

UNDERSTANDING THE

Fee-to-Trust Process For Off- Reservation Discretionary Trust Acquisitions



**DEPARTMENT OF
THE INTERIOR**

2015

**BUREAU OF INDIAN
AFFAIRS**

Fee-to-Trust Step-by-Step process for Off-Reservation (Discretionary)

STEP 1	Encode to the Fee-to-Trust System of Record
STEP 2	Review of Written Request to Initiate Process
STEP 3	Respond to an Incomplete Case
STEP 4	Conduct Site Inspection & Complete CIP
STEP 5	Prepare Preliminary Title Opinion (PTO)
STEP 6	Prepare Notice of Application (NOA)
STEP 7	Environmental Compliance Review
STEP 8	Comments to Notice of Application
STEP 9	Satisfy Preliminary Title Opinion Objections
STEP 10	Prepare Analysis and Notice of Decision (NOD)
STEP 11	Prepare Publication Notice
STEP 12	Prepare Final Certificate of Inspection (CIP)

Steps Continued

STEP 13	Acceptance of Conveyance
STEP 14	Final Title Opinion & (County) Recordation
STEP 15	Recording at Land Titles & Records Office
STEP 16	Completed Application Packet

Fee-to-Trust Handbook
Release #13-90, Version III (rev 4)
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For more information about this
process contact:
the Division of Real Estate Services,
(Local Agency)
(Ph#)

Frequently Asked Questions

1. What is a fee-to-trust land acquisition? A fee-to-trust land acquisition is a transfer of land title from an eligible Indian Tribe or eligible Indian individual(s) to the United States of America, in trust, for the benefit of the eligible Indian Tribe or eligible Indian individual(s).

2. Who is eligible to apply for a fee-to-trust land acquisition? Indian Tribes and individual Indian people who meet the requirements established by federal statutes and further defined in federal regulations are eligible to apply for a fee-to-trust land acquisition. See 25 Code of Federal Regulations (CFR) § 151.2; 25 United States Code (USC) § 479 and § 2201.

3. If you are eligible, how do you submit an application? All applications for a fee-to-trust acquisition must be in writing and specifically request that the Secretary of the Interior take land into trust for the benefit of the applicant. If you are an eligible Indian Tribe, the request may be in the form of a Tribal Resolution. See 25 CFR § 151.9.

4. Where should an eligible applicant submit an application to? Applications shall be submitted to the Bureau of Indian Affairs (BIA) office that has jurisdiction over the lands contained in the application. If the applicant does not know what BIA office has jurisdiction over the lands the applicant should contact the Division of Real Estate Services at (202) 208-7737 or at <http://www.bia.gov/WhoWeAre/RegionalOffices/index.htm>

5. What information is the applicant required to provide to accompany the application for a fee-to-trust acquisition? The applicant must provide a legal description of the land to be acquired, the legal name of the eligible Indian Tribe or individual, proof of an eligible Indian Tribe or eligible individual(s), the specific reason the applicant is requesting that the United States of America acquire the land for the applicant's

benefit, a title insurance commitment addressing the lands to be acquired and information that allows the Secretary of the Interior to comply with the National Environmental Policy Act (NEPA) and 602 Departmental Manual 2 (602 DM 2) – Hazardous Substances.

6. What laws, regulations and standards apply to a fee-to-trust acquisition? There are different laws that must be satisfied. Most acquisitions are authorized under 25 USC § 465, Section 5 Indian Reorganization Act (1934) and reviewed under 25 CFR § 151. However, the Department of the Interior must comply with all federal laws, including compliance with NEPA, 602 DM 2 Hazardous Substances Determinations, National Historical Preservation Act (NHPA) and US Department of Justice Title Standards. See 25 CFR § 151.13.

7. What are the applicant's responsibilities if they receive a written request from the Bureau of Indian Affairs requesting additional information to process an application? The applicant must reply back to the BIA within the time frames identified in the written correspondence requesting additional information. All correspondence from the BIA requesting additional information will include each specific document needed to proceed with processing the application and will include the specific time the applicant has to provide the requested information. It is very important that applicant maintains written communication with the BIA throughout the process when the applicant is contacted by the BIA. If applicant needs additional time to respond to a request from the BIA for additional information, they must contact the BIA as soon as possible and make the request for an extension of time in writing. The BIA will reasonably accommodate requests from applicant for additional time to provide information, and will notify the applicant in writing of the decision regarding the applicant's request.

8. What happens if I do not respond? If the applicant does not respond in the time stated in the letter or any extension, BIA will either return the application or take into consideration failure to provide the information. If the applicant has failed to provide infor-

mation on a non-critical title issue, BIA will take into consideration that there is insufficient or negative information in forming BIA's decision on your application and may result in a denial of your application.

9. Are there entities that will be provided notice of an application for a fee-to-trust acquisition? Yes. State and local governments, including Tribal governments having regulatory jurisdiction over the land contained in the application, will be notified upon written receipt of an application for a fee-to-trust acquisition. The notice will inform the entities that each will be given 30 days in which to provide written comments as to the acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments.

10. Will all applications from eligible Indian Tribes and eligible Indian Individuals result in a fee-to-trust acquisition? No. Each application will be evaluated to determine if the applicable criteria defined in the CFR has been addressed (25 CFR § 151.10 & 151.11), and the official authorized to accept the fee-to-trust acquisition will decide whether to accept the fee-to-trust acquisition. All decisions to accept or deny a fee-to-trust acquisition shall be in writing. If the acquisition is denied, the applicant will be advised of the reasons for the denial and will be notified of the right to appeal the decision and where the applicant's appeal must be filed.

11. How long does the process take? The length of time to complete the process varies depending on the required steps. The required steps differ for on-reservation or off-reservation trust acquisitions and mandatory or discretionary acquisitions.

12. Can I get a report on the progress of my application? Yes. BIA tracks the steps and progress of applications. BIA will provide you a report upon your request.