

# INDIAN AFFAIRS DIRECTIVES TRANSMITTAL SHEET

(modified DI-416)

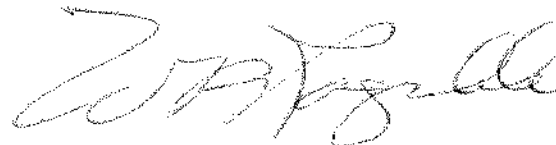
DOCUMENT IDENTIFICATION NUMBER <b>NPM-TRUS-15</b>	SUBJECT Sale of Trust and /or Restricted Land Interests by Bureau of Indian Affairs Employees to the Indian Land Consolidation Program	RELEASE NUMBER # <b>07-03</b>
FOR FURTHER INFORMATION Indian Land Consolidation Center, BIA		DATE <b>JUN 14 2007</b>

## EXPLANATION OF MATERIAL TRANSMITTED:

Pursuant to the 130 DM 3.4, the Indian Land Consolidation Center is responsible for establishing land consolidation polices, providing technical advice and assistance to Regions with regard to the implementation of the land acquisition program. The Center is also responsible to provide oversight, direction, monitoring and program evaluation for the Indian Land Consolidation Program.

Attached is a policy concerning the land consolidation program that is effective as stated in the memorandum. The attached policy applies only to land sale transactions involving the Indian Land Consolidation Program pursuant to the 1983 authority of The Indian Land Consolidation Act, as amended in 2000 and 2004. Please assure that the appropriate Agency Superintendent, BIA and contract staff receive a copy of the policy (policies) and implement them immediately.

Please direct any questions to the Indian Land Consolidation Center at (715) 682-0310.



W. Patrick Ragsdale  
Director, Bureau of Indian Affairs

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## FILING INSTRUCTIONS:

Remove: None

Insert: NPM-TRUS-15 (New)



# United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Washington, D.C. 20240



IN REPLY REFER TO:

## National Policy Memorandum

Bureau of Indian Affairs  
Director

**Number: NPM-TRUS-15**

**Effective: June 14, 2007**

**Expires: June 14, 2008**

**Title: Sale of Trust and /or Restricted Land Interests by Bureau of Indian Affairs Employees to the Indian Land Consolidation Program**

### 1. Purpose

The purpose of this Policy is to establish procedures for the conveyance of fractionated land interest(s) in trust or restricted land purchased by the Indian Land Consolidation Program (ILCP) from an Employee of the Bureau of Indian Affairs.

The American Indian Probate Reform Act of October 27, 2004 (AIPRA)(118 Stat. 1773), amended P.L. 106-462, the Indian Land Consolidation Act of November 7, 2000 (114 Stat. 1991), and made ILCP a permanent program. Under the amended Act, the Secretary of the Interior (the Secretary) may acquire fractionated land interests in trust or restricted land from individual owners. In April 2003, the Bureau of Indian Affairs (BIA) established the Indian Land Consolidation Center (ILCC) (DM 130.3) to provide policy guidance, establish procedures and manage ILCP as it expanded nationally. ILCC is leading the efforts to purchase fractional interests (both surface and subsurface) in trust or restricted lands from willing sellers.

25 CFR 140.5(e) states that BIA Staff employed in the office or installation of the Bureau which recommends, approves, executes or administers a sale involving property, which is either held in trust or subject to a restriction against alienation by the United States for Indians, can not benefit or appear to benefit in such sale of real property or any interest therein. To do so would be to invite a fine, imprisonment or both and removal from office; unless such a sale is approved by an authorized officer of the Bureau of Indian Affairs. If an individual seller, who also is an employee of the Bureau of Indian Affairs requests to sell his or her interests to the ILCP, 25 CFR 140.5 must be addressed.

25 CFR 140.5(e)(1-2) identifies the conditions, if applicable, that need to be addressed before authorization is granted. (1) The conveyance of an interest in property is authorized by law. (2) Selling of property interests by Bureau of Indian Affairs employees must be conducted on the basis of sealed bids or public auction and may only be waived by the Assistant Secretary on the basis of a full report showing (i) the need for the transaction, (ii) the benefits accruing to both parties, (iii) that the consideration shall be not less than fair market value, and (iv) an affidavit signed by the employee shall accompany each proposed transaction denying they exerted influence over the seller. A 1988 memorandum from the Assistant Secretary, Indian Affairs provides the authority to waive the sealed bid requirement to the Area

Director, unless the parties to the sale are related to the Area Director by blood or marriage. This authority may also be re-delegated to the Agency Superintendents.

The Requirements of 25 CFR 140.5 may be met through a request for waiver of bid signed by the employee and approved by the authorized official. This request will include a transmittal memorandum from the ILCP Coordinator to the Authorized Officer identifying the employee requesting to divest of interest(s) to the ILCP. The Coordinator will confirm that a complete application was received; that it includes the identification of the tribe that will take possession of the interests; and the need for that authorized officer to approve the request. The criteria as described under 25 CFR 140.5(e)(1-2) will be addressed in the request for waiver. The conveyance is authorized by the Indian Land Consolidation Act Amendments of 2000. The need for the transaction is to consolidate fractional interests. The benefit to the employee is monetary. All interests are purchased in the name of the tribe and the tribe benefits from the consolidation of ownership interests. The employee is selling and the affidavit identified in 140.5(e)(2)(iv) will affirm that influence and knowledge did not affect the sale.

## **2. Scope**

This policy applies to all Bureau of Indian Affairs offices in the regions where the ILCP is acquiring or has acquired fractional land interests.

## **3. Policy**

Effective immediately, the following policy will be implemented with regard to the sale of fractional interests by Bureau of Indian Affairs employees at all ILCP sites.

- a. A completed application and a signed "Request of Waiver of Bid" is required from the BIA Employee landowner.
- b. The appropriate Consolidated Acquisition Center (CAC) will prepare a memorandum from the Regional ILCP Coordinator to the Superintendent/Director of the Office where the Employee is employed identifying that the employee has made application to sell their trust land interests through the Indian Land Consolidation Program to the specific tribe(s). The Memorandum identifies that 25 CFR 140.5 requires the sale of the interests by the employee be by sealed bid or auction unless the requirement is waived by the Superintendent/Director. The Employee is requesting that the requirement be waived by signing the "Request of Waiver of Bid" Form.
- c. Sale of interests is by deed, signed by the Secretary or delegated official.
- d. To help facilitate this policy, the Director ILCC is authorized to act on behalf of the Secretary to approve land sale transactions to transfer title from the individual land owner to the United States regardless of the geographic location of the fractionated land interest and the "Request of Waiver of Bid". The ILCC Director will notify the appropriate Regional Director(s) when an individual requests ILCC to purchase fractionated land interests in order to allow sufficient time for any comment.

## **4. Roles and Responsibilities**

Director, Bureau of Indian Affairs (BIA). The BIA Director is responsible for the development of National Policy affecting Indian lands.

Director, Indian Land Consolidation Center, The ILCC Director is responsible for coordinating the Bureau's nationwide program to consolidate fractionated interests in Indian lands pursuant to statutory requirements.

Deputy Director, Field Operations, BIA. The BIA Deputy Director of Field Operations is responsible for overseeing the Regional Directors and disseminating policy to them.

Deputy Director, Trust Services, BIA. The BIA Deputy Director of Trust Services is responsible for assisting in the dissemination of trust resource policy and information to the Regional Directors.

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.

**5. Approvals**



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W. Patrick Ragsdale  
Director, Bureau of Indian Affairs

JUN 14 2007

Date