

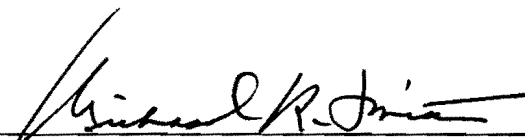
# INDIAN AFFAIRS DIRECTIVES TRANSMITTAL SHEET

(Modified DI-416)

|   |   |                         |
|---|---|-------------------------|
| DOCUMENT IDENTIFICATION NUMBER<br>52 IAM 12 | SUBJECT<br>Processing Discretionary Fee-to-Trust Applications | RELEASE NUMBER<br>10-24 |
| FOR FURTHER INFORMATION<br>Trust Services   |   | DATE<br>JUN 24 2010     |

## EXPLANATION OF MATERIAL TRANSMITTED:

This policy establishes IA procedures to acknowledge receipt of applications for fee-to-trust land acquisitions; define timeframes with regard to gathering of information to complete fee-to-trust applications on a timely basis; define timeframes associated with administrative and legal challenges to decisions to accept land into trust; implement reporting requirements for pending fee-to-trust cases; and to identify how employee time working all aspects of fee-to-trust will be recorded. All references to "days" within this policy are **calendar days**, not business days. All references to "written correspondence to applicants" within this policy are to be made via **certified-return receipt mail**.

*for*   
\_\_\_\_\_  
Michael Black  
Director, Bureau of Indian Affairs

---

## FILING INSTRUCTIONS:

Remove: None

Insert: 52 IAM 12

# INDIAN AFFAIRS MANUAL

- 1.1 Purpose.** This chapter establishes Indian Affairs (IA) policy and procedures to acknowledge receipt of applications for fee-to-trust land acquisitions; define timeframes with regard to gathering of information to complete fee-to-trust applications on a timely basis; define timeframes associated with administrative and legal challenges to decisions to accept land into trust; implement reporting requirements for pending fee-to-trust cases; and to identify how IA employees will record time spent working any and all aspects of fee-to-trust. All references to “days” within this policy are **calendar days**, not business days. All references to “written correspondence to applicants” within this policy are to be made via **certified-return receipt mail**.
- 1.2 Scope.** This policy applies to all Bureau of Indian Affairs (BIA) employees and to all discretionary fee-to-trust applications currently in the possession of the Department of the Interior (DOI) and to all future applications to convert fee land into trust land received by DOI.
- 1.3 Policy.**

**A. Acknowledging Receipt of Applications for Fee-to-Trust Acquisitions.**

After receipt of an application to acquire land into trust, as identified in 25 CFR §151.9, the authorized official (Superintendent, Regional Director, or Central Office) receiving the application will formally acknowledge receipt of the application **in writing**, to the applicant within 10 calendar days. This formal acknowledgement by the authorized official **must include** a copy of the brochure titled “Understanding the Fee-to-Trust Process for Discretionary Acquisitions.”

**B. Gathering information for Incomplete Fee-to-Trust Applications.**

The “Acquisition of Title to Land held in Fee or Restricted Fee Status Handbook” (hereafter Fee-to-Trust Handbook) addresses incomplete applications at “Step 3: Responding to an Incomplete Written Request or Application.” Pursuant to this policy, BIA staff is required to review all pending fee-to-trust applications currently in their possession and take one or more of the following actions, as appropriate, for each pending application:

**1) Applications that are pending as of the date of this policy:**

If there are expired or missing documents in pending applications that are required from the applicant, BIA staff will contact the applicant **in writing**, according to the steps identified in the Handbook under “Step 3: Responding to an Incomplete Written Request or Application.” This written correspondence is the “original notice,” and will advise the applicant that the requested, responsive information must be received from the applicant within 30 days, or the application will be considered inactive.

