



# **PROCEDURAL HANDBOOK**

## **Leasing and Permitting Chapter 3 – Residential Leasing**

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Department of the Interior  
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## 1.0 INTRODUCTION

In order to develop and improve infrastructure on Indian lands to meet housing needs, the majority of leases approved by the BIA on trust and restricted land are for residential purposes. Unless a statute provides otherwise, all residential leases advertised or negotiated by the landowner, the BIA and/or a tribe, must be approved by the Secretary of the Interior or his/her delegated authority in order to be valid. Any residential lease issued under the authority of Section 705(a) of the Native American Housing Assistance and Self-Determination Act, 25 U.S.C. § 4211(a), must be approved by the Secretary or his/her designee and by the affected tribe. Leases that are negotiated by the landowner must also be in a form acceptable to the Secretary. Additionally, the applicant may withdraw an application at any time prior to approval.

This handbook does not cover tribal land assignments or contracts and agreements that convey to tribal members any use of tribal lands assigned by tribal laws, customs, or tradition.

## 2.0 PROCESS AND PROCEDURES OVERVIEW

These residential leasing procedures have been segregated into the following categories:

### **Lease Negotiation**

The purpose of this procedure is to provide requirements regarding the initial consultation with landowner(s) and prospective lessee, identification of lands to be leased, development of a site plan and completion of an application. The majority of residential leases are negotiated. However, residential leases may be advertised.

### **Lease Issuance**

The purpose of this procedure is to provide requirements regarding review of the application, preparation of the draft residential lease and completion of actions required for approval or denial of the lease.

### **Lease Amendment, Assignment, Sublease and Leasehold Mortgage**

The purpose of this procedure is to provide requirements regarding processing of any subsequent amendments, assignments, subleases, or other leasehold documents to an agricultural lease. BIA review of the transaction ensures the best interests of the landowner are protected, the trust asset is conserved and the transaction is in compliance with the existing lease stipulations and all applicable tribal and federal statutes and regulations.

### **Lease Administration**

The purpose of this procedure is to provide requirements regarding the process of maintaining the residential lease file, collection of rental payments, and reporting requirements.

### **Lease Compliance**

The purpose of this procedure is to provide requirements regarding the enforcement of lease terms. A residential lease may be canceled if any of the provisions of the lease have been violated and remain uncorrected after a notice to correct has been given to the lessee and its sureties.

### **Revocable Use Permits**

The purpose of this procedure is to provide requirements regarding the issuance of Revocable Use Permits.

### **3.0 GENERAL AUTHORITIES AND POLICIES**

The primary statutory authorities for residential leasing are:

- The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), 25 U.S.C. § 4211, and
- The Long Term Leasing Act of 1955, 25 U.S.C. 415 *et seq.*

The regulations under which residential leases are currently processed can be found at 25 CFR 162, Subpart A, General Provisions, and Subpart F, Non-Agricultural Leases. (See [Exhibit 4 - 25 CFR 162](#).) These regulations govern the processing of Residential Leases; however, to the extent that the provisions in this part conflict with the provisions of the Indian Land Consolidation Act Amendments of 2000 and 2004, the provisions of the Act govern. 25 CFR 162, Subpart C, is reserved for future publication governing Residential Leases.

The BIA will recognize the authority of the tribe having jurisdiction over tribal lands that will be leased. Recognizing this governing authority, BIA will consider applicable tribal laws and policies when preparing leases in the interest of promoting tribal control and self-determination. Consult with the Regional Realty Office or Solicitor's Office for any tribal specific statutes.

### **4.0 PROCEDURES**

This section of the handbook presents the complete text and associated attachments (if applicable) for each procedure associated with Residential Leasing.



# Lease Negotiation

## LEASE NEGOTIATION

### Purpose

This procedure provides instruction and requirements for processing requests for residential/homesite leases. Residential leases generally include single-family homes or housing for public purposes. Some leases for residential purposes are processed as business leases, such as income producing leases for condominium developments. (See [Chapter 4, Business Leasing](#).)

### Scope

This procedure is developed for BIA agency programs, self-governance tribes, and Tribal programs that have secured program responsibility through 638 Self-Determination contracts. The procedures outlined are to be used for most locations, but local, federal, and tribal legal requirements may result in modifications to these general outlines. In those cases, Regional Addenda to the procedure is consulted.

### Process

**Step 1:** Respond to contact from a prospective lessee or landowner requesting negotiation of a residential lease.

- Assist the applicant in completing an application. (See [Attachment 1R - Residential Lease Intake Form for Individual Allotted Land](#).)
- Verify the identity of the applicant (i.e. driver's license, tribal membership card, other valid identification).
- If the applicant is a tribal entity, a Tribal Resolution or a copy of the authorizing document must be submitted along with the application requesting the lease.

**Step 2:** Submission of proposed lease.

- The applicant may submit a proposed lease with supporting documentation for BIA review and approval.
- Upon request, assist the applicant in completing a proposed lease.
- BIA has 30 days to approve or disapprove the lease after the proposed lease has been submitted in an approved format together with all necessary supporting documents.
- A lease cannot be entered into more than 12 months prior to commencement of the term of the lease. The lease may not provide any preferential right to future leases nor provisions for renewal, except as otherwise provided in accordance with 25 CFR

162.604 (e).

**Step 3:** May conduct a preliminary consultation.

- The parties that should attend this meeting include:
  - The landowner(s)
  - BIA/tribal personnel (Realty, Environmental, Land Operations etc.)
  - Prospective lessee
  - HUD (if applicable)
  - Indian Health Services (if they are providing water)
  - Other necessary parties

**Step 4:** Verify land ownership.

- Request the appropriate title documents which may include a Title Status Report, agency ownership files, and state and county records. (See [Attachment 2R - TSR Request Form.](#))
- Review probate records to see if the land has undetermined estates.
  - Where all of the interests in a tract are in estate status, a lease shall not be approved for more than two years. (See [Exhibit 4 - 25 CFR 162.607\(b\).](#))

**Step 5:** Identify the land description of the proposed lease site. Usually a survey is arranged for by the potential lessee and is the responsibility of the lessee.

- A land description must be provided by the prospective tenant or landowner.
- Submit the survey plat of the lease to the Regional BLM Indian Lands Surveyor for review, if necessary. See the BIA Indian Lands Trust Boundary Standards Handbook for details.

**Step 6:** Obtain a site plan for the application that identifies all utilities, driveways, improvements, etc.

- Review the site plan to insure:
  - There is ingress and egress to the proposed site
  - The development does not conflict with current and/or proposed use

**Step 7:** Determine fair annual rental/value.

- An appraisal or other appropriate valuation may be needed to establish fair market value. (See [Attachment 3R- Appraisal Request Form.](#)) See the Appraisal Handbook for more information.
- Trust land appraisals not prepared by the Office of Appraisal Services (OAS) must be reviewed by OAS before approval of a trust land or resource transaction, even if the appraisal was prepared by a compacted or contracted tribe. The review of appraisals



has been declared an inherently federal function. (See [Attachment 4R - Review of Land Appraisals.](#))

- A determination of fair annual rental/value may be provided to the landowner even if the lease consideration negotiated is less than the fair annual rental.
- Leases may be approved by the Secretary at less than the fair annual rental when a determination is made that it is in the best interest of the landowners.
- In the discretion of the Secretary, tribal lands may be leased for nominal rent for homesite purposes to tribal members provided that the land is not commercial or industrial.
- In the discretion of the Secretary, homesite leases may be approved on allotted lands to members' immediate family or to co-owners in the leased tract for nominal rent.

**Step 8:** Determine, in consultation with regional environmental staff and the Regional Archeologist, the actions necessary to ensure compliance with the National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA), and Endangered Species Act (ESA).

- For further discussion, see the Bureau's NEPA Handbook.
- In certain instances, the cost of NEPA, NHPA, and ESA analyses may be passed on to the applicant.
- If the proposed lease is categorically excluded, no consultation is necessary. Send the categorical exclusion (cat.ex.) exception checklist to the regional environmental office for signature. (See [Attachment 5R - Categorical Exclusion Exception Checklist.](#))
  - See NEPA Handbook Chapter 3 for directions on completing the checklist.
  - If there is no response within 10 business days, email the regional environmental office with copies to the Regional Director, the Realty Officer, and Central Office Division of Environmental and Cultural Resources Management for status of the pending categorical exclusion.
  - If there is still no response after another five business days, draft a memo from the Regional Director to the regional environmental office requesting status.

**Step 9:** Secure consent of the landowner for the negotiated lease.

- Provide the applicant with the lease forms. (See [Attachment 6R - Sample Residential Lease Form for Tribal Owned Land.](#))
  - Upon written request, provide the names, mailing addresses, percentage of undivided interest, and the location of the parcel to prospective lessees.
  - As established under ILCA (25 U.S.C. 2218), are as follows:
    - (A) If there are five or fewer owners of the undivided interest in the allotted land,

- the applicable percentage shall be 90 percent;
- (B) If there are more than five such owners, but fewer than 11 such owners, the applicable percentage shall be 80 percent;
  - (C) If there are more than 10 such owners, but fewer than 20 such owners, the applicable percentage shall be 60 percent;
  - (D) If there are 20 or more such owners, the applicable percentage shall be a majority of the interests in the allotted land.
- In Alaska, residential leases of Indian lands may be negotiated by the Indian landowners, or their representatives who may execute leases under § 162.601, provided:
    - (A) The owners of a majority of the interests have negotiated a lease satisfactory to us;
    - (B) BIA consents to the lease on behalf of those persons for whom we are authorized to do so under paragraph (c) of this section; and
    - (C) BIA consent, when combined with the consent of the owners, provides 100 percent consent.

<b>REVIEW</b>		
<b>Revision #</b>	<b>Change</b>	<b>Effective Date</b>
0	Initial Issuance	

**END OF PROCEDURE**



Lease Issuance

## LEASE ISSUANCE

### Purpose

This procedure provides instruction and requirements for ensuring that a residential lease complies with all federal and tribal statutes, policies, regulations, and resolutions.

### Scope

This procedure is developed for agency programs, self-governance tribes, and Tribal programs that have secured program responsibility through 638 Self-Determination contracts. The procedures outlined are to be used for most locations, but local, federal and tribal legal requirements may result in modifications to these general outlines.

### Process

**Step 1:** Receive a completed lease package which includes the application and the following supporting documentation:

- Proposed lease
- Survey
- Subdivision Plat (if applicable)
- Site Plan (if applicable)
- Appraisal
- NEPA document
- Title Status Report
- Section 106 Compliance
- Verification of ingress and egress

Upon receipt of a duly-adopted Tribal Ordinance or Resolution or other appropriate legal document, an appraisal or other valuation may not be required for a lease on tribal land.

