

# INDIAN AFFAIRS MANUAL

- 1.1 Purpose.** This chapter establishes the authorities, policy, and processes for reviewing and approving off-reservation fee-to-trust acquisitions.
- 1.2 Scope.** This policy applies to all employees of the Bureau of Indian Affairs (BIA) involved in the review and approval of off-reservation fee-to-trust acquisitions under 25 CFR 151.11.
- 1.3 Policy.** The BIA Regional Directors (RDs) have the delegated authority to issue decisions on all requests for non-gaming off-reservation fee-to-trust acquisitions per Secretary's Order (SO) 3400. The delegated authority to issue decisions for gaming off-reservation fee-to-trust acquisitions remains with the Office of the Assistant Secretary – Indian Affairs (AS-IA).
- 1.4 Authority.**
- A. Statutes and Regulations.**
- 1) 25 U.S.C. §§ 5101 – 5129, The Indian Reorganization Act of 1934, as amended
  - 2) 25 U.S.C. § 409a, Sale of restricted lands; reinvestment in other restricted lands
  - 3) 25 U.S.C. § 1466 and § 1495, Land and personal property title
  - 4) 42 U.S.C. §§ 4321-4370h, National Environmental Policy Act of 1969
  - 5) 25 CFR 151, Land Acquisitions
- B. Guidance.**
- 1) SO 3400, Delegation of Authority for Non-Gaming Off-Reservation Fee-to-Trust Acquisitions, April 27, 2021
  - 2) 602 Departmental Manual (DM) 2, Real Property Pre-Acquisition Environmental Site Assessments: Environmental Due Diligence, October 12, 2016
  - 3) 3 IAM 4, Delegations to the Deputy Bureau Director, Field Operations and to Regional Organizational Levels
- C. Handbooks.**
- 1) BIA Fee-to-Trust Handbook, June 28, 2016

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### 1.5 Responsibilities.

- A. **AS- IA** is responsible for issuing decisions on gaming fee-to-trust acquisitions.
- B. **Deputy Bureau Director (DBD), Office of Trust Services (OTS)** is responsible for assisting in the dissemination of trust resource policy and information to the RDs.
- C. **RDs** are responsible for issuing decisions on all requests for non-gaming off-reservation fee-to-trust acquisitions and complying with Indian Affairs (IA) and Department of the Interior (Department) policy and procedures for fee-to-trust acquisitions, including all requirements for records management and related responsibilities, and any other policy and procedures as applicable.
- D. **Associate Solicitor, Division of Indian Affairs (DIA), Office of the Solicitor (SOL)** is responsible for reviewing and concurring with field or regional SOL opinions submitted to them on contiguity, on mandatory authority, and on whether a Tribe was “under federal jurisdiction” in 1934 under Section 19 of the Indian Reorganization Act..

### 1.6 Definitions.

- A. **Indian reservation** has the meaning assigned to it by 25 CFR 151.2(f).
- B. **Discretionary Trust Acquisition** is a trust acquisition authorized by Congress that does not require the Secretary to acquire title to any interest in land to be held in trust by the United States on behalf of an individual Indian or a Tribe. The Secretary has discretion to accept or deny the request for any such acquisition.
- C. **Mandatory Trust Acquisition** is a trust acquisition directed by Congress or a judicial order that requires the Secretary to accept title to land into trust or hold title to certain lands in trust by the United States, for an individual Indian or Tribe. The Secretary does not have the discretion to accept or deny the request to accept title of land into trust.
- D. **Off-reservation** means land located outside of and noncontiguous to an Indian reservation.
- E. **On-reservation** means land that is within or contiguous to an Indian reservation. If a question arises regarding a property that is the subject of a particular fee-to-trust application that may qualify as contiguous, an opinion should be requested from the appropriate field or regional SOL.

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**1.7 Standards, Requirements, and Procedures.** The following describes the steps necessary to process discretionary non-gaming and gaming off-reservation applications and mandatory off-reservation applications.

**A. Processing Discretionary Non-Gaming Off-Reservation Applications.** Decisions regarding discretionary non-gaming off-reservation applications will be issued by the RD in accordance with the standard procedures set forth in Steps 1 through 16 of section 3.1.2 of the BIA Fee-to-Trust Handbook, including entry into TAAMS reflecting the case facts and status.

**B. Processing Discretionary Off-Reservation Gaming Applications.** The delegated authority for deciding requests for off-reservation fee-to-trust acquisitions for gaming purposes lies with the AS-IA. The AS-IA will process such applications in coordination with the IA Office of Indian Gaming.

**C. Processing Mandatory Non-Gaming Off-Reservation Applications.** Decisions regarding off-reservation mandatory trust acquisitions will be issued by the RD in accordance with the standard procedures set forth in Steps 1 through 12 of Section 3.1.3 of the BIA Fee-To-Trust Handbook, including entry into TAAMS reflecting the case facts and status.

## Approval



Bryan Newland  
Assistant Secretary – Indian Affairs

10-5-2021

Date