If the requested information is not received within 30 calendar days after the original notice, BIA staff will send the applicant a “final notice” that BIA did not receive the requested information and the application will be returned to them. The application must

be returned after 60 days of the date of the original notice and removed from the active caseload unless the responsive information is received by BIA. The authorized official (Superintendent, Regional Director, or Central Office) is responsible for ensuring return of the application to the applicant and updating the system of record, (presently the Fee to Trust Tracking System (FTTS)) to reflect that the application has been returned within five days of that action.

**2) Applications received after the date of this policy:**

If there are expired or missing documents in applications received after the date of this policy that are required from the applicant, BIA staff will contact the applicant **in writing** according to the steps in the Handbook under “Step 3: Responding to an Incomplete Written Request or Application.” This written correspondence is the “original notice,” and will also advise the applicant that if the requested, responsive information is not received within **30 days**, the application will be considered inactive.

If the requested information is not received within 30 calendar days after the original notice, BIA staff will send the applicant a “final notice” that their application will be returned to them after 45 days of the date of the original notice and removed from the active caseload unless the responsive information is received from them. The authorized official (Superintendent, Regional Director, or Central Office) is responsible for returning the application to the applicant and for updating the system of record to reflect that the application has been returned within five days of that action.

**C. Administrative and Legal Timeframes**

1) If there are expired or missing documents that are required from DOI staff, BIA will contact the responsible office **in writing** within seven calendar days to request that the responsive information be provided within 21 days.

The BIA staff will also assure that all pending (incomplete) cases are in the system of record and that the data is current and accurate so reports can be generated to produce work lists for the responsible agencies and provide a quarterly status report to the respective Tribe having jurisdiction over the lands subject to the application(s). The work lists will be reviewed and the responsible agencies contacted on a regular basis to assure that the cases keep moving forward.

2) If the application is complete and there are no expired or missing documents, BIA staff will take the necessary actions to assure that a Notice of Decision is issued as soon as possible, but **no later than 15 days** from the date of receipt of final document(s) required to issue the Notice of Decision.

3) If the decision to take land into trust is appealed to a Regional Director, the official whose decision is being appealed will provide the complete administrative record to the respective regional office **within 10 days** of notice of the appeal. The administrative

# INDIAN AFFAIRS MANUAL

record will be compiled as required in the Fee to Trust Handbook. The Regional Director has 60 days to issue a decision.

4) If a case is appealed to the Interior Board of Indian Appeals (IBIA), the Regional Director will immediately put the Director, BIA on notice. Applications under administrative appeal or judicial review will be encoded in system of record within five days to reflect the appropriate status.

**D. Quarterly Reports to Tribe(s) for Pending Applications.** Each location authorized to accept land into trust (Agency Office, Regional Office, or Central Office) is responsible for providing the Tribe(s) who have jurisdiction over the lands in pending fee-to-trust applications, with quarterly reports of all pending applications (including individual Indian applications) within each Tribe's respective jurisdiction. Quarterly reports will be sent to the Tribe(s) the first week in the months of October, January, April and July.

**E. Fee to Trust Activity Codes for Employee Time Accounting.** All time spent and actions performed by BIA employees to process, manage, report, provide training and receive training regarding fee-to-trust will be coded in the Quick Time System (or its successor) as follows:

- To process fee-to-trust applications: WCV2
- To manage the process or report on the progress: WCVC
- To provide training, or perform outreach: WCVA
- To receive training: WCVB

**1.4 Authority.** 25 CFR §151.9

**1.5 Roles and Responsibilities**

- A. Director, Bureau of Indian Affairs (BIA).** The BIA Director is responsible for the development of National Policy affecting Indian lands.
- B. Deputy Bureau Director, Field Operations, BIA.** The BIA Deputy Bureau Director of Field Operations is responsible for overseeing the Regional Directors and dissemination of policy to them.
- C. Deputy Bureau Director, Trust Services, BIA.** The BIA Deputy Bureau Director of Trust Services is responsible for assisting in the dissemination of trust resource policy and information to the Regional Directors.
- D. Regional Directors, BIA.** The BIA Regional Directors are responsible for carrying out policy as directed, and for overseeing the implementation of policy either directly or via Agency Superintendents.