**Step 2:** Ensure the landowner consent requirements have been met.

- The landowner or the prospective lessee procures the proper consent for leasing of fractionated tracts. See Chapter 1, Section 2.4 - Landowner Consent Requirements.

**Step 3:** If the applicant doesn't submit a proposed lease, assist them in drafting the initial contract with standard and regional/tribal specific stipulations. (See [Exhibit 6-Mandatory and Optional Lease Provisions](#).)

- Draft a Residential Lease with the applicant.
- Draft Residential Leases for HUD, Veterans Affairs, or the Department of Agriculture.

- Ensure the lease is in compliance with 25 CFR 162 and any other applicable laws, tribal ordinances, etc.
- Verify delegation of authority. (See [Attachment 7R – Sample Delegation of Authority](#).)
- Assign a contract number in accordance with instructions for each automated or manual system if necessary.
- Assign a lessee identification number in accordance with instructions for each automated or manual system.
- Cite the statutory authority for the lease.
- Include the legal description whether it is contained in the body of the lease or attached as an exhibit along with the survey, plat map, and any other applicable maps.
- State the purpose of the lease and if the property will be used for a single family residence, public housing subdivision, or other type of residential purpose. Describe and identify the location of all existing structures.
- State the duration of the lease.
- State the rental amount and where payment is to be made. See Chapter 1, Section 2.8 for a discussion of direct payment to land owners.

**Step 4:** Complete the checklist to ensure all necessary actions have been completed. (See [Attachment 8R - Checklist for Residential Lease](#).)

**Step 5:** Verify the signatures of all parties to the lease prior to submittal for approval.

**Step 6:** Issue a recommendation in writing to the approving official for approval or denial of the lease.

- The decision to approve or deny must be provided to non-consenting parties pursuant to 25 CFR Part 2. If all parties consent to the approval and no adverse parties are involved, appeal rights are not applicable.
- The file contains supporting documentation to substantiate the decision.
- If the decision is appealed under Part 2, no further action can be taken and the Bureau must wait until the administrative appeal process has been exhausted. (See [Chapter 1, Section 3.6 - Administrative Appeals](#).)

**Step 7:** Determine the applicable administrative fees.

- Charge an administrative fee for the issuance of the lease, if applicable. An administrative fee may be collected each time a lease amendment, assignment, sublease, mortgage, or related document is approved. These fees will be paid by the lessee, assignee, or sublessee, to cover the costs in preparing or processing the documents and administering the lease.

- The minimum administrative fee is \$10.00 and the maximum administrative fee is \$500.00. Any administrative fees that have been paid are non-refundable, however, all or part of these administrative fees may be waived.
- If all or part of the expenses of the work is paid from tribal funds, the tribe may establish an additional or alternate schedule of fees.
- If a waiver of fee is granted, the waiver is documented.

**Step 8:** If the lease is approved, send the original lease and supporting documentation to the LTRO for recordation. (See [Attachment 9R - Recordation Form.](#))

- Tribes that have compacted or contracted the Land Titles and Records functions send the original lease to the Tribal Titles and Records Office.
- The LTRO will send a recorded copy of the lease to Real Estate Services for the permanent record.

**Step 9:** Send a copy of the approved lease to the applicant, and the lessor upon written request.

**Step 10:** Log the transaction into the agency tracking system as complete.

REVIEW		
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0	Initial Issuance	

**END OF PROCEDURE**

Lease Assignment, Amendment,  
Sublease, and Leasehold  
Mortgage

## LEASE AMENDMENT, ASSIGNMENT, SUBLEASE, AND LEASEHOLD MORTGAGE

### Purpose

To provide the procedure for processing subsequent subleases, modifications, amendments, assignments, or leasehold mortgage documents.

### Scope

A Realty Specialist will manage the lease and process amendments, modifications, subleases, and leasehold mortgages as required, unless the lease specifies otherwise. The document must be approved by the appropriate delegated approving official. All approved transactions must be recorded in the LTRO.

### Process

**Step 1:** Review a proposed residential lease amendment. (See [Attachment 10R - Sample Residential Lease Modification.](#))

- Ensure the required consent(s) has been obtained from all parties that may include the Indian landowner(s) and must include the mortgagee or other sureties.
- Verify the amendment is in the best interest of the landowner(s) using the same standards as required for approval of the lease and is in conformance with all regulations/statutes.
- Obtain approval for the amendment from the delegated official.
- Send the amendment to the LTRO for recordation. (See [Attachment 9R - Recordation Form.](#))

**Step 2:** Review a proposed lease assignment. (See [Attachment 11R - Sample Residential Lease Assignment.](#))

- Review the lease document to determine if an assignment can be made with or without the consent of the landowners and the Secretary.
- An assignment may be made without the consent of all parties if:
  - The assignment is authorized by the lease
  - The assignee agrees in writing to assume all of lessee's obligations
  - The lease provides for assignments without further consent of the landowners
  - The assignee is a leasehold mortgagee or its designee, acquiring the lease either through foreclosure or by conveyance



- If the lease document requires consent then do the following:
  - Obtain landowner consent (the consent standards are the same as required in the lease)
  - The lease may authorize one or more of the landowners to consent on behalf of all the landowners
  - Consent must be obtained from the holders of any sureties or mortgagees
  - On allotted land ensure the assignment provides for the assignee to pay fair market rent to the Indian landowner(s) if the lease was approved at less than fair market rent and the assignee is not a co-owner or a member of the Indian landowner's immediate family
- Send the assignment to the LTRO for recordation. (See [Attachment 9R - Recordation Form.](#))

**Step 3:** Review a proposed sublease. (See [Attachment 12R - Sample Residential Sublease.](#))

- If the initial lease does not authorize a sublease without further approval or consent, then the sublease is subject to Secretary approval.
- Subleases so made shall not serve to relieve the sublessor from any liability pursuant to the initial lease.
- Ensure the sublessee has agreed to be bound by the terms of the initial lease.
- Determine if the proposed use by the sublessee will require an amendment of the lease. Go to Step 1 if an amendment is required.
- Determine if the value of any part of the leased premises not covered by the sublease will be adversely affected.
- Determine if the proper landowner consent(s) has been obtained, if required.
  - Unless otherwise specified in the lease, the Indian landowner(s) must consent to a sublease in the same manner as the initial lease.
  - Consent to the sublease must be obtained from any sureties.
- Ensure the sublease provides for fair market rent to the Indian landowner if the lease was approved at nominal rent and the sublessee is not a co-owner or a member of the landowner's immediate family.
- Obtain approval for the sublease from the delegated official.
  - Subleases require Secretarial approval unless otherwise provided for in the lease.
- Send the sublease to the LTRO for recordation. (See [Attachment 9R - Recordation Form.](#))

**Step 4:** Review a proposed leasehold mortgage.

- Determine if the proper landowner consent(s) has been obtained, if required.
  - A residential lease may be mortgaged without further consent of the Indian landowners if the lease contains a general authorization for such a mortgage, and it states what law would apply in case of foreclosure.
  - Consent must be obtained from the sureties if applicable.
- If the leasehold mortgage is foreclosed and the lender does not acquire the leasehold, the new encumbrance holder must obtain approval by the Secretary. The new encumbrance holder shall be bound by the terms of the lease and will assume in writing all the obligations thereunder.
- Ensure the leasehold mortgage is for the purpose of borrowing capital for the development and improvement of the leased premises.
- Ensure that the Borrower is able to perform lease obligations without being adversely affected by cumulative mortgage obligations. (See [Attachment 13R - Certificate of Approval and Leasehold Mortgage.](#))
- Complete the checklist to ensure all requirements have been met.
- Obtain approval for the mortgage from the delegated official.
- Send the mortgage to the LTRO for recordation. (See [Attachment 9R - Recordation Form.](#))
- When the mortgage obligation has been satisfied record the document (Satisfaction of Mortgage, Release of Mortgage or reconveyance, etc.) in the LTRO.

<b>REVIEW</b>		
<b>Revision #</b>	<b>Change</b>	<b>Effective Date</b>
0	Initial Issuance	

**END OF PROCEDURE**



Lease Administration

## LEASE ADMINISTRATION

### Purpose

This procedure includes the process of maintaining the residential lease file, collection of rental payments, and reporting requirements.

### Scope

A Realty Specialist will set up and maintain all documents in the residential lease file; monitor the terms of the lease; collect and distribute all rental payments, administrative fees; and input all data into the transaction log for reporting purposes.

### Process

**Step 1:** All records and files must be established and maintained in accordance with 16 BIAM, *Records and Files Disposition Handbook (the series number is 4618)*.

**Step 2:** Create a residential lease case file in a six-part file folder as follows:

- Part one contains the original residential lease
- Part two contains all correspondence related to the lease
- Part three contains all environmental documents
- Part four contains all payment records
- Part five contains all modifications, assignments, and subleases
- Part six contains miscellaneous documents

**Step 3:** Collection of rentals.


- The designated Collections Officer will collect all rental payments in accordance with the terms of the lease and the Interagency Procedures Handbook for the collection and distribution of funds.
- The BIA is responsible for maintaining ownership records for monetary distribution of rental income.

**Step 4:** Reporting requirements.

- The agency is responsible for maintaining a transaction log for all residential leases.
- Report total number of approved leases and acreages as follows:
  - GPRA report
  - Annual acreage report

REVIEW		
Revision #	Change	Effective Date
0	Initial Issuance	

END OF PROCEDURE



Lease Compliance

## LEASE COMPLIANCE

### Purpose

This procedure includes monitoring for compliance with lease terms.

### Scope

This procedure is developed for Realty staff who are responsible for monitoring of the lease terms for compliance.

### Process

**Step 1:** Process a lease violation, if required.

- Lease violations may be initiated as a result of the following:
- Site visits by realty staff to determine compliance with the terms of the lease:
  - Complaint from the landowner(s)
  - Complaint from a neighboring landowner
  - Notification of a trespass
  - Non-payment of lease rental
- Physically inspect each lease site on a periodic basis to ensure the terms and conditions of the lease are being met (commonly referred to as a lease compliance inspection).
- Initiate an appropriate investigation within five business days of notification of the potential violation.
- Draft a 10-Day Show Cause Notice that states within 10 business days of receipt of the notice of violation the lessee must:
  - Correct the violation and notify the realty office in writing that the violation has been corrected
  - Dispute the determination that a violation has occurred and/or explain in writing why the lease should not be cancelled
  - Request additional time to correct the violation
  - (See [Attachment 14R - Sample 10 Day Show Cause Notice.](#))
- Send the notice to the lessee and the surety (by certified mail return receipt requested) within five days of determination of the violation.

