

GIFT CONVEYANCE

How to transfer ownership
without compensation
under Title 25 CFR Part 152

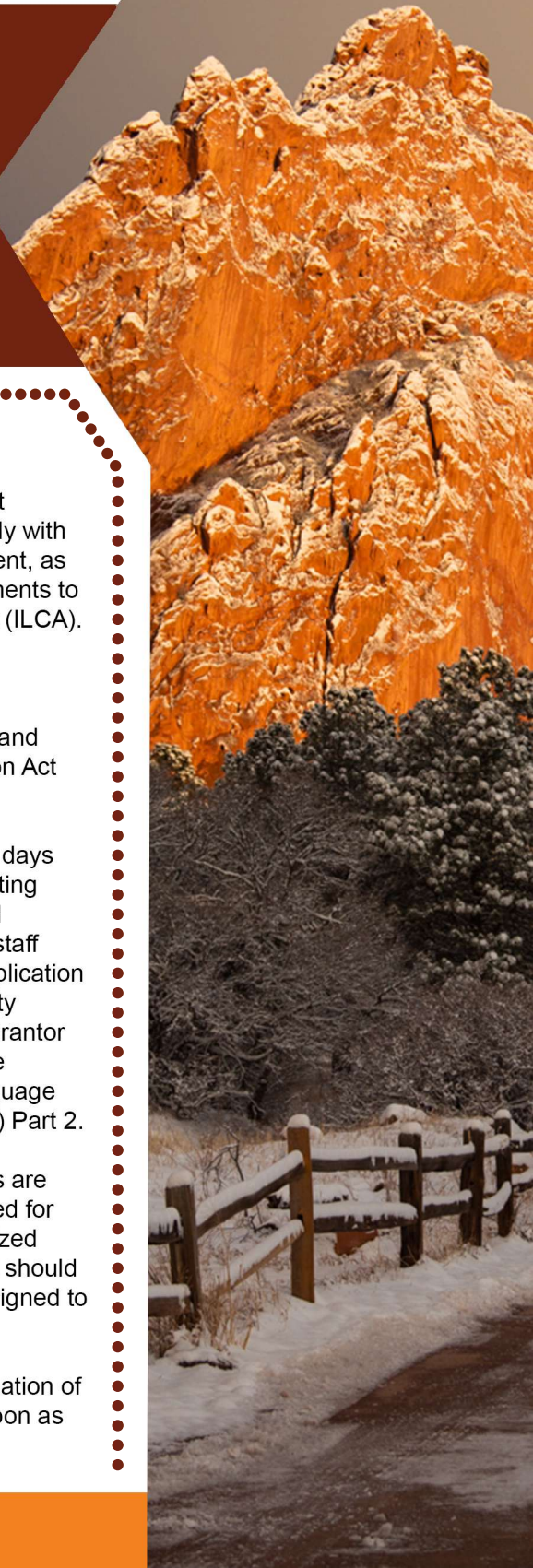


WHAT IS GIFT CONVEYANCE?

A gift conveyance (or also known as a "gift deed") formally transfers ownership from one individual to another without compensation or other valuable consideration and will only be approved if a special relationship or special circumstance exists. Gift conveyances may result in the creation of new tracts or special interests. A gift conveyance can be initiated by an Individual landowner who contacts their local Bureau of Indian Affairs (BIA) Realty staff to initiate a gift conveyance transaction.

How does Gift Conveyance work?

