			
Description of those services not required of the state or local government(s) to the property because they are provided by the Tribal government			

Note: The BIA may request additional information or action requested by the Secretary, in writing, if warranted by the specific acquisition. For Mandatory Acquisitions refer to applicable policy and guidance to determine which elements are appropriate.

Attachment 2: FTT Frequently Asked Questions

Pre-submission

1. What is a FTT land acquisition?

A FTT land acquisition is a transfer of land title from an eligible Indian Tribe or eligible Indian individual(s) to the United States of America, in trust for the benefit of the eligible Indian Tribe or eligible Individual Indian(s).

2. Who is eligible to apply for a FTT land acquisition?

Indian Tribes and Individual Indians who meet the requirements established by federal statutes and further defined in federal regulations are eligible to apply for a FTT land acquisition. See 25 Code of Federal Regulations (CFR) § 151.3; 25 U.S.C. § 5129 and 2201.

3. If you are eligible, how do you submit a request?

All requests for a FTT acquisition must be in writing and specifically request that the Secretary of the Interior take land into trust for the benefit of the applicant. If you are an eligible Indian Tribe, the request must be supported by a Tribal Resolution or other act of the governing body. See 25 CFR § 151.8.

4. Where should an eligible applicant submit a written request?

Written requests shall be submitted to the Bureau of Indian Affairs (BIA) office that has jurisdiction over the land. If the applicant does not know which BIA office has jurisdiction over the lands the applicant should view the map of the regions at <https://www.bia.gov/regional-offices>

5. What information should be included in the written request?

Written request should include the following information: (1) A signed statement that the applicant is requesting approval of a trust acquisition by the United States of America for their benefit; (2) Identification of applicant(s). If the applicant is a Tribe, the written request must state the Tribal name as it appears in the list of *Indian Entities Recognized and Eligible to Receive Services From the United States Bureau of Indian Affairs* as published in the Federal Register, or as it appears in a federally approved Tribal Constitution and include support by tribal resolution or other act of the governing body of the Tribe; (3) A statement identifying the existence of statutory authority for the acquisition; (4) Legal land description. This is a description of real property in legally acceptable terms that is definite, legally defensible, and susceptible to only one interpretation; (5) If the applicant is an individual, the need of the applicant for additional land the amount of trust or restricted land already owned by or for that individual, and the degree to which the individual needs assistance in handling their affairs; and (6) The purpose for which the property is to be used, and the current use of the property.

6. What information is the applicant required to provide to accompany the written request for a FTT acquisition?

The following information must accompany all requests: (1) a Tribal resolution or other act of the governing body of the Tribe, if the applicant is a Tribe; (2) A map depicting the boundary and general location of the subject property; (3) A draft Deed for the acquisition that conforms to

local statutory recording requirements; (4) Vesting deed or conveyance instrument; (5) Title evidence meeting the requirements of 151.14; and (6) Copies of any documents cited in the title evidence, the land description, and on a Record of Survey; and if the applicant is a Tribe who is not the Tribe with jurisdiction and does not already own an undivided trust or restricted interest in the parcel of land to be acquired, written consent from the tribe with jurisdiction must be provided for the acquisition by the applicant tribe.

The following information must accompany individual requests: (1) Evidence of eligible Indian status of the applicant; (2) Amount of trust or restricted Indian land already owned by the applicant; (3) Information or a statement from the applicant addressing the degree which the applicant needs assistance in handling their affairs; and (4) Written Tribal consent for nonmember acquisitions must be provided when the applicant is an individual who is not a member of the Tribe with jurisdiction and does not already own an undivided trust or restricted interest in the parcel of land to be acquired.

The following information may accompany tribal requests: (1) Any information in support of the Tribal applicant being “under Federal jurisdiction” in 1934; (2) Any documentation describing efforts taken to address identified jurisdictional problems and potential conflicts of land use that may arise as a result of the FTT acquisition; (3) Any signed cooperative agreements relating to the FTT acquisition. Examples include utilities, fire protection, and solid waste disposal; (4) Agreements that have been negotiated with the State or local government. An example is payment in lieu of taxes (PILT); and (5) Description of those services not required of the state or local government(s) to the property because they are provided by the Tribal government.

