



United States Department of the Interior

OFFICE OF THE SECRETARY

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National Policy Memorandum

Assistant Secretary – Indian Affairs

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Title: Off-Reservation and Initial Land Fee-to-Trust Decisions

1. Purpose

The purpose of this memorandum is to implement an interim policy regarding delegated authority for the review and approval of off-reservation fee-to-trust (FTT) acquisitions under 25 Code of Federal Regulations (CFR) § 151.11 and for the approval of initial land acquisitions under 25 CFR § 151.12. This memorandum supersedes the delegations of authority as provided in Part 3, Chapter 4, section 1.7 (14) of the Indian Affairs Manual (IAM) (3 IAM 4, “Delegations to the Deputy Bureau Director, Field Operations and to the Regional Organizational Levels”) and Section 1.5 Responsibilities¹ provided in 52 IAM 12, “Processing Fee-to-Trust Applications,” and its corresponding handbook, 52 IAM 12-H, “Processing Fee-to-Trust Acquisitions and Reservation Proclamations Handbook (FTT Handbook),” issued in January 2025.

FTT applications involve the acquisition in trust of whole or undivided interests in land held in fee. There are several different types of possible acquisitions, and operating procedures for each type are documented in detail in 52 IAM 12-H, FTT Handbook, which can be found online: <https://www.bia.gov/policy-forms/handbooks>. The policy and procedures documented in this memorandum are specific to off-reservation and initial FTT applications.

Pursuant to this memorandum, the delegated authority to issue decisions on all requests for off-reservation FTT acquisitions remains with the Office of the Assistant Secretary - Indian Affairs (AS-IA). This includes the authority to decide whether an off-reservation parcel complies with a mandatory acquisition authority, as well as the authority to decide requests for discretionary off-reservation FTT acquisitions, regardless of whether such requests are gaming-related or not.

This memorandum does not affect the existing authority of Bureau of Indian Affairs (BIA) Regional Directors (RDs) to review and determine requests for non-gaming discretionary or

¹ Specifically, AS-IA and Regional Directors; AS-IA is responsible for issuing decisions for gaming, off-reservation, and initial land fee-to-trust acquisitions.

mandatory on-reservation FTT acquisition requests.

2. Scope

This policy applies to all BIA management and staff involved in the review and approval of off-reservation FTT acquisitions under 25 CFR § 151.11 and for the approval of initial land acquisitions under 25 CFR § 151.12. This policy may also apply to entities carrying out activities on behalf of BIA under contracts or other agreements if expressly agreed to in the contracts or agreements, or if the requirement to abide by such policy is otherwise required by law. These entities may include contractors or Tribes operating through contracts issued pursuant to Public Law (P.L.) 93-638 and P.L. 103-413

3. Policy and Procedures

The following interim policy will be implemented with regard to the review and approval of all off-reservation FTT acquisitions under 25 CFR § 151.11 and for the approval of initial land acquisitions under 25 CFR § 151.12.

A. Determining When an Application is On- or Off-Reservation

Reservation is defined in 25 CFR § 151.2. If a question arises whether property that is the subject of a particular FTT application qualifies as on-reservation, contiguous, or off-reservation an opinion should be requested from the appropriate field or regional Office of the Solicitor (SOL). The RD will submit an electronic copy of the field or regional SOL's opinion on contiguity to the Associate Solicitor, Division of Indian Affairs, for his or her review and concurrence before the application in question can move forward.

B. Notice of Receipt of Off-Reservation Applications

When an RD receives an off-reservation FTT application, or determines that an application is an off-reservation application, the RD will immediately provide notice of the application via electronic mail to the BIA Office of Trust Services' (OTS) Central Office Division of Real Estate Services (CO-DRES) Division Chief, who will forward the notice to the Director of the Bureau of Indian Affairs (DBIA) and the AS-IA.

C. Processing Discretionary Non-Gaming Off-Reservation Applications

Discretionary non-gaming off-reservation applications will be processed in accordance with the regulations and standard procedures set forth in the BIA FTT Handbook.

Upon providing notice of the receipt of a discretionary off-reservation FTT application for non-gaming purposes, the RD will immediately provide notice of the application via electronic mail to the BIA CO-DRES Division Chief, who will forward the notice to the DBIA, and the AS-IA.

With respect to notices of availability for environmental compliance documents issued in

accordance with the Environmental Compliance Review, RDs will notify the Division Chief, DRES of their intent to issue such notices at least 30 days in advance of issuance. The Division Chief, CO-DRES will immediately forward the RD's notice to the DBIA and AS-IA.