**Step 2:** Issue a notice of cancellation letter to all interested parties if the violation is not



corrected. (See [Attachment 15R - Sample Cancellation Letter.](#))

- The cancellation letter shall include:
  - The grounds for cancellation
  - Notification to the lessee of the amount of any unpaid rent and penalties
  - The right to appeal pursuant to 25 CFR Part 2
  - Notification that the lessee must vacate the premises within 30 days if no appeal is filed
  
- If an appeal is not filed in accordance with Part 2, the cancellation decision will be effective on the 31st day after the lessee signs receipt for the cancellation letter or on the 41st day from the date the letter is mailed, whichever is earlier.
  
- An individual who elects to file an appeal may be required to post an appeal bond to cover the amount of revenue that the landowner(s) may lose as a result of the appeal process.

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0	Initial Issuance	

**END OF PROCEDURE**



Revocable Use Permits

## REVOCABLE USE PERMITS

### Purpose

This procedure includes the issuance of Revocable Use Permits.

### Scope

This procedure is developed for Realty staff who are responsible for the management of leases. A Revocable Use Permit can only be used for short term occupancy to preserve and protect the improvements and does not convey any leasehold interest and may be revoked at the discretion of the Secretary.

### Process

**Step 1:** Process a permit.

- Draft a permit for residential use. (See [Attachment 16R - Recommended Residential Permit Form.](#))
- Justify the circumstances for the issuance of a permit.
- Determine the appropriate rental.
- Consult with Regional Environmental staff to determine environmental and cultural resources requirements.
- Since this may be an emergency situation, no additional clearances are required.
- Recommend/obtain approval of permit.

**Step 2:** Monitor the permit.

- Site visits by realty staff to determine compliance with the terms of the permit.

**Step 3:** Terminate the permit.

- Terminate the permit once the circumstances for the issuance of the permit have expired. (This may be due to the pending issuance of a residential lease, or a foreclosure, or other circumstances so that the premises will be protected.)

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Revision #	Change	Effective Date
0	Initial Issuance	

**END OF PROCEDURE**

## **5.0 ATTACHMENTS**

The following samples and forms are an integral part of the operating procedures.

# Attachment 1R

## Residential Lease Intake Form for Individual Allotted Land

**SAMPLE**

Bureau of Indian Affairs							
LEASING & PERMITTING DIVISION							
Data Intake Worksheet							
(Negotiated & Advertised Leases (Unitized), Permits, Assignments, Subleases, Modifications, Cancellations							
Amendment, Encumbrance							
Please Check Proper Transaction Below with an X:							
<b>Case No.</b>			<b>Region:</b>				
<b>Date:</b>			<b>Agency:</b>				
			<b>Tribe:</b>				
<b>TYPE OF CONTACT:</b>		Mark an X	<b>Reservation:</b>				
Letter/Fax			<b>Land Area Code:</b>				
Walk-in		x	<b>Community:</b>				
Phone call			<b>Allotment/Tract No.(s)</b>				
e-mail			<b>County/Parrish/Borough</b>				
Provided Application to complete		x			x = NA		x
<b>Name:</b>							
	(Lessor/Sublessor/Permitter/Assignor)						
<b>Address:</b>							
Phone No.							
<b>Purpose/Need of Transaction:</b>							
	Legal Description/General/Location:						
				Interest Affected:			Indicate whole or in part
<b>Acres Affected:</b>				<b>Check type of transaction</b>			
<b>Share:</b>				Neg.Lease:	x		Adver. Lease:
<b>Percentage</b>				Modification:			Cancellation:
<b>Numeric:</b>				Amendment:			
<b>Fraction:</b>				Sublease:			Assignment:
				Encumbrance (Leasehold):			
				Unitized			
<b>Name:</b>							
	(Lessee/Sublessee/Permittee/Assignee)						
<b>Address:</b>							
Phone No.							
<b>Option to Renew:</b>			<b>Beginning Date:</b>		<b>Rental Amount</b>		
			<b>Expiration Date:</b>		<b>Payment Schedule</b>		
							(Monthly, annually, etc..)

<b>Summary/Decision</b>					
<b>Improvements</b>		<b>Yes:</b>	x	<b>Type:</b>	
		<b>No:</b>			
Approximate \$ Amount intended for Improvements:				Estimated Completion Dates:	
Other Information, instruction & notes:					
Name of Processor:					
<b>Potential Lessee/Sublessee/Permittee/Assignee may be required by BIA to Submit:</b>					
1.	Financial Statement			6.	Other:
2.	Three(3) Letters of Reference			7.	
3.	Three letters of Credit			8.	
4.	Corporate & Partnership Qualifications			9.	
5.	Proforma (if applicable)			10.	



Attachment 2R

TSR Request Form

**SAMPLE  
REQUEST FOR TITLE STATUS REPORT**

TO: Land Titles & Records Office

Date:

FROM:

Please furnish this office with a Title Status Report on the following tract of land:

Land Area Code and Tract Number:

Allotment Name:

Legal Description and Acreage:

Priority (Please Indicate in how many days you need this Title Status Report):

1-10 Days

10-20 Days

21-30 Days

Urgent – No Later than:

List any new documents or probates since last TSR:

-----  
Signature  
Title:

=====

(For Title Plant Use Only)

New TSR	<input type="checkbox"/>	Logged In	:
Reissue	<input type="checkbox"/>	Examination Started	:
No. of Docs/Probates/Mods	:	Examination Completed	:
No. of Lines Chained	:	Total Time to Examine	:
Modifications Created	:	Signed and Mailed	:

Attachment 3R

Appraisal Request Form

## REQUEST FOR REAL ESTATE APPRAISAL SERVICES

All requests for real estate appraisal services will be made only after an Agency or tribal line officer has approved an action involving the transfer or encumbrance of interests in real property or an Office of Hearing and Appeals (OHA) deciding official has requested appraisals for probate and/or consolidation purposes.

All requests for appraisal services shall be submitted to the respective Office of Appraisal Services (OAS) regional office on the standardized "Request for Real Estate Appraisal Services" request form by the Bureau of Indian Affairs and P.L. 93-638 Contract or Self-Governance Compact tribal realty programs.

It is highly recommended that the requesting office consult with the respective Regional Supervisory Appraiser (RSA), as needed, to determine the type of appraisal service necessary, e.g., Appraisal, Appraisal Review, Appraisal Update, and/or Real Property Consultation.

- All approved appraisal requests shall be submitted directly to the appropriate OAS Regional Appraisal Office.
  - Attach supporting documentation:
    - Title status reports (TSR)
    - Survey Plats & Maps of Definite Location
    - Partition plan
    - Tribal resolution
    - Letter of intent
    - Letter of Consent
    - Right of Way Agreement or Application, and Proposed Leases and Permits
    - Quantified Water Rights, if any
- Incomplete appraisal requests will not be accepted. An incomplete request will be returned to the requestor within five working days with a statement providing reasons for canceling the appraisal request.
- Any appraisal request submitted to OAS to obtain an appraisal intended for loan/mortgage purposes by a financial institution shall be rejected (in accordance with the 1989 Financial Institutions Reform, Recovery and Enforcement Act, as amended, which require financial institutions to obtain appraisals to conduct internal risk management.)
- For appraisal requests for opinions of value with effective date other than current date, the requests shall identify whether the opinion of value is prospective or retrospective and provide the date to be used by the appraiser.
  - Prospective Value Opinion – A forecast of the value expected at a specific future date. A prospective value opinion is most frequently sought in connection with real estate projects that are proposed, under construction, or under conversion to a new use, or those that have not achieved sellout or stabilized level of long-term occupancy at the time the appraisal report is written.
  - Retrospective Value Opinion – An opinion of value that is likely to have applied as of a specified historic date. A retrospective value opinion is most frequently sought in connection with appraisals for estate tax, condemnation, inheritance tax, and similar purposes.

Appraisal requests should not be submitted to OAS for real estate transactions that do not require Secretarial approval, e.g., valuations for landowner personal use & knowledge,

valuations of non-fixed portable classrooms, HUD tribal housing development program's subsidized loan originations, etc.

**U.S. DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SPECIAL TRUSTEE FOR AMERICAN INDIANS  
OFFICE OF APPRAISAL SERVICES  
REQUEST FOR REAL ESTATE APPRAISAL SERVICES**

**SAMPLE**  
AGENCY:  
AGENCY CASE NO:  
RESERVATION:  
BIA REGIONAL OFFICE:

TO: REGIONAL SUPERVISORY APPRAISER,  
REGION

APPRAISAL SERVICE: ( ) APPRAISAL ( ) APPRAISAL REVIEW ( ) APPRAISAL UPDATE ( ) REAL PROPERTY CONSULTATION

GRANTOR/LESSOR: \_\_\_\_\_ GRANTEE/LESSEE: \_\_\_\_\_

PURPOSE OF APPRAISAL: ( ) MARKET VALUE ( ) MARKET RENTAL VALUE ( ) JUST COMPENSATION  
( ) DAMAGE ESTIMATE ( ) USE FEE ESTIMATE

LEASE TYPE: ( ) Cash Lease ( ) Crop Share Lease ( ) Percentage Lease ( ) Gross Lease  
( ) Index Lease ( ) Net lease Lease No. \_\_\_\_\_

TRANSACTION TYPE	PROPERTY TYPE	UTILITIES	LEASE
( ) SALE ( ) LEASEHOLD	( ) AGRICULTURAL ( ) PUBLIC WATER OR	( ) CURRENT	( ) CURRENT
( ) ACQUISITION ( ) LEASED FEE	( ) RESIDENTIAL ( ) DOMESTIC WELL	LEASE	LEASE
( ) EXCHANGE ( ) RENTAL ADJUSTMENT	( ) COMMERCIAL ( ) SEWER OR ( ) SEPTIC	ATTACHED	ATTACHED
( ) EASEMENT/RIGHT OF WAY	( ) INDUSTRIAL ( ) ELECTRICITY	or	or
( ) PARTITIONMENT	( ) RECREATIONAL ( ) TELEPHONE	( ) PROPOSED	( ) PROPOSED
	( ) OTHER ( ) GAS	LEASE	LEASE
		ATTACHED	ATTACHED

AGRICULTURAL	RECREATIONAL	RESIDENTIAL	COMMERCIAL / INDUSTRIAL
( ) PRODUCTION HISTORY	___ NO. OF FRONT FEET	( ) PURCHASE	( ) FINANCIAL
( ) IRRIGATABLE ACRES AND/OR	ON LAKE/RIVER	AGREEMENT/	STATEMENTS
WATER RIGHTS DATA	( ) PURCHASE	CONTRACT	( ) PURCHASE
( ) PURCHASE AGREEMENT/ CONTRACT	AGREEMENT/	( ) PHYSICAL DATA OF	AGREEMENT/
( ) CARRYING CAPACITY (AUM'S)	CONTRACT	STRUCTURE, E.G., AGE,	CONTRACT
( ) WATER SOURCE: SPRING, PUMPS,	( ) STUMPAGE VALUE	FLOOR PLAN, ETC.	( ) FLOOR PLAN
WELLS	( ) HUNTING/FISHING	( ) OWNERSHIP DATA OF	
	RIGHTS	HOME & OTHER	
		STRUCTURES	

LEGAL DESCRIPTION: (ATTACH SURVEY AND TITLE STATUS REPORT, IF AVAILABLE)

ALLOTMENT NO.(S): \_\_\_\_\_ CONTAINING \_\_\_\_\_ ACRES, MORE OR LESS

IDENTIFY LAND CHARACTER AND/OR IMPROVEMENTS TO BE APPRAISED:

SPECIAL INSTRUCTIONS/REMARKS (INCLUDE DEVELOPMENT, IMPROVEMENT AND RENOVATION COSTS, IF ANY):

THE APPROVING OFFICIAL HAS REVIEWED THE NEED FOR APPRAISAL OF THE DESCRIBED PROPERTY FOR THE PURPOSE INDICATED AND CERTIFIES THAT THE APPRAISAL IS NEEDED AND REQUESTS THAT IT BE PREPARED ON A: ( ) ROUTINE OR ( ) RUSH PRIORITY BASIS.

