



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS

Washington, D.C. 20240

National Policy Memorandum

Office of Trust Services
Division of Real Estate Services

Number: NPM-TRUS-42

Effective: 3/17/2022

Expires 3/17/2023

Title: Administrative Fees – Retention and Collection for Certain Goods and Services for Real Estate Services

1. Purpose

The purpose of the memorandum is to establish policy and standardize internal controls for collecting, tracking, and retaining administrative fees for certain goods and services for real estate services provided by the Bureau of Indian Affairs (BIA) on behalf of Indian Tribes. For some time, the subject of BIA's ability to collect, track, and retain fees has caused confusion and has created risk for BIA that it may be violating the Antideficiency Act. This policy clarifies BIA's authority to collect under 25 U.S.C. § 413 and retain certain administrative fees for realty transactions under 25 U.S.C. § 14b.

BIA is authorized under 25 U.S.C. § 413 to collect reasonable fees to cover the cost of any and all work performed for Indian tribes or for individual Indians. Such fees are to be paid by vendees, lessees, or assignees, or deducted from the proceeds of sale, leases, or other sources of revenue. Any fees collected must be deposited into the Treasury as miscellaneous receipts, except when the expenses were paid from Indian Tribal funds, in which case they must be credited to such funds. However, fees collected in relation to goods and services provided by BIA to non-Federal users may be retained pursuant to 25 U.S.C. § 14b.

Although BIA does not have the authority to collect fees under 25 U.S.C. § 14b, it may retain fees it has collected under 25 U.S.C. § 413, as long as the fees were received from the public in return for goods or services that BIA provided. Under 25 U.S.C. § 14b, the Secretary of the Interior is authorized to retain collections from the public in payment for goods and services provided by the BIA. Such collections must be credited to the appropriation account against which obligations were incurred in providing such goods and services. These authorities (25 U.S.C. § 14b and 25 U.S.C. § 413) may not be used if another statutory authority exists and governs the collection and retention of fees.

2. Scope

This policy applies to all BIA programs, offices, regions, and agencies involved in the collection and retention of administrative fees for goods and services for real estate services.

3. Policy

It is the policy of the BIA to establish procedures for the assessment, billing, and collection of charges for goods and services, retain collections from the public in payment for goods and services provided by the BIA, and be credited to the appropriate account against which obligations were incurred in providing such goods and services for the following charges and administrative fees:

Program	Activity	Authority to Collect	Authority to Retain	TAAMS Lockbox / BIA SDS Tracking	Amount
Realty	Late Payment processing of each notice or demand letter	25 CFR 162.368 (Residential); 25 CFR 162.468 (Business); 25 CFR 162.593 (Wind Solar Resource (WSR)); and 25 CFR 169.406 (Rights-of-Ways (ROWs))	Yes	SDS Account A06661010.999900	\$15.00
Realty	Any dishonored check	25 CFR 162.368 (Residential); 25 CFR 162.468 (Business); 25 CFR 162.593 (WSR); and 25 CFR 169.406 (ROWs)	Yes	SDS Account A06661010.999900	\$50.00
Realty	Treasury processing following referral for collection of delinquent debt	25 CFR 162.368 (Residential); 25 CFR 162.468 (Business); 25 CFR 162.593 (WSR); and 25 CFR 169.406 (ROWs)	Yes	SDS Account A06661010.999900	18% of balance due
Realty	Agricultural Lease, amendment, assignment, sublease, mortgage or related document	25 CFR 162.241	Yes	SDS Account A06661010.999900	The fee will be 3% of the annual rental payable, including percentage-based rent that can be reasonably estimated. \$10.00 min to \$500 max.

					Admin fee will be charged based on rent payable under lease.
Realty	Tribal lands oil & gas permit, lease, sublease, or other contract, or assignments	25 CFR 211.52 (Tribal lands); 25 CFR 212.52 (Allotted lands); 25 CFR 225.39 (Indian Mineral Development Act Agreements) 25 CFR 227.29 (Wind River Oil and Gas Leasing)	Yes	TAAMS to SDS to Treasury	\$75.00 \$75.00 \$75.00 \$10.00
Realty	Negotiated remedies for a violation, abandonment, or non-use of the ROW	25 CFR 169.403 (ROWs)	No		Must be stated in the Tribe's consent to the ROW grant which BIA will incorporate into the grant itself.
Realty	Violations of the conditions of the grant in the absence of actions or proceedings described in 25 CFR 169.403 (negotiated remedies)	25 CFR 169.404 (ROWs)	No		The grantee will continue to be responsible for the obligations in the grant until it expires or is terminated or cancelled as well as any reclamation or other obligations.
Realty	Issuance of Patents in Fee, Certificates of Competency, Removal of Restrictions, and Sale of Certain Indians Lands	25 CFR 152.31	Yes	SDS Account A06662020.000000	\$22.50
Realty	Deferred payment sales	25 CFR 152.35	Yes	SDS Account A06662020.0000	10% of the purchase price

4. Roles and Responsibilities

- A. **Director, BIA (DBIA)** is responsible for ensuring that appropriate organizational arrangements, resources, and personnel are available to implement and maintain the Office of Trust Services (OTS) programs. The DBIA serves as the Senior Accountable Official for the trust program and has primary responsibility for implementing and executing BIA programs in accordance with statute, regulation, and Departmental policy.
- B. **Deputy Bureau Director (DBD), OTS** is responsible for ensuring that policy guidance is available to regional and agency staff tasked with collecting, tracking, and retaining fees.
- C. **DBD, Field Operations** is responsible for ensuring that regional programs are adhering to policy and regulation, meeting established timeframes, including ensuring a proper accounting of funds that are received.
- D. **Regional Director (RD)** serves as the Senior Accountable Official for the program in their respective region. An RD is responsible for ensuring that policy guidance is available and followed by regional and agency staff tasked with collecting, tracking, and retaining fees.
- E. **Agency Superintendent** is responsible for managing and maintaining their respective organization's program compliance, including meeting payment processing requirements; interacting with federal and Tribal governments; and identifying opportunities for performance and process improvements.
- F. **Regional/Agency Realty Officer** is responsible for reviewing the invoicing of payments for realty transactions where administrative fees may be collected.

5. Approval

Darryl LaCounte Digitally signed by Darryl LaCounte
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Darryl LaCounte
Director, Bureau of Indian Affairs

Date