



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
Division of Natural Resources**

Number: NPM-TRUS-42 A1

Effective: 3/20/2023

Expires: 3/20/2024

Title: Administrative Fees – Retention and Collection for Certain Goods and Services for Real Estate Services and Agriculture and Range Services – Amendment 1

1. Purpose

The purpose of the memorandum is to extend NPM-TRUS-42: Administrative Fees – Retention and Collection for Certain Goods and Services for Real Estate Services, issued on March 17, 2022, for one additional year and include administrative fees for agriculture and range services. This policy standardizes internal controls for collecting, tracking, and retaining administrative fees for certain goods and services for real estate services and agriculture and rangeland management 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 Anti-Deficiency Act. This policy clarifies BIA's authority to collect under 25 U.S.C. § 413 and retain certain administrative fees for realty and agriculture and range 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 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 if 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 realty and agriculture administrative fees for goods and services.

3. Policy

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

The servicing BIA agency office is responsible for determining the disposition of the collections, as provided below:

Program	Activity	Authority to Collect	Authority to Retain	TAAMS Invoice (Functional Area Accounting String)	Amount
Agriculture / Range	Grazing Permit	25 CFR 166.500-504 Grazing-Administrative Fees	Yes	A06652020.999900	Three percent (%) administrative fee based on the annual grazing rent. The minimum administrative fee is \$10.00 and the maximum administrative fee is \$500.00. If a tribe performs all or part of the administrative duties for this part, the tribe may establish, collect, and use reasonable fees to cover its costs associated with the performance of administrative duties.

Agriculture / Range	Agricultural Lands Trespass	25 CFR 166.812-819 Agricultural Lands Trespass	Yes	A06656060.999900	Collection of the value of the products illegally used or removed plus a penalty of double their values; Costs associated with any damage to Indian agricultural land and/or property; The costs associated with enforcement of the regulations, including field examination and survey, damage appraisal, investigation assistance and reports, witness expenses, demand letters, court costs, and attorney fees; Expenses incurred in gathering, impounding, caring for, and disposal of livestock in cases which necessitate impoundment under § 166.807 of this subpart; and All other penalties authorized by law.
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	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	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	A06661010.999900	18% of balance due
Realty	Agricultural Lease, amendment, assignment, sublease, mortgage or related document.	25 CFR 162.241	Yes	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	A06653030.999900	\$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	A06662020.999900	\$22.50
Realty	Deferred payment sales	25 CFR 152.35	Yes	A06662020.999900	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 associated with the management and protection of trust or restricted lands. The DBD-OTS is responsible for providing oversight for the OTS program activities in coordination with BIA field offices.
- 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.
- G. **Regional/Agency Natural Resource Manager** is responsible for reviewing the invoicing of payments for agriculture and range transactions where administrative fees may be collected.

5. Approval

<p>Darryl LaCounte</p> <hr/> <p>Darryl LaCounte Director, Bureau of Indian Affairs</p>	<p>Digitally signed by Darryl LaCounte Date: 2023.03.20 11:31:41 -04'00'</p>	<p>3/20/23</p> <hr/> <p>Date</p>
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