DATE REQUESTED \_\_\_\_\_ SIGNATURE \_\_\_\_\_ REQUESTING OFFICIAL

DATE APPROVED \_\_\_\_\_ SIGNATURE \_\_\_\_\_ APPROVING OFFICIAL

FOR REGIONAL OFFICE USE

DATE RECEIVED: \_\_\_\_\_  
DATE ASSIGNED: \_\_\_\_\_  
APPRAISER: \_\_\_\_\_  
REPORT TYPE CODE: \_\_\_\_\_  
DATE OF VALUATION: \_\_\_\_\_

PROJECT NUMBER:  
OPINION OF VALUE: \$  
DATE COMPLETED:  
DATE APPROVED:  
TRANSMITTAL DATE:  
REVIEWER:

# Attachment 4R

## Review of Land Appraisals



IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
Washington, D.C. 20240

88  
Copy - BES Staff

Office of Trust Services

OCT 6 2005

Memorandum

To: All Regional Directors

From: Director, Bureau of Indian Affairs

Subject: Review of Land Appraisals by the Office of Appraisal Services

An issue has arisen concerning whether controls exist to insure that land appraisals conducted by Indian tribes pursuant to compact or contract agreements have been reviewed by the Office of Appraisal Services (OAS). Discussion concerning this issue with the personnel of the National Business Center, OAS, confirmed their policy responsibility to review land appraisals conducted by Indian tribes pursuant to a contract or compact agreement before the execution and approval of a trust land or resource transaction. Further, they stated that the responsibility to review land appraisals has been declared to be an inherently Federal function in OMB Circular A-76.

We must ensure that the Bureau of Indian Affairs follows the existing policy and practice of the OAS to review land appraisals performed by contract and compact Indian tribes prior to the approval of a land or natural resource transaction. Therefore, the Agency Superintendents, Regional Directors, and other Bureau personnel, with the authority to approve a trust or natural resource transaction, to declare that the land appraisal conducted by a compact or contract Indian tribe has been reviewed by the OAS. Documentation of the OAS review of the land appraisal will be the evidence of the declaration and this evidence of the declaration will become part of the transaction file. An example of the declaration is attached to this memorandum.

If you have any questions or require further information, please contact my office or contact the Deputy Director, Trust Services, at (202) 208-5831.

Attachment



EXAMPLE

**Declaration of Appraisal Review**

I, \_\_\_\_\_, do hereby declare that the land appraisal for  
\_\_\_\_\_ *(state tract number or land description)* was  
performed pursuant to a contract/contract with the \_\_\_\_\_ Tribe  
and was reviewed by the Office of Appraisal Services, as evidenced by the review  
documentation attached hereto.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Superintendent

# Attachment 5R

## Categorical Exclusion Exemption Checklist

**SAMPLE**

**EXCEPTION CHECKLIST FOR BIA CATEGORICAL EXCLUSIONS**

Project: \_\_\_\_\_

Date: \_\_\_\_\_

Nature of Proposed Action:

516 DM 10.5 Exclusion category and number:

Evaluation of Exceptions to use of Categorical Exclusion:

- |     |                                                                                                                                                                                                                                                 |    |     |
|-----|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----|-----|
| 1.  | This action would have significant adverse effects on public health or safety.                                                                                                                                                                  | No | Yes |
| 2.  | This action would have an adverse effect on unique geographical features, such as wetlands, wild or scenic rivers, refuges, floodplains, rivers placed on nationwide river inventory, or prime or unique farmlands.                             | No | Yes |
| 3.  | The action will have highly controversial environmental effects.                                                                                                                                                                                | No | Yes |
| 4.  | The action will have highly uncertain environmental effects or involve unique or unknown environmental risks.                                                                                                                                   | No | Yes |
| 5.  | This action will establish a precedent for future actions.                                                                                                                                                                                      | No | Yes |
| 6.  | This action is related to other actions with individually insignificant, but cumulatively significant environmental effects.                                                                                                                    | No | Yes |
| 7.  | This action will affect properties listed or eligible for listing in the National Register of Historic Places.                                                                                                                                  | No | Yes |
| 8.  | This action will affect a species listed, or proposed to be listed as endangered or threatened.                                                                                                                                                 | No | Yes |
| 9.  | This action threatens to violate federal, state, local or tribal law or requirements imposed for protection of the environment.                                                                                                                 | No | Yes |
| 10. | This action will have a disproportionately high and adverse effect on low income or minority populations.                                                                                                                                       | No | Yes |
| 11. | This action will limit access to, and ceremonial use of Indian sacred sites on federal lands by Indian religious practitioners, or significantly adversely affect the physical integrity of such sacred sites.                                  | No | Yes |
| 12. | This action will contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area, or may promote the introduction, growth, or expansion of the range of such species. | No | Yes |

A "yes" to any of the above exceptions will require that an EA be prepared.  
NEPA Action - - - CE\_\_\_\_\_ EA\_\_\_\_\_

Preparer's Name and Title: \_\_\_\_\_

Regional Archeologist Concurrence with Item 7: \_\_\_\_\_

Concur: \_\_\_\_\_ Date: \_\_\_\_\_  
Regional Director/Superintendent

Concur: \_\_\_\_\_ Date: \_\_\_\_\_  
Regional Office/Agency Environmental Coordinator

## Attachment 6R

# Sample Residential Lease Form for Tribal Owned Land

SAMPLE 1

RESIDENTIAL LEASE OF TRIBAL OWNED LAND

Lease No. \_\_\_\_\_
Contract No. \_\_\_\_\_

THIS Lease is made and entered into by and between \_\_\_\_\_ for and on behalf of \_\_\_\_\_ Tribe of Indians, hereinafter designated as "Lessor," and \_\_\_\_\_, members of the \_\_\_\_\_ Tribe and residing upon the \_\_\_\_\_ Indian Reservation, hereinafter designated as "Lessee."

WITNESSETH

1. SECRETARIAL APPROVAL; FEDERAL AGENCY APPROVAL; DEFINITIONS OF FEDERAL AGENCY, TRIBE, and LENDER. As used in this Lease, the term "Secretary" means the Secretary of the Interior or his or her duly authorized representative. This Lease is subject to the approval of the Secretary pursuant to the Act of August 9, 1955, 69 Stat. 539, as amended, 25 U.S.C. § 415, as implemented by Title 25, Code of Federal Regulations, Part 162. The form of this Lease has been accepted by the Secretary of Housing and Urban Development (HUD) pursuant to 24 C.F.R. § 203.43h(c), which implements Section 248 of the National Housing Act, 12 U.S.C. § 1715z-13, for use in connection with Federal Housing Administration (FHA) insurance of a mortgage on the interest created by this Lease, and pursuant to 24 C.F.R. § 1005.107, which implements Section 184 of the Housing and Community Development Act of 1992 (Pub. L. 102-550) for use in connection with HUD's issuance of a loan guarantee of a mortgage on the interest created by this Lease. The form of this Lease has also been accepted by the Secretary of the United States Department of Agriculture (USDA) for use in connection with the issuance by USDA or its Rural Housing Service (RHS) of a direct or guaranteed loan pursuant to section 502 of the Housing Act of 1949 as amended, 42 U.S.C. § 1472, and accepted by the Secretary of the Veterans Affairs (VA) for use in connection with the issuance by VA of a direct or guaranteed loan pursuant to chapter 37 of Title 38, United States Code, secured by the interest created by this Lease. As used in the context of this Lease, the term "Tribe or Tribal" refers to the respective Tribe who enters into this Lease as the "Lessor." For future reference, "Federal Agency" refers to HUD, VA, and USDA. When used in this Lease, the "lender" is any mortgagee that a Federal Agency has approved or a Federal Agency which makes a direct loan. With respect to mortgages which are insured under Section 248 of the National Housing Act, the lender must be approved by the Federal Housing Administration. The term "lender" also includes any of the lender's successors or assigns of the lender's right, title to, or interest in, the Mortgage and any subsequent noteholder secured by the Mortgage. The assignment of the mortgage or any interest therein does not require the consent of the Tribe.

2. PREMISES. Lessor hereby Leases to the Lessee all that tract or parcel of land situated on the \_\_\_\_\_ Indian Reservation, County of \_\_\_\_\_, State of \_\_\_\_\_, and described as follows (the Leased Premises):

[description], \_\_\_\_\_ County, \_\_\_\_\_ Indian Reservation, \_\_\_\_\_ approximately \_\_\_\_\_ acres.

3. USE OF PREMISES. The purpose of this Lease is to enable the Lessee to construct, improve, and maintain a dwelling and related structures on the Leased Premises, and otherwise to use said premises as a principal residence. The Lessee agrees not to use any part of the Leased Premises for any unlawful conduct or purposes and will comply with all applicable Federal Laws.

4. TERM. Lessee shall have and hold the Leased Premises for a term of \_\_\_\_\_ years beginning on the effective date of this Lease. This Lease may not be terminated by either or both parties

during its term if, and as long as, the Lease and/or any improvements on the premises, or any interest therein, is mortgaged or otherwise pledged as security for any loan in accordance with the provisions hereof, unless consent in writing to such termination is given by the lender and, if the loan is guaranteed, insured, or made by a Federal Agency, a written consent of that agency is also required. This Lease shall not be subject to any forfeiture or reversion and shall not be otherwise terminable, if such event would adversely affect any interest in the Leased Premises, including improvements thereon, acquired in accordance with the provisions hereof by the holder of any mortgage or other lien, or of any purchaser at a foreclosure sale under such mortgage (or lien) or under any conveyance given in lieu of foreclosure, or of any holder subsequent to such purchase. In the event a Federal Agency acquires a mortgage on the interest created by this Lease by assignment from a lender, the Lessor shall not terminate the Lease without the written consent of the respective Federal Agency, as long as the mortgage is in force.