7. What laws, regulations and standards apply to a FTT acquisition?

There are different laws and statutes that must be satisfied. Most acquisitions are authorized under 25 USC § 5108, Section 5 Indian Reorganization Act (1934) and reviewed under 25 CFR § 151. However, the Department of the Interior must comply with all applicable federal laws and statutes including any amendments thereto. Additionally, compliance with NEPA, 59 IAM 5, National Historical Preservation Act (NHPA), see 25 CFR § 151.15. In addition, US Department of Justice Title Standards if requested by the applicant, see 25 CFR § 151.14.

Post Submission

8. What happens after the written request has been received by BIA?

Within 10 days of receipt BIA will complete a comprehensive review of the written request and formally acknowledgement receipt of the request. If the request is incomplete, BIA will identify the missing documents and notify the applicant.

9. What are the applicant’s responsibilities if they receive a notice of an incomplete request from the Bureau of Indian Affairs requesting additional information?

The applicant must reply back to the BIA within the time frames identified in the written correspondence requesting additional information. All correspondence from the BIA requesting additional information will include each specific document needed to proceed with processing and will include the specific time the applicant has to provide the requested information. It is very important that applicant maintains written communication with the BIA throughout the

process when the applicant is contacted by the BIA. If the applicant needs additional time to respond to a request from the BIA for additional information, they must contact the BIA as soon as possible and make the request for an extension of time in writing. The BIA will reasonably accommodate requests from the applicant for additional time to provide information and will notify the applicant in writing of the decision regarding the applicant's request.

10. What happens if I do not respond?

If the applicant does not respond in the time stated in the letter or any extension, BIA will return the written request as incomplete and close the case.

11. Are there entities that will be provided notice of a FTT acquisition?

Yes. State and local governments, including Tribal governments having regulatory jurisdiction over the land contained in the written request, will be provided notice of the acquisition request. The notice will inform the entities that each will be given 30 days in which to provide written comments as to the acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments.

12. How will FTT acquisition requests be evaluated?

Each written request will be evaluated by the official authorized to accept the FTT acquisition to determine if the applicable criteria defined in 25 CFR 151.9 (on-reservation), 25 CFR 151.10 (contiguous), 25 CFR 151.11 (off-reservation), and 25 CFR 151.12 (initial Indian acquisition) have been addressed. All decisions to accept or deny a FTT acquisition shall be in writing. If the acquisition is denied, the applicant will be advised of the reasons for the denial, notified of the right to appeal the decision, and notified where the appeal must be filed.

13. How long does the acquisition process take?

The length of time to complete the process varies depending on the required steps and complexity of the request. The required steps differ for on-reservation, contiguous, off-reservation, and initial Indian trust acquisitions as well as mandatory or discretionary trust acquisitions.

14. Can I get an update on the progress of my written request?

Yes, you may request an update at any time. BIA tracks the steps and progress of all requests. BIA will provide you an update upon request.

15. What is a Reservation Proclamation?

A formal declaration issued by the Secretary or designee proclaiming that certain lands are a new reservation or an addition to an existing reservation. A reservation proclamation can encompass multiple trust parcels, or a portion of a parcel taken into trust.

Attachment 3: Discretionary FTT Quick Reference Guide

DISCRETIONARY FEE-TO-TRUST QUICK REFERENCE GUIDE

Encode into TAAMS	Analysis and NOD
Within 3 days from receipt of written request	Notify the applicant within 30 days in writing that the acquisition package is complete.
Written Request and Package Review	Within 120 days of a complete application package.
Send Acknowledgment Letter	Public Notice
Within 10 days from receipt of written request	At the same time, or as closely as possible to sending the original decision to the applicant
Request LDEV	Final CIP, 59 IAM 5, Title Evidence
Within 10 days from receipt of written request	As soon as the NOD issued and no later than 7 days after expiration of appeal period
Complete LDEV	AOC
Within 30 days from receipt of LDEV request (30-day extension)	Immediately upon completion of departmental requirements listed
Complete RLDR	Submit for recording
Within 30 days from receipt of complete written request	As soon as the conveyance is accepted. Within 2 business days of receipt of the recording notice
Notice of Incomplete	Provide deed to applicant for County recording immediately upon LTRO recordation of the conveyance
Within 10 days from determining a request is incomplete	Request FTO
Final Notice of Incomplete	Immediately upon receipt of the county-recorded deed and updated title evidence
Immediately after expiration of the Initial Notice response period	Complete Acquisition
Return Incomplete	As soon as the LTRO has been notified that an FTO has been received
Immediately after expiration of Final Notice response period	
Initial CIP	
Optional, but may be completed early in the acquisition process	
Request PTO	
Within 30 days from receipt of a complete written request	
Issue NOA	
Within 15 days of receipt of a valid LDEV/RLDR	
Request NEPA and 59 IAM 5	
Within 30 days of receipt of a complete written request	
Provide NOA Comments	
Within 7 days after expiration of comment period	
Provide PTO objections	
Within 15 days of receipt of the PTO	

Note: For Mandatory Acquisitions refer to applicable policy and guidance.

