

INDIAN AFFAIRS MANUAL

- 1.1 Purpose.** This chapter establishes Indian Affairs' (IA) policy for reviewing and approving lease documents on Indian land. Timely leasing decisions facilitate economic development opportunities for Indian landowners in addition to other benefits. The accompanying handbook, 52 IAM 14-H: Business Leasing on Indian Lands, provides more details regarding the different types of leases and the specific procedures the Bureau of Indian Affairs (BIA) utilizes to standardize business leasing processes. All references to "days" within this policy are business days, unless otherwise specified. All references to agency staff or programs within this policy are to BIA agency staff and programs, unless otherwise specified.
- 1.2 Scope.** This policy applies to all BIA management and staff involved in processing, reviewing, and approving business lease documents on Indian land. 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.
- 1.3 Policy.** It is IA's policy to process business lease documents on trust and restricted lands in an accurate, standardized, and timely manner, and in compliance with all applicable regulations, laws, standards, and policies.
- 1.4 Authority.**
- A. Statutes and Regulations.**
- 1) 25 U.S.C. 14(b), Disposition of funds received from public for goods and services provided by Bureau of Indian Affairs
 - 2) 25 U.S.C. 413, Fees to cover cost of work performed for Indians
 - 3) 25 U.S.C. 415, Leases of restricted lands
 - 4) 25 U.S.C. 2218, Approval of leases, rights-of-way, and sales of natural resources
 - 5) 42 U.S.C. Chapter 55, National Environmental Policy Act
 - 6) 25 CFR 162, Subpart D - Leases and Permits, Business Leases
 - 7) 40 CFR Chapter V, Subchapter A, National Environmental Policy Act Implementing Regulations

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- 8) 43 CFR 46, Implementation of the National Environmental Policy Act of 1969
- 9) 43 CFR 100, Waiving Departmental Review of Appraisals and Valuations of Indian Property
- 10) P.L. 100-497, Indian Gaming Regulatory Act

B. Guidance.

- 1) 516 Departmental Manual (DM) 10: Managing the NEPA Process – Bureau of Indian Affairs
- 2) 52 IAM 4: Processing Mortgages of Trust Properties
- 3) 59 IAM 3: National Environmental Policy Act
- 4) AS-IA Memorandum, *Authority to Approve Leases of Lands for Gaming Purposes*, April 1, 2002

C. Handbooks.

- 1) 52 IAM 4-H: Indian Affairs Mortgage Handbook
- 2) 52 IAM 14-H: Business Leasing on Indian Lands Handbook
- 3) 59 IAM 3-H: National Environmental Policy Act Guidebook

1.5 Responsibilities.

- A. Assistant Secretary – Indian Affairs (AS-IA)** is responsible for the approval of off-reservation gaming and gaming-related business leases.
- B. Director, Bureau of Indian Affairs (DBIA)** is responsible for ensuring that appropriate organizational arrangements, resources, and personnel are available to implement and maintain the Office of Trust Services' (OTS) Division of Real Estate Services (DRES) program. The DBIA serves as the Senior Accountable Official for the DRES program and has primary responsibility for implementing and executing BIA programs in accordance with statute, regulation, and Departmental policy.

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- C. **Deputy Bureau Director (DBD), Field Operations, BIA** is responsible for executive leadership, oversight, direction, and monitoring of the Regional Directors (RDs) to include periodic program reviews of field operations, and provide policy and technical assistance to field offices and Tribes.
- D. **Deputy Bureau Director (DBD), OTS, BIA** is responsible for ensuring that statutory and/or regulatory timetables for business lease document application processing are met, and that guidance is available to regional and agency staff tasked with processing business lease applications.
- E. **Director, IA Office of Indian Gaming** is responsible for the review of proposed on- and off-reservation gaming leases for gaming or gaming-related purposes; this includes determining whether the proposed lease complies with the requirements of the Indian Gaming Regulatory Act, and reviewing any applicable Class III gaming compact(s) before the lease is approved.
- F. **Chief, DRES, OTS** is responsible for:
- 1) establishing BIA's real estate services policies, guidance, and standards for complying with statutory and regulatory requirements;
 - 2) providing real estate services technical assistance and training to BIA regions, as appropriate;
 - 3) managing BIA's federal reporting requirements for real estate services, and initiating periodic reviews of regional and agency programs for real estate services; and
 - 4) assisting in the development and dissemination of trust resource policy to the RDs.
- G. **RD, BIA** serves as the Senior Accountable Official for the DRES leasing program in his/her respective region, and is responsible for:
- 1) approving or disapproving business lease applications, and reviewing and deciding on any appeals for denials of business leases by Agency Superintendents;
 - 2) approving or disapproving leases for gaming purposes when the lease is located on the reservation;
 - 2) interacting with federal and Tribal governments;
 - 3) ensuring his/her respective region meets business lease document processing deadlines;
 - 4) requiring accountability from regional and agency managers in his/her respective region; and
 - 5) conducting program reviews.

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H. Agency Superintendent, BIA is responsible for:

- 1) managing and maintaining his/her respective organization's program compliance, including meeting business lease document processing deadlines;
- 2) interacting with federal and Tribal governments;
- 3) identifying opportunities for performance and process improvements; and
- 4) approving (or disapproving) applications for business lease documents.

I. Regional/Agency Realty Officer is responsible for:


- 1) reviewing business lease applications;
- 2) recommending applications for approval; and
- 3) responding to business lease reporting requirements.

J. Appraisal Valuation Services Office (AVSO), Department of the Interior (DOI) is responsible for completing appraisals and reviewing contracted appraisals for business lease applications.

K. Land Titles and Records Office (LTRO), BIA is responsible for:

- 1) recording business leases;
- 2) issuing certified Title Status Reports (TSRs); and
- 3) verifying ownership and any/all restrictions, encumbrances, and/or limitations on land title.

Approval

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Darryl LaCounte
Director, Bureau of Indian Affairs

Date