Under no circumstances will the RD submit a recommendation as to whether the application should be approved. The RD will prepare a summary of the 25 CFR Part 151 factors as applied to the application and upload it to the established case in the Trust Asset Accounting Management System (TAAMS) and prepare the TAAMS administrative record. At which time the RD will notify the CO-DRES Division Chief the case is ready for review. The administrative record must include an index; the complete application package submitted by the applicant; all correspondence with the applicant and interested parties including electronic mail; all documentation showing compliance with all steps required under the regulations; and any other relevant documentation. Incomplete administrative records will be returned to the RD.

The AS-IA will complete and issue the Notice of Decision (NOD) and Publication Notice upon receipt of the case file and concurrence from the CO-DRES Division Chief. In the event that the application also contains a request for a reservation proclamation, the NOD and Federal Register Notice issued by the AS-IA must reference the reservation proclamation request.

If the AS-IA decides to approve the request, the AS-IA will return the package, NOD, and Federal Register Notice to CO-DRES for delivery to the RD for completion of the final steps required under the 25 CFR Part 151 regulations and the BIA FTT Handbook. The authority to complete the Certificate of Inspection and Possession (CIP) and Acceptance of Conveyance, which require fieldwork and special expertise, is therefore delegated back to the RD.

If the AS-IA issues a decision to deny an application, the AS-IA must provide notice to the applicant consistent with 25 CFR § 151.13 and return the administrative record to the RD for archiving.

Decisions by the AS-IA are final for the Department and are effective immediately. Challenges to the AS-IA's decisions are not subject to administrative review by the Interior Board of Indian Appeals.

When an RD is advised of federal court litigation challenging a FTT decision by the AS-IA, the RD must prepare a supplement to the administrative record within 20 calendar days containing any additional correspondence or work completed by the RD after providing the original package to the Division Chief, CO-DRES and AS-IA. The supplement must contain an index and must be provided to the Associate Solicitor, Division of Indian Affairs.

D. Processing Discretionary Off-Reservation Gaming Applications

The delegated authority for deciding requests for off-reservation FTT acquisitions for gaming purposes lies with the AS-IA. The AS-IA will process such applications in coordination with the Indian Affairs Office of Indian Gaming.

4. Roles and Responsibilities

- A. **AS-IA** is responsible for issuing decisions on all requests for off-reservation FTT acquisitions. This includes the authority to decide requests for mandatory and discretionary off-reservation FTT acquisitions, regardless of whether such requests are gaming-related or not.
- B. **Director, BIA (DBIA)** is responsible for ensuring that appropriate organizational arrangements, resources, and personnel are available to implement and maintain the BIA's Realty program. The DBIA serves as the Senior Accountable Official for this program and has primary responsibility for implementing and executing BIA programs in accordance with statute, regulation, and Departmental policy.
- C. **DBD, OTS** is responsible for the development of trust policy and procedures, and assisting in the dissemination of policy, training, and information to OTS managers and Field Operations; and providing notices of availability for environmental compliance documents to the AS-IA.
- D. **Associate Solicitor, Division of Indian** Affairs is responsible for reviewing and concurring with Field or Regional SOL opinions on contiguity or on mandatory authority submitted to him or her.
- E. **Division Chief, DRES, OTS** is responsible for overall policy and guidance development within BIA, including establishing Realty program policies and standards to comply with statutory and regulatory requirements; day-to-day oversight of the Realty program; ensuring technical assistance and training is provide to BIA regions as needed; conducting program reviews; managing BIA's federal reporting requirements as they relate to the Realty program; and is responsible for reviewing and routing all requests for off-reservation and new land FTT acquisitions.
- F. **RD** serves as the Senior Accountable Official for the Realty program in their respective region and is responsible for complying with Indian Affairs and DOI policy and procedures for FTT acquisitions, including all requirements for records management and related responsibilities, and any other policy and procedures as applicable.
- G. **BIA Agency Superintendent** is responsible for managing their respective organization's Realty program compliance in day-to-day operations, coordinating reviews and communicating with applicants' written request for FTT acquisition. Superintendents are responsible for implementing Realty responsibilities at the appropriate level and forwarding FTT packages to the RD to prepare the 25 CFR Part 151 factors.

H. **Regional Realty Officer** is responsible for reviewing FTT packages that are not otherwise tasked to the BIA agency level and providing technical assistance throughout this process to the appropriate Superintendent as needed.

5. Approval



William Henry Kirkland III
Assistant Secretary – Indian Affairs

8-24-26

Date