Attachment 4: Mandatory FTT Quick Reference Guide

MANDATORY FEE-TO-TRUST QUICK REFERENCE GUIDE

Encode into TAAMS	
Within 3 days from receipt of written request	
Written Request and Package Review	
Send Acknowledgment Letter	
Within 10 days from receipt of written request	
Request LDEV	
Within 10 days from receipt of written request	
Complete LDEV	
Within 30 days from receipt of LDEV request (30-day extension)	
Complete RLDR	
Within 30 days from receipt of complete written request	
Notice of Incomplete	
Within 10 days from determining a request is incomplete	
Final Notice of Incomplete	
Immediately after expiration of the Initial Notice response period	
Return Incomplete	
Immediately after expiration of Final Notice response period	
Initial CIP	
Refer to applicable policy and guidance	
Request PTO	
Within 30 days from receipt of a complete written request	
Issue NOA	
Not applicable to mandatory acquisitions	
Request NEPA and 59 IAM 5	
Not applicable to mandatory acquisitions, unless the statute mandating the acquisition so requires	
Provide NOA Comments	
Not applicable to mandatory acquisitions	
Provide PTO objections	
Not applicable to mandatory acquisitions, unless the statute mandating the acquisition so requires	
Analysis and NOD	
Notify the applicant within 30 days in writing that the acquisition package is complete.	
Within 120 days of a complete application package.	
Public Notice	
At the same time, or as closely as possible to sending the original decision to the applicant	
Final CIP, 59 IAM 5, Title Evidence	
Not applicable to mandatory acquisitions, unless the statute mandating the acquisition so requires.	
AOC	
Immediately upon completion of departmental requirements listed	
Submit for recording	
As soon as the conveyance is accepted. Within 2 business days of receipt of the recording notice	
Provide deed to applicant for County recording immediately upon LTRO recordation of the conveyance	
Request FTO	
Not applicable to mandatory acquisitions, unless the statute mandating the acquisition so requires	
Complete Acquisition	
As soon as the LTRO has recorded the documents	

Note: For Discretionary Acquisitions refer to applicable policy and guidance.

Attachment 5: Mandatory AIPRA FTT Quick Reference Guide

AIPRA FEE-TO-TRUST QUICK REFERENCE GUIDE

Encode into TAAMS	Analysis and NOD
Within 3 days from receipt of written request	Not applicable to mandatory AIPRA acquisitions
Written Request and Package Review	Public Notice
Send Acknowledgment Letter	Not applicable to mandatory AIPRA acquisitions
Within 10 days from receipt of written request	Final CIP, 59 IAM 5, Title Evidence
Request LDEV	Not applicable to mandatory AIPRA acquisitions
Not applicable to mandatory AIPRA acquisitions	AOC
Complete LDEV	Immediately upon completion of departmental requirements listed
Not applicable to mandatory AIPRA acquisitions	Submit for recording
Complete RLDR	As soon as the conveyance is accepted. Within 2 business days of receipt of the recording notice
Not applicable to mandatory AIPRA acquisitions	Provide deed to applicant for County recording immediately upon LTRO recordation of the conveyance
Notice of Incomplete	Request FTO
Within 10 days from determining a request is incomplete	Not applicable to mandatory AIPRA acquisitions
Final Notice of Incomplete	Complete Acquisition
Immediately after expiration of the Initial Notice response period	As soon as the LTRO has recorded the documents
Return Incomplete	
Immediately after expiration of Final Notice response period	
Initial CIP	
Not applicable to mandatory AIPRA acquisitions	
Mandatory AIPRA Determination	
Within 10 days from receipt of a complete written request obtain evidence from TAAMS that some portion of the property was in trust on November 7, 2000	
Issue NOA	
Not applicable to mandatory AIPRA acquisitions	
Request NEPA and 59 IAM 5	
Not applicable to mandatory AIPRA acquisitions	
Provide NOA Comments	
Not applicable to mandatory AIPRA acquisitions	
Provide PTO objections	
Not applicable to mandatory AIPRA acquisitions	

Note: For Discretionary Acquisitions refer to applicable policy and guidance.