5. RENT. The improvement of housing for Tribal families is a public purpose of the Lessor. The consideration for this Lease is (1) the obligation of Lessee to further said purpose, (2) the promise hereby given by Lessee to pay the Lessor rent at the rate of \$\_\_\_\_\_ per \_\_\_\_\_, (3) the extinguishment, hereby agreed to by Lessee, of any and all use rights heretofore held by Lessee in the Leased Premises, so that Lessee shall hereafter hold rights only by virtue of this Lease, and (4) other good and valuable considerations, the receipt of which is hereby acknowledged by Lessor. Rent may be subject to adjustment pursuant to 25 CFR 162.

6. IMPROVEMENTS. All buildings or other improvements now existing or hereafter constructed on the Leased Premises shall be the leasehold property of the Lessee during the term of this Lease, including any extension or renewal thereof. During the term of this Lease, Lessee shall obtain any necessary governmental permits, approvals or authorization required for the construction and use of all improvements he or she (they) places or cause(s) to be placed on the Leased Premises, and shall comply with all laws applicable to the construction and use of improvements.

7. USE RIGHT. Upon expiration of this Lease, or upon its termination in accordance with the terms hereof, unless such termination is due to default upon the part of Lessee, Lessee or any successors in interest shall be entitled to use rights in the Leased Premises if qualified under the laws of the Tribe. If not so eligible, Lessee, his or her (their) sublessee and any successors in interest shall, upon demand, surrender to Lessor upon expiration or other termination of this Lease complete and peaceable possession of the Leased Premises and all improvements thereon which have not been relocated as permitted under Paragraph 23 of this Lease, which shall be the property of the Tribe.

8. FEDERAL SUPERVISION.

- (a) Nothing contained in this Lease shall operate to delay or prevent a termination of Federal responsibilities with respect to the Leased Premises by the issuance of a fee patent, the lifting of restrictions on alienation, or otherwise during the term of the Lease; such termination, however, shall not serve to abrogate the Lease.
- (b) No member of Congress or any delegate thereto or any Resident Commissioner shall be admitted to any share or part of this Lease or to any benefit that may arise herefrom.

9. QUIET ENJOYMENT. Lessor agrees to defend the title to the Leased Premises and also agrees that Lessee and any successors in interest shall peaceably and quietly hold, enjoy and occupy the Leased Premises for the duration of this Lease without any hindrance, interruption, ejection or molestation by Lessor or by any other persons' whomsoever, except if the requirements of any part of this Lease are not kept by the Lessee. Notwithstanding the foregoing, Lessee and his or her (their) assigns is (are) subject to all the laws of the Tribe to the same extent as any other Tribal member or resident.

10. ASSIGNMENT AND SUBLEASE.

- (a) Except as otherwise provided herein, Lessee shall not assign or sublet this Lease without the prior written consent of the Lessor and sureties (as found in 25 CFR 162),

and approval of the Secretary of the Interior. If this Lease and/or any improvements on the Leased Premises are mortgaged or pledged as security for a loan, Lessee shall not assign or sublet this Lease without the written approval of the lender and the respective Federal Agency. Lessee may assign the Lease and deliver possession of the Leased Premises, including any improvements thereon, to the lender or its successors, or Federal Agency guaranteeing or insuring the loan, if Lessee default(s) in any mortgage or other loan agreement for which the Lease and/or improvements on the Leased Premises are pledged as security, and, in such event, the lender or its successors in interest may transfer this Lease or possession of the Leased Premises to a successor Lessee; provided, however, that the Lease may only be transferred to another member of the Tribe or tribal entity. Nothing in this Lease shall prevent the Lessee, with the approval of the Secretary of the Interior and the Secretary of HUD (for Section 248 insured loans), from executing and recording a mortgage, declaration of trust and/or other security instrument as may be necessary to obtain financing for the purchase of a dwelling, refinancing of an existing mortgage, construction and/or improvement of a dwelling and related structures, or shall prevent the mortgagee or other lender from foreclosing or instituting other appropriate proceedings under law in the event of default of any mortgage or other loan agreement by the Lessee, or assigns. Except in cases involving loans for home construction or home improvement by a bank, recognized lending institution, or a lending agency of the United States Government, where no such consent or approval of Lessor shall be required, Lessee may not execute a mortgage, declaration of trust or other security instrument pledging their interest in this Lease or any improvements on the Leased Premises without the prior written consent of Lessor and the approval of the Secretary.

Notwithstanding the provisions contained above, the following additional requirements shall be applicable to a Lease, which secures a mortgage insured, guaranteed or held by a Federal Agency:

- (b) Notwithstanding that the term sublease is used herein, the Lessee shall not sublease the premises if the Lease is the security for a mortgage insured under Section 248. The lessee may assign the lease in accordance with the terms hereunder.
- In the event a Federal Agency is the lender or acquires the mortgage secured by this Lease, and subsequently acquires said Lease by foreclosure, or by the assignment of said Lease by Lessee, his or her (their) Lessees or assigns (for which the approval of the Tribe is not required), then:
- (1) The appropriate Federal Agency, (the Agency involved in this transaction) will notify the Tribe of the availability of the Lease for sale, the sales price of the home and other terms of sale.
  - (2) The Lease may only be assigned to another tribal member or tribal entity, except that the appropriate Federal Agency may lease the Leased Premises to a nonmember under the conditions specified herein. Any such sublease or assignment shall be executed consistent with tribal law and Federal law.
  - (3) If a purchaser is found, the Lease will be transferred by the Federal Agency, to the purchaser, with the prior written consent of the appropriate Tribe.
  - (4) If a purchaser cannot be found, the appropriate Federal Agency, shall be entitled to sublease the Leased Premises and improvements without the prior written approval of the Tribe. Such sublease shall be to a member of the Tribe, unless a tribal member Lessee cannot be found, in which case the Federal Agency may sub-Lease to any individual. The term of the initial Lease period and any succeeding period shall not exceed one year each. Any purchase of the



Lease shall be subject to any sublease by the Federal Agency pursuant to this subsection.

(5) No mortgagee (except a Federal Agency as mortgagee or assignee of a mortgagee) may obtain title to the interest created by this Lease without the prior written consent of the Tribe.

In the event that the lender is the entity responsible for acquiring the Lease and the leasehold estate by foreclosure, the lender shall have the rights of the Federal Agency who had insured or guaranteed the foreclosed mortgage under subparagraphs (1) through (5) above, provided this sentence does not apply to loans insured under HUD/FHA's Section 248 program.

11. OPTION. Subsequent to Lessee's breach of any covenant or agreement under a mortgage or other security instrument for which the Lease or any improvements on the Leased Premises are pledged as security, and upon the expiration of any applicable cure period, the Lessor shall have an option (the "option" herein) to acquire the Lessee's Leasehold interest, (subject to all valid liens and encumbrances) upon either payment in full of all sums secured by the mortgage or assumption of the loan with the approval of the lender or the applicable Federal Agency as evidenced by the note and mortgage and execution of an assumption agreement acceptable in all respects to the Lender. Such option is subject to the following conditions:

(a) If the Lessee or any assignee of Lessee fails to cure the default, the lender shall give written notice to the Lessor and any applicable Tribal housing authority of Lessee's or its assignee's failure,

(b) If the Lessee fails to cure the default, and said notice shall be given before the lender or successor invokes any other remedies provided under the mortgage or by law. Thereafter, the lender may issue an acceleration notice to the Lessee, its Lessees or assigns, under the mortgage or other security instrument, requiring the Lessee, its Lessees or assigns to pay all sums secured by the mortgage or other security instrument. If the Lessee, its Lessees or assigns fail to cure the default in accordance with the terms of the lender's acceleration notice, the lender shall give the Lessor written notice of said failure to cure. The Lessor may exercise its option at any time within thirty (30) days of the date of the lender's written notice to the Tribe of said failure to cure. This option shall be exercised by notice in writing from the Lessor to the Lessee and the lender.

(c) Notwithstanding the Lessor's option to acquire the Lessee's interest in the Leased Premises, such option shall be subject to any right the Lessee may have under the mortgage or by law to reinstatement after the acceleration, and the right to bring appropriate court action to assert the non-existence of a default or any other defense to acceleration and sale or foreclosure.

(d) The estate acquired by the Lessor through the exercise of the option shall not merge with any other estate or title held by the Lessor as long as the leasehold interest or any improvements on the Leased Premises, or any interest therein, are mortgaged or otherwise pledged as security for any loan, and the leasehold interest shall remain subject to any valid and subsisting mortgage or other security instrument. .

12. RESERVATIONS: Lessee shall use the premises exclusively for residential purposes, except as otherwise agreed to by the parties. Any rights not expressly provided are reserved by the Lessor.

Minerals: The Lessor reserves all rights, as owned by the Lessor, to all mineral rights, including but not limited to oil, gas, or hydrocarbon substances. The Lessor shall not exercise surface entry in connection with reserved mineral rights without prior consent of the Lessee and sureties (as found in 25 CFR 162).

Timber: The Lessor reserves all rights, as owned by the Lessor to timber and forest products on the premises.

Water: The Lessor reserves all rights, as owned by the Lessor, to water on the premises, - except that which is needed for residential purposes.

13. EFFECTIVE DATE. This Lease and all its terms and provisions shall be binding upon the successors, and assigns of the Lessee and any successor in interest to the Lessor, and shall take effect on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ or upon the date of approval by the Secretary, whichever is later.

14. OBLIGATION TO THE UNITED STATES. It is understood and agreed that while the Leased Premises are in trust or restricted status, all of the Lessee's obligations under this Lease, and the obligation of his, hers (theirs) sureties, are to the United States as well as to the owner of the land.

15. ASSENT NOT WAIVER OF FUTURE BREACH OF COVENANTS. No assent, express' or implied, to any breach of any of the Lessee's covenants, shall be deemed to be a waiver of any succeeding breach of any covenants.

16. VIOLATIONS OF LEASE. It is understood and agreed that violations of this Lease shall be acted upon in accordance with the regulations in 25 CFR Part 162.

17. CARE OF PREMISES. It is understood and agreed that the Lessee is to keep the premises covered by this lease in good repair. Lessee shall not commit or permit to be committed any waste whatever on said premises and shall not remove or tear down any building or other improvements thereto, but shall keep the same in good repair. Lessee shall not destroy or permit to be destroyed any trees, except with the consent of the Lessor and the approval of the Secretary, and shall not permit the premises to become unsightly. The Lessee will be held financially responsible for all unrepaired damages to buildings, fences, improvements or, appearance, except for the usual wear and decay.