- **Consultation and Application.** The Realty staff assigned to your case will follow up with you to discuss the gift conveyance process and the other options that may be available to you. They will also send you an application package to complete and return, as well as other required documents. The person you are gifting to may also be counseled and may need to complete a Grantee Information Sheet.
- **Valuation.** Each transaction must have one of the following to comply with the regulatory appraisal requirement, as has been updated by the amendments to the Indian Land Consolidation Act (ILCA).
 - **Environmental Compliance.** Compliance with the National Environmental Policy Act (NEPA) and the National Historical Preservation Act (NHPA).
- **Acknowledging Receipt of an Application Package.** Within 10 days of receipt, Realty staff must complete a comprehensive review of the application package for the items identified above and the authorized BIA official must formally acknowledge receipt of the request.
- **Application Approval.** Within 3 days of receipt of all application supporting documents from the applicant and supporting BIA programs, Realty staff must review and complete the Application Checklist. If the delegated authority Disapproves an application, the Grantor must be notified in writing, and the decision must include appeal language per 25 Code of Regulations (CFR) Part 2.
- **Providing Notice of Incomplete.** Realty staff will initiate the Notice of Incomplete process when the applicant does not submit any of the required documents within the 30 days of the date on the Initial Application Request Letter; or within 10 days of determining whether an application package is incomplete.
- **Deed.** Once all the above reviews are completed, a Deed will be prepared for your signature. It must be a notarized signature. Once signed, the Deed should be returned to the Realty staff assigned to your case for further processing.
- **Review of Interest to be Conveyed.** Within 10 days of receipt, Realty Staff will begin to process the application.
- **Recording Documents.** Recordation of documents must be initiated as soon as the conveyance is accepted.



FREQUENTLY ASKED QUESTIONS

1. If eligible, how does an owner apply for a Gift Conveyance?

Applications may be obtained from and submitted to the BIA office with jurisdiction over the subject lands. If the applicant does not know which BIA office has jurisdiction over the land, the applicant may contact the local BIA office for assistance. Regional and Agency office information may also be found at www.bia.gov/regional-offices.

2. What information is the applicant required to provide to accompany an application for a Gift Conveyance?

Application, Owner Inventory Interest Summary, Grantor Waiver of Estimate Value, Grantee Waiver of Estimate Value, if applicable, and Information Sheet on Grantee, if applicable.

3. Does the application and deed need to be notarized?

Yes. Both documents must be notarized at the time of signing.

4. Which regulations apply to Gift Conveyances?

Title 25 CFR Part 152 - Issuance of Patents in Fee, Certificates of Competency, Removal of Restrictions, and Sale of Certain Indian Lands. However, Statute has precedence over the regulations. We follow the statute where it conflicts with or is not addressed in the regulations. The ILCA, as amended, is the recommended authority for sales, exchanges, and gift deeds. The BIA must also comply with all federal laws, including NEPA and NHPA.

5. What are the applicant's responsibilities if they receive a written request from the BIA requesting additional information to process an application?

It is very important the applicant maintains communication with BIA throughout the process. The applicant must reply back to BIA within the time frames identified in the written correspondence requesting additional information.

6. What happens if the applicant does not respond to a BIA request for additional information?

If the applicant does not respond with the requested information in the time provided, BIA will return the application incomplete and close the case.

7. Is an appraisal required?

Yes, valuation is required for all transactions. Appraisals are performed by the Appraisal and Valuation Services Office (AVSO); an applicant may provide a private appraisal, which is subject to AVSO approval. However, ILCA allows for an estimate of value or a waiver of estimate of value.

8. What are the required internal documents?

BIA will obtain, at a minimum, title evidence, valuation, and the environmental compliance reports.

9. Will the grantor continue to receive lease payments once the gift conveyance is complete?

Only if the grantor maintains a Life Estate.

10. How long does the process take?

The length of time to complete the process may vary depending on the complexity of the application and factors such as land title, appraisal, survey, etc. Contact the administering BIA office for more information.

11. At what point may the grantor change their mind about completing the gift conveyance?

A grantor may change their mind at any point until the deed is approved by the BIA. The grantor must notify BIA of any change in their intent to proceed with the gift conveyance. Once the deed is approved, the gift conveyance is final.

12. Is BIA approval of the gift conveyance required?

Yes. All conveyances of trust or restricted fee land must be approved by the BIA in order to be valid, except for conveyances involving lands within the former reservation of the Five Civilized Tribes.

Real Estate Services Program
FOR MANAGING INDIAN TRUST LANDS

For more information, please visit
www.bia.gov/bia/ots/dres

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