Attachment 6: Appeal Guidance

* When does the 30-day appeal period expire?

For:	The 30-day appeal period expires:
All interested parties who have made themselves known in writing to the BIA prior to the decision being made	30 days after such interested party receives a copy of the decision
All state and local governments having regulatory jurisdiction over the land to be acquired	30 days after such state or local government entity receives a copy of the decision
All other persons and entities	30 days after publication of the Public Notice in a newspaper of general circulation

To the greatest extent possible, these 30-day appeal periods should be timed to run at the same time and should never run back-to-back. In other words, the Public Notice should be published as close in time as possible to the notice of decision date.

If the Public Notice is provided several days after the notice of decision is provided to interested parties or state or local government entities:

- The issuance of Public Notice does not extend the time for interested parties or state or local government entities who received actual written notice to file an appeal.
- The 30-day appeal period (for all other persons and entities) provided by the Public Notice will extend beyond the interested parties' or state or local government entities' 30-day appeal period.
- **Wait until the expiration of the latest 30-day appeal period before proceeding with this step.**

If an interested party or state or local government entity receives a notice of decision after other parties or after the Public Notice is published:

- The 30-day appeal period for that interested party or state or local government entity extends beyond the 30-day appeal period provided by the other notices and Public Notice.

Wait until the expiration of the latest 30-day appeal period before proceeding with this step

Attachment 7: Sample Notice of Reservation Proclamation Request

NOTICE OF RESERVATION PROCLAMATION REQUEST

Applicant

[TRIBE NAME]

Legal Land Description/Site Location:

[LEGAL LAND DESCRIPTION]

[ACREAGE], more or less.

[PARCEL ID]

[ADDRESS IF AVAILABLE]

Project Description/Proposed Land Use:

The [OFFICE] has under consideration a request by the [TRIBE] that the lands described above be proclaimed “reservation” pursuant to Section 7 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984, 986; 25 U.S.C. § 5110), which provides that the Secretary of the Interior may proclaim an Indian reservation or add lands to existing reservations. The Office of the Assistant Secretary – Indian Affairs reviews all requests for adding land to a reservation and prepares the proclamation and Federal Register notice. A Proclamation is simply an administrative function that allows the Tribe to take advantage of special federal assistance programs.

[DESCRIBE CURRENT AND PROPOSED USE OF PROPERTY]

This letter provides official notice of the proposed action. Should you have any questions, please contact [POINT OF CONTACT].

Sincerely,

Regional Director [Superintendent]

BY CERTIFIED MAIL:

[Governor’s address]

9171 9690 0935 0036 0684 39

[County admin address] 9171 9690 0935 0036 0684 46

[Mayor or town board address] 9171 9690 0935 0036 0684 53

[Other interested party address] 9171 9690 0935 0036 0684 60

BY FIRST CLASS MAIL:

[Tribe point of contact address]

Attachment 8: Sample Reservation Proclamation Insert

SAMPLE RESERVATION PROCLAMATION INSERT FOR BIA NOTICE OF DECISION

The Tribe has also requested that certain lands be proclaimed “reservation” pursuant to Section 7 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984, 986; 25 U.S.C. § 5110), which provides that the Secretary of the Interior may proclaim an Indian reservation or add lands to existing reservations. A Proclamation is simply an administrative function that allows the Tribe to take advantage of federal assistance programs. The Office of the Assistant Secretary – Indian Affairs reviews all requests for adding land to a reservation and prepares the proclamation and Federal Register notice.

BIA has reviewed the Tribe’s Proclamation request and has determined that, immediately following the expiration of the 30-day administrative appeal period, if no appeal is filed, the BIA official will recommend that the Assistant Secretary – Indian Affairs issue the Proclamation. If an appeal is filed, and a final decision is issued affirming the BIA official’s decision, BIA will immediately recommend that the Assistant Secretary – Indian Affairs issue the Proclamation. Reservation proclamations will only be issued after land is acquired in trust.