18. FORCE MAJEURE. Whenever under this instrument a time is stated within which or by which original construction, repairs or re-construction of said improvements shall be completed, and if during such period any cause reasonably beyond the Lessee's power to control occurs, the period of delay so caused shall be added to the period allowed herein for the completion of such work.

19. INSPECTION OF THE PREMISES. The Secretary, lender, applicable Federal Agency, and the Lessor and their authorized representative shall have the rights, at any reasonable times during the term of this lease, and with reasonable notice, to enfur upon the leased premises, or any part thereof, to inspect the same and all buildings and other improvements erected and placed thereon.

20. INDEMNIFICATION. Neither the Lessor nor the United States, nor their officers, agents, and employees shall be liable for any loss, damage, or injury of any kind whatsoever to the person or property of the Lessee or sublessees or any other person whomsoever, caused by any use of the leased premises, or by any defect in any structure erected thereon, or arising from any accident, fire, or other casualty on said premises or from any other cause whatsoever; and Lessee, as a material part of the consideration for this lease, hereby waives on Lessee's behalf all claims against Lessor and/or the United States and agrees to hold Lessor and/or the United States free and harmless from liability for all claims for any loss, damage, or injury arising from the use for the premises by Lessee, together with all costs and expenses in connection therewith.

21. UTILITIES. Neither the Lessor nor the United States shall have any obligation to provide utilities as of the commencement of this Lease. In the event that the Lessee requires utilities, the installation and maintenance thereof shall be the Lessee's sole obligation, provided that such installation shall be subject to the written consent of the Lessor, which the Lessor will not unreasonably withhold. The Lessee shall pay, as they become due, all bills for electricity and other utilities that are furnished to the leased premises.

22. LATE PAYMENT INTEREST. It is understood and agreed between the parties hereto that, if any installment of rental is not paid within 30 days after becoming due, interest will be assessed at the existing prime rate, plus three (3) percent, times the amount owed for the period during which payments are delinquent. Interest will become due and payable from the date such rental becomes due and will run until said rental is paid. The interest rate formula is Interest = (Prime rate + 3%) times (x) amount due.

23. RIGHT OF REMOVAL. Upon the termination of the lease, the Lessee of a one-unit single family dwelling shall be entitled, within days, to remove the dwelling and related structures from the leased premises and relocate such improvements to an alternative site, not located on the leased premises. Any Lessee who exercises such a right shall be required to pay all costs related to the relocation of the dwelling unit. Lessee shall leave the land in good order and condition. All other improvements shall become the property of the Lessor at the expiration of this lease. This paragraph does not apply to Section 248 insured mortgage loans.

24. INSURANCE. The Lessee agrees, so long as this lease is in effect, to keep buildings and improvements on the leased premises insured against loss or damage by fire with extended coverage endorsements in an amount equal to the full insurable value of the buildings and improvements insured. Said policy is to be made payable to the Bureau of Indian Affairs for the benefit of the Lessor. Said policy or policies shall be deposited with the Secretary and Lessee shall pay all premiums and other charges payable in respect to such insurance and shall deposit with the Secretary the receipt for each premium or other charge as paid or satisfactory evidence thereof. Except, during such time that a mortgage is in effect against this Leasehold interest, that said policy is to be made jointly payable to the Lessee and the Lender, and premium payments provided for per specific requirements of the Lender.

25. ADDITIONS. Prior to execution of this Lease, provision (s) number (s) \_\_\_\_\_ has (have) been added hereto and by reference is (are) made a part hereof.

WITNESS: \_\_\_\_\_, Lessor  
\_\_\_\_\_

WITNESS: \_\_\_\_\_, Lessee  
\_\_\_\_\_

APPROVED:  
SECRETARY OF THE INTERIOR

BY: \_\_\_\_\_ Date: \_\_\_\_\_

This lease is approved pursuant to the authority delegated by

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Approving Official

\_\_\_\_\_  
Date

# Attachment 7R

## Sample Delegation of Authority

**SAMPLE DELEGATION OF AUTHORITY (TO BE ADDED)**

# Attachment 8R

## Checklist for Residential Lease

**SAMPLE  
Checklist & Guidelines  
Residential Leases**

Landowner(s): \_\_\_\_\_

Allotment Number: \_\_\_\_\_ Lease Number: \_\_\_\_\_

Reservation: \_\_\_\_\_ County: \_\_\_\_\_ State: \_\_\_\_\_

Legal Description: Section(s): \_\_\_\_\_ Township: \_\_\_\_\_ Range: \_\_\_\_\_

Meridian: \_\_\_\_\_ Tract Numbers: \_\_\_\_\_

- Title Status Report – Check the Agency land file to verify ownership of this parcel. Check for a current certified TSR on file or other documentation in the file verifying land status. If there is not a current TSR order a Title Status Report from your local Land Titles and Records Office. A Certified Title Status report must be in the final residential lease file.
- Check with the Probate Office to see if the land has undetermined estates. If there are undetermined heirs, these lands can only be committed to a two year lease and that may not be practical for a homesite lease.
- Draft Lease should follow the format suggested for the type of Residential Lease proposed.
- Appraisal Request – If the applicant submits an appraisal forward the appraisal to Office of Appraisal Directorate for review and certification. If the applicant does not submit an appraisal, request an appraisal.
- NEPA Compliance - Reference 30 BIAM for environmental and cultural resource requirements, such as, Categorical Exclusion, Environmental Assessment or Environmental Impact Statement.
- Obtain a subdivision plat, surveys, or maps to verify the land description.
- Verify ingress and egress.
- Check if utilities (services line agreements) are in place.
- Verify all required consents are obtained and include a Tribal resolution for Tribal land.
- If the lessee is a Housing Authority ensure that there is a Resolution from the Housing Board authorizing Housing Authority to enter into a lease.
- Verify bonding requirements in accordance with the terms and conditions of the lease.
- Assign a BIA transaction number
- If the rental payment is not for a nominal rate, Issue Bill for Collection for rent due.

- Keep a copy of the Bill for Collection in the lease file.
- Collect first years rental payment all other fees.
  - Work with Office of Trust Funds Management to distribute lease income collected. See Interagency Procedures Handbook – Management of Trust Funds Derived from Assets and Resources on Trust and Restricted Land.
  - Prepare Journal Voucher and submit to OTFM.
  - Prepare a Decision Letter recommending approval/disapproval, addressing all of the above factors. The recommendation should include a detailed explanation on how the recommendation was formulated.
  - Approval/Disapproval by Superintendent.
  - Provide Notice of Decision and appeal rights to all interested parties.
  - Upon expiration of appeal process, approve lease.
  - Fees and rental distribution.
  - Send lease to Land, Titles & Records for recording.
  - Distribute copies of lease to Lessee and Lessor
  - File original lease in accordance with 16 BIAM.
  - Schedule Lease Compliance field inspections.

END: April 22, 2005

Albuquerque, NM



**Attachment 9R**

**Recordation Form**



# Attachment 10R

## Sample Residential Lease Modification

SAMPLE

5-5442

Allot. No. \_\_\_\_\_

Lease No. \_\_\_\_\_

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
Bureau of Indian Affairs

\_\_\_\_\_ Agency

\* \_\_\_\_\_

It is hereby agreed by and between \_\_\_\_\_  
\_\_\_\_\_ lessors, and \_\_\_\_\_  
\_\_\_\_\_ lessee, and \_\_\_\_\_ bondsmen, and  
\_\_\_\_\_ bondsmen, that Lease No. \_\_\_\_\_  
covering the \_\_\_\_\_

\_\_\_\_\_ allotment of \_\_\_\_\_  
be \*\* \_\_\_\_\_ as follows:

\_\_\_\_\_  
(Lessor)

\_\_\_\_\_  
(Bondsmen)

\_\_\_\_\_  
(Lessee)

\_\_\_\_\_  
(Bondsmen)

The within \* \_\_\_\_\_ is hereby approved and declared to be made  
in accordance with the rules and regulations prescribed by the Secretary of the  
Interior thereunder, and now in force.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Superintendent)

\* Insert "Modification" or "Cancellation"  
\*\* Insert "Canceled" or "Modified".

# Attachment 11R

## Sample Residential Lease Assignment

SAMPLE

FURT. TORN

18X.320/021200

MAR 20 2003 12:03

P. 11

Assignment Fee: \_\_\_\_\_

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS

ASSIGNMENT OF LEASE OR PERMIT

Lease No. \_\_\_\_\_

Allotment No. \_\_\_\_\_

It is hereby agreed by and between \_\_\_\_\_,  
Lessor, and \_\_\_\_\_, Lessee (Assignor),  
that Lease No. \_\_\_\_\_, covering \_\_\_\_\_

\_\_\_\_\_, comprising \_\_\_\_\_ acres, more or less, is hereby assigned  
to \_\_\_\_\_ (Assignee),  
of \_\_\_\_\_

The undersigned having been duly sworn, states that owing to conditions over which  
he has no control he can no longer continue to occupy the land as Lessee and that this  
lease was not originally negotiated with any idea or intention of disposing of same.

\_\_\_\_\_  
(Assignor) \_\_\_\_\_ (Assignor)

Subscribed and sworn before me at \_\_\_\_\_, this \_\_\_\_\_ day of  
\_\_\_\_\_, 19 \_\_\_\_.

Notary Public

My commission expires \_\_\_\_\_, 19 \_\_\_\_

The above named assignee(s) hereby accepts this assignment and agrees to fulfill  
all obligations, conditions, and stipulations contained in said lease.

\_\_\_\_\_  
(Assignee) \_\_\_\_\_ (Assignee)

Subscribed and sworn before me at \_\_\_\_\_, this \_\_\_\_\_ day of  
\_\_\_\_\_, 19 \_\_\_\_.

Notary Public

My commission expires \_\_\_\_\_, 19 \_\_\_\_

We, the undersigned Lessor(s) hereby consent to the foregoing assignment, releasing the Lessee (assignor) from all liability of said lease.

\_\_\_\_\_  
(Lessor)

\_\_\_\_\_  
(Lessor)

\_\_\_\_\_  
(Lessor)

\_\_\_\_\_  
(Lessor)

\_\_\_\_\_  
(Lessor)

\_\_\_\_\_  
(Lessor)

UNITED STATES DEPARTMENT OF THE INTERIOR

I hereby certify that I have examined the records of the \_\_\_\_\_ Agency and that said records do not show anything delinquent for cash rentals or filing fee.

\_\_\_\_\_  
Realty Officer

The foregoing assignment is hereby approved, effective \_\_\_\_\_, 19 \_\_\_\_\_

Date Approved: \_\_\_\_\_

\_\_\_\_\_  
Superintendent

# Attachment 12R

## Sample Residential Sublease



**SAMPLE RESIDENTIAL SUBLEASE (TO BE ADDED)**

## Attachment 13R

### Sample Certificate of Approval and Leasehold Mortgage

**SAMPLE**

**LOAN NO.**

**LEASEHOLD MORTGAGE**

THIS MORTGAGE, made this            day of

by

hereinafter called MORTGAGOR to the

hereinafter called the MORTGAGEE:

WITNESSETH: That the Mortgagor hereby mortgages to the Mortgagee that leasehold interest as created by Lease, dated

, entered into between

as Lessor, and

as Lessee, covering            acre(s) more or less, situated in the

County, State of            , on the

Indian Reservation, described as follows:

*See Attached Legal Description for*

**FOR THE PURPOSE OF SECURING:**

1.        Payment of the sum of

Dollars (\$            ) with interest thereon of            (%) percent per annum according to a certain promissory note dated            , made by the Mortgagor, payable to the order of the

Mortgagee, and payable as follows:

\$            per month including both principal and interest commencing on            and on the            day of each and every month thereafter until paid in full but not to exceed            years from the date of said note.

- 2.        Any such extensions or renewals of the above note;
- 3.        Payment of such additional sums, with interest thereon, as may be hereafter borrowed from Mortgagee by then record lessee or lessees of said property, when evidenced by another promissory note or notes, and extensions or renewals thereof;
- 4.        Payment of all obligations incurred, and of all monies expended or advanced by the Mortgagee pursuant to the terms hereof, all of which are hereby declared to be a lien on said leasehold interest and secured hereby;
- 5.        Performance of each agreement of Mortgagor herein contained;

**A. TO PROTECT THE SECURITY OF THIS MORTGAGE, MORTGAGOR AGREES:**

1.        To keep said property in good condition and repair; not to remove or demolish any building thereon; to complete, or restore, promptly and in good and workmanlike manner, any building or other improvement which may be constructed, damaged or destroyed thereon, and to pay when due all costs incurred and all claims for labor performed and materials furnished therefor; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which form the character of use of said property as may be reasonably necessary, the specific enumerations herein not excluding the general.

**LOAN NO.**

2. To provide and maintain in force at all times, fire and other hazard insurance each in an amount satisfactory to, and with loss payable to said Mortgagee. Said insurance policies shall be in form and content and issued by a company satisfactory to Mortgagee, and shall be delivered to and remain in possession of the Mortgagee as further security for the faithful performance of the mortgage. Mortgagee shall not be responsible for insurance or for the collection of any insurance moneys, or for any insolvency of any insurer or any insurance underwriter. Any and all unexpired insurance shall inure to the benefit of, and pass to, the purchaser of the property hereby mortgaged at any sale held pursuant to decree of foreclosure and order of sale entered in any action to foreclose this mortgage. The amount collected under any fire or other insurance policy may be applied by Mortgagee upon any indebtedness secured hereby, and in such order as Mortgagee may determine or, at option of Mortgagee, the entire amount so collected or any part thereof may be released to Mortgagor. Such application or release shall not cure or waive any default hereunder, or invalidate any act done hereunder because of any such default.

3. To appear in and prosecute or defend any action or proceeding purporting to affect the security hereof or the rights or powers of Mortgagee; and to pay all costs and expenses, including the cost of searching the title of said property and attorney's fees, in a reasonable sum to be fixed by the Mortgagee, in any such action or proceeding in which Mortgagee may appear; to pay reasonable attorney's fees, to be fixed by the court, in any action brought to foreclose this mortgage, whether suit progress to judgment or not, and to pay all costs and expenses of such suit, including costs of searching the title to said property subsequent to the date of recording to this mortgage, or of surveying said property.

4. To pay: at least ten days before delinquency all taxes, lease rentals, assessments and fees affecting the said property, including assessments or appurtenant water stock, water charges or water assessments; when due, all adverse claims, encumbrances, charges and liens (including charges for electric power or lights), with interest, on said property, or any part thereof, which appear to be prior or superior hereto.

Should Mortgagor fail to make any payment or to do any act herein provided, then Mortgagee, but without obligation so to do, and without notice to or demand upon Mortgagor, and without releasing Mortgagor from any obligations hereof; may: make or do the same in such manner and to such extent as it may deem necessary to protect the security hereof, Mortgagee being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Mortgagee; pay, purchase, contest or compromise any adverse claims, encumbrance, charge or lien which in the judgment of Mortgagee appears to be prior or superior hereto; and, in exercising any such power, pay necessary expense, employ counsel and pay his/her reasonable fees.

5. To pay immediately and without demand all sums so expended by Mortgagee, with interest from date of expenditure of the rate of \_\_\_\_\_ percent per annum.

6. If the loan secured hereby, or any part thereof, is being obtained for purpose of construction or improvements on said property, Mortgagor also agrees, anything in this mortgage to the contrary notwithstanding: (a) to complete same in accordance with plans and specifications satisfactory to Mortgagee; (b) to allow Mortgagee to inspect said property at all times during construction; (c) to replace any work or materials unsatisfactory to Mortgagee, within fifteen (15) calendar days after written notice from Mortgagee of such fact, which notice may be given to the Mortgagor by registered mail, sent to his last known address, or by personal service of the same; (d) that work shall not cease on the construction of such improvements for any reason whatsoever for a period of fifteen (15) calendar days.

**B. IT IS MUTUALLY AGREED THAT:**

1. Any award of damages in connection with an condemnation for public use of or injury to said property, or any part thereof, is hereby assigned, and shall be paid to Mortgagee, who may apply or release such monies received by it in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.

2. By accepting payment of any sum secured hereby after its due date, Mortgagee does not waive its rights, either to require prompt payment when due of all other sums so secured or to consider failure so to pay a default hereunder.

3. At any time or from time to time, without liability therefore, and without notice, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, Mortgagee may: release from this mortgage any part of said property; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement, or any agreement subordinating the lien or charge of this mortgage.

LOAN NO.

4. Upon default by Mortgagor in payment of any indebtedness secured hereby, or in the performance of any agreement hereunder, Mortgagee shall be entitled and may, and is hereby authorized, without regard to the adequacy of the security for the indebtedness secured hereby, either personally or by attorney or agent, without bringing any action or proceeding, or by a Receiver to be appointed by the court, without notice and to serve without bond, pending foreclosure proceedings and until the right of redemption has expired, to enter into possession and hold, occupy, possess and enjoy said property, make cancel and enforce or modify leases, obtain and eject tenants, and set or modify rents and terms of rents, and to take, receive and collect all or any part of the rents, issues and profits thereof and, after paying the cost of maintenance and operation of said party as it, in its judgment, may deem proper, including compensation of said Receiver, to apply the balance upon the entire indebtedness then secured hereby, the rents, issues and profits of said property being hereby assigned to Mortgagor as further security for the payment of such indebtedness; and the acceptance of such rents, issues and profits shall not constitute a waiver of any other such rents, issues and profits pursuant hereto shall not cure any default hereunder, nor affect any proceedings to foreclose this mortgage, or any sale made pursuant to decree of foreclosure of this mortgage and order of sale of said property, but such rents, issues and profits, less all costs of operation and maintenance, including compensation of said Receiver, when received by Mortgagee, shall be applied in reduction of the entire indebtedness from time to time secured hereby. Upon such default, the Mortgagee may sell the leasehold interest at a private or public sale or auction, with or without notice to the Mortgagor, subject to the approval of the Lessor, and if applicable, the approval of the Secretary of the Interior, or his authorized representative. From the proceeds of any such sale or foreclosure, there shall be first paid the mortgage note and interest thereon and reasonable attorney's fees and such other expenses as the Mortgagee may have incurred. In the event that the leasehold interest covers a business type lease, in addition to the above remedies, the Mortgagee may enter upon the premises, with or without notice take possession of the entire property, and proceed to operate the same as going business for and on behalf of the Mortgagor, during the time of such sale or foreclosure, and such operation hereby authorized by the Secretary of the Interior, or his authorized representative, if applicable.

Should the Mortgagee be the highest responsible bidder at any such sale or foreclosure and the Mortgagee shall have full right and authority to bid at the same and to purchase the same if it be the highest responsible bidder at such sale or foreclosure, then the Mortgagee as purchaser may further assign the leasehold and possessory interest and other chattel property here mortgaged, to such other person, firm or corporation as it shall deem proper, without the approval of the Secretary of the Interior, or his authorized representative, if applicable, provided, however, that such assignee shall accept and agree in writing to be bound by all of the terms and conditions of the above described lease.

Should the purchaser at any sale or foreclosure be any person, firm or corporation other than the Mortgagee, approval by the Secretary of the Interior, or his authorized representative, if applicable, of such purchase shall be required, and such approval shall be made a condition of sale or foreclosure, and such purchaser shall be bound by the terms and conditions of the above described lease, and it shall be a further condition of such sale purchaser shall assume in writing all of the obligations thereunder.

5. Should Mortgagor default in payment of any indebtedness secured hereby, or in the performance of any covenant hereunder, Mortgagee may declare all sums secured hereby immediately due and payable, and the filing in court of a complaint to foreclose this mortgage shall, without any other notice hereof, be conclusive notice of the exercise of such option by the Mortgagee.

6. Should this mortgage be foreclosed, then, in the decree of foreclosure entered in such action, said property may be ordered sold, either as a whole or in separate parcels, and in such order as Mortgagee, at its option, may determine, subject to the approval of the Secretary of the Interior, or his authorized representative, if applicable.

7. Mortgagor represents, warrants, covenants to, and agrees with, the Mortgagee that at the time of the execution and delivery of this mortgage, the Mortgagor is the legal owner or owners of the above described lease, and has good right and authority to mortgage the same as herein provided, subject, if applicable to the approval of the Secretary of the Interior, or his authorized representative, and that the same are free and clear of all prior liens and encumbrances whatsoever except

and that Mortgagor will forever warrant and defend the same and the title thereto, against all lawful claims whatsoever.

8. The use of the above phrase "if applicable" in conjunction with any necessary action by the Secretary of the Interior, has reference to whether the subject property is Indian land in a trust or restricted status. Under existing law, if the subject property is trust or restricted Indian land, the Secretary of the Interior or his authorized representative has certain approval authority as indicated above.

**LOAN NO.**

9. This Mortgage applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Mortgagee shall mean the owner and holder, including pledgers, of the note secured hereby whether or not named as Mortgagee herein. In this mortgage, wherever the content so requires, the masculine gender includes feminine and/or neuter, and singular number includes the plural.

IN WITNESS WHEREOF, Mortgagor has executed this mortgage, and if the Mortgagor be a corporation the same has been executed, and its corporate seal affixed, by its proper officers thereunto duly authorized, and if the Mortgagor be a co-partnership the same has been executed in the partnership name and by the members thereof individually, on the day of and year first above written.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF )  
 ) ss.  
COUNTY OF )

On this the \_\_\_\_\_ day of \_\_\_\_\_, before me

the undersigned officer, personally appeared

known to me (or satisfactorily proven) to be the person(s) whose name is subscribed to the within instrument and acknowledged

that \_\_\_\_\_ executed the same for the purpose therein contained.

In witness whereof, I hereunto set my hand and official seal

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

LOAN NO.

**TRIBAL APPROVAL**

**APPROVED:**

Date: \_\_\_\_\_

By: \_\_\_\_\_

Chairman of the Tribal Council

\_\_\_\_\_  
Authorizing Resolution

**CERTIFICATION OF APPROVAL**

Pursuant to that Authority delegated to the Assistant Secretary-Indian Affairs by 209 DM 8, redelegated to Phoenix Area Director by Sec. Order Nos. 3150 and 3177, as amended, 10 BIAM Bulletin 13, as amended, and to the Superintendent by Area Office Addendum to 10 BIAM Bulletin 11; and 10 BIAM Bulletin 13.

Dated this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Title: \_\_\_\_\_

Agency: \_\_\_\_\_

## Attachment 14R

### Sample 10 Day Show Cause Notice



**SAMPLE**  
**UNITED STATES DEPARTMENT OF THE INTERIOR**  
**BUREAU OF INDIAN AFFAIRS**

In Reply Refer to:  
Real Estate Services  
(406) 555-1234

December 8, 2003

CERTIFIED MAIL RECEIPT NUMBER 7000 1670 0000 4613

Mr. Brown  
123 Ace Street  
Hometown, WY 12345

Dear Mr. Brown:

This is in reference to your lease on the following allotment:

<u>Allotment No.</u>	<u>Contract No.</u>	<u>Rental Amount Due</u>
0123-A	O-12335	\$10,000.00

In accordance with the Lease Contract and Code of Federal Regulations 162.251, **you are hereby informed that you have ten (10) business days from your receipt of this letter to show cause as to why the above lease(s) should not be cancelled.** No extensions of time will be granted. Be advised that penalties will be assessed for late payments in accordance with the terms of the lease contract(s). A copy of this letter is being forwarded to you by regular mail to insure that you have received it.

You may direct any questions concerning this correspondence to our Realty Estate Services Office at (406) 555-1234.

Sincerely,

Agency Superintendent

# Attachment 15R

## Sample Cancellation Letter

**SAMPLE**

**UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS  
Crow Agency, Montana 59022**

IN REPLY REFER TO:  
Real Estate Services – T&M  
Code 310

February 13, 2004

CERTIFIED MAIL – RETURN RECEIPT REQUESTED – NO. 7000 1670 0000 4613 4130

Name  
P O Box 666  
Lodge Grass, MT 59031

Re: Lease Contract # 0-12345

Dear Mr. Smith:

On October 1, 2003 you were given ten (10) days from the receipt of the letter to pay the past due rental, due on October 1, 2003 and provide proof of payment , or show cause why the above listed lease contract should not be cancelled.

In accordance with the Code of Regulations, Title 25, 162 Part 2, you are notified that lease Contract Number 12345 is hereby CANCELED for non-payment of the lease rental of the contract. Cancellation of the subject lease does not relieve you of your obligations to make full payment of the lease rentals due.

The decision may be appealed to the:

Regional Director, Rocky Mountain Regional Office  
316 North 26<sup>th</sup>, Street  
Billings, MT 59101

In accordance with the regulations in Title 25, Code of Federal Regulation , Part 2 (copy enclosed), your Notice of Appeal must be filed in this office within 30 days of the date you receive this decision. The date of filing your Notice of Appeal is the date it is postmarked or the date it is personally delivered to this office. Your Notice of Appeal must include your name, address, and telephone number. It should clearly identify the decision being appealed. If possible, attach a copy of the decision. The Notice of Appeal must list names and addresses of the interested parties known to you and certify that you have sent then copies of the notice. You must also send a copy of your notice of appeal to the:

Regional Director, Rocky Mountain Regional Office  
316 North 26<sup>th</sup>, Street  
Billings, MT 59101

You must also file a "Statement of Reasons." This statement may be included in or filed with the Notice of Appeal. If it is not filed at the time of the Notice of Appeal, it must be filed within 30 days after the Notice of Appeal was filed. You may request assistance from this office with the preparation of the appeal.

If no appeal is timely filed, this decision will become final for the Department of the Interior at the expiration of the appeal period. No extension of time may be granted for the filing a Notice of Appeal.

If you have any questions, please contact \_\_\_\_\_, Realty Specialist at 406-555-1212 or \_\_\_\_\_ Realty Officer at 405-555-1313.

Sincerely,

Superintendent

Enclosures

# Attachment 16R

## Recommended Residential Permit Form

**SAMPLE**

**UNITED STATES OF AMERICA  
DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS**

**REVOCABLE USE PERMIT**

**PERMIT NO.**

Pursuant to the authority of 25 U.S.C. 415 and 25 CFR 162, \_\_\_\_\_ (Permitter) of \_\_\_\_\_ (address), Native Allotment Number \_\_\_\_\_, hereinafter called the "PERMITTER", hereby grants permission to \_\_\_\_\_ (Permittee), of \_\_\_\_\_ (address) hereinafter called the "PERMITTEE."

WITNESSETH: The PERMITTER, in consideration of \$ \_\_\_\_\_, per month, grants permission to PERMITTEE, subject to limitations hereafter stated, a non-exclusive right beginning \_\_\_\_\_, and terminating \_\_\_\_\_, for the following purpose:

On the following described land:

hereinafter described as the PREMISES. In consideration of this permission, PERMITTEE agrees:

1. The PERMITTEE will, at all times indemnify and save, protect and hold harmless the PERMITTER, the United States and the said PREMISES from every and all costs, loss, damage, liability, expense, penalty and fine whatsoever which may arise from or be claimed against said PERMITTER, to persons or property or damage of whatever kind of character consequent upon or arising from any neglect or fault of the PERMITTEE or his agents and employees in the use or occupancy of said PREMISES. PERMITTEE must file evidence of liability insurance prior to beginning operations. PERMITTEE must file evidence of bonding in the amount of \$\_\_\_\_\_.
2. PERMITTEE will conduct a briefing for all employees, contractors, and subcontractors which will cover the stipulations required by this permit.
3. All operations will be conducted in such a manner as to not cause damage or disturbance to any improvements on or adjacent to the PREMISES.
4. PERMITTEE shall prohibit their employees, agents, contractors, subcontractors and their employees from disturbing or appropriating any objects from the PREMISES.
5. PERMITTEE shall not assign this permit in any event.

6. PERMITTEE shall commit no waste on the PREMISES and at all times shall keep the PREMISES in a clean and sanitary condition.
7. The PREMISES may not be used for any unlawful purpose.
8. A copy of this permit shall at all times be in the possession of the party chief or some other member of the PERMITTEE's crew while conducting the field operations.
9. The PERMITTEE will not store fuel, flammable material or any hazardous material on the PREMISES. In the event of an accidental spill, every effort will be made to protect the surface and groundwater supplies from contamination. All spills will be reported immediately to the PERMITTER and the Department of Interior, Bureau of Indian Affairs.
10. PERMITTEE will notify and pay all damages caused to PERMITTER's property by the PERMITTEE's agents or employees immediately. Said damages will be paid to the "Dept. of Interior – BIA."
11. Upon expiration, revocation or abandonment of operations, PERMITTEE agrees to remove all equipment from the land and notify the PERMITTER and BIA Field Office in writing that cleanup operations have been completed.
12. PERMITTEE agrees to conduct operations in compliance with all applicable Federal, State and local laws, ordinances or regulations, including but not limited to those pertaining to fire, sanitation, conservation, water pollution, fish and game.
13. The PERMITTEE will comply with the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), the Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C. 3001-03013), the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470~~aa~~-470*ll*), and all implementing regulations.
14. During the term of this Permit, if any previously unknown archeological or historic remains are discovered during the life of this permit or in the course of associated activities, they shall be protected from disturbance pending further recommendations from the BIA Area Archeologist (36 CFR § 800.11). Work should be halted immediately and the office listed below contacted. Any person who knows of the discovery of human remains or cultural items must provide notification in writing to the BIA Area Archeologist (43 CFR § 10.4).
15. No person may excavate, remove, damage, or otherwise alter or deface any archeological resource on Indian lands (43 CFR § 7.4). This includes any historic or prehistoric cultural materials. The Federal land manager may assess a civil penalty against any person who has violated any term or condition included in § 7.4 or who has violated any term or condition in a permit issued in accordance with the Act and this part (43 CFR § 7.15).

16. Notices and communications shall be in writing and shall be personally delivered, or mailed by Certified Mail, Return Receipt Requested, and addressed to:

(Name and Address)

**PERMITTERS:**

(Name and Address)

**PERMITTEE:**

(Name and Address)

It is further understood and agreed that this instrument is not a lease and is not to be taken or construed as granting any leasehold interest or right in or to the PREMISES herein described, but is merely a temporary Permit terminable and revocable at the discretion of the PERMITTER, with the approval of the Secretary of the Interior.

This Permit may be extended upon written request to the Department of Interior, Bureau of Indian Affairs, \_\_\_\_\_ (BIA office and address) \_\_\_\_\_.

This Permit shall terminate upon the breach of any of the conditions herein. In the event of such termination prior to expiration through failure on the part of the PERMITTEE, demands shall be made for payment of obligations pursuant to 25 CFR § 162.614. Any advance payments made shall become the property of the PERMITTER.

Nothing contained in this lease shall operate to delay or prevent a termination of Federal trust responsibilities with respect to the land by the issuance of a fee patent or otherwise during the term of the lease; however, such termination shall not serve to abrogate the lease. The owners of the land and the lessee and his surety or sureties shall be notified of any such change in the status of the land.

Accepted by:

**PERMITTEE:**

\_\_\_\_\_  
Date

**PERMITTERS:**

\_\_\_\_\_  
Date



**UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS**

**The within Permit is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, pursuant to the authority delegated to the Assistant Secretary of Indian Affairs by the Secretary of Interior in 209 DM 8 and to the Commissioner of Indian Affairs by the Assistant Secretary of Indian Affairs in 230 DM 1 and to the Regional Director by the Commissioner of Indian Affairs in 31AM 4 and to the Field Representatives in Addendum to 10 BIAM 3, dated January 17, 1989 by the Area Director.**

\_\_\_\_\_  
Field Representative