

# **INTENDED BENEFITS TO TRIBES IMPLEMENTING LEASING REGULATIONS:**

## **● Economic Development**

- A more streamlined leasing process.
- May significantly reduce the time to execute and approve leases compared to existing BIA processes.
- Timely execution of leases may encourage potential lessees to invest and develop in tribal communities.

## **● Tribal Land Management**

- Tribes may enact regulations that are tailored to the unique needs of the tribe's community.

## **● Access to 25 CFR Part 162**

- If a tribe with leasing regulations under the HEARTH Act believes a particular lease would be better supported under 25 CFR Part 162, the lease may be submitted for BIA review and Secretarial approval under the CFR.
- Leases approved under Part 162, and any amendments, assignments, etc., will remain subject to Part 162 until lease termination or expiration.

# **ADOPTION & IMPLEMENTATION OF TRIBAL LEASING REGULATIONS:**

- **Funding**

- Added costs, or the diminishment of existing funds, associated with undertaking full administration and management of leasing.

- **The Environmental Review Process**

- There is **no requirement** for the BIA to perform environmental reviews after approval of leasing regulations.
- Tribal environmental review process does not to be as stringent as NEPA.

- **Lease Enforcement (Violations/Cancellation)**

- Tribes will manage all aspects of HEARTH Act leases executed pursuant to their approved tribal regulations.
- Upon reasonable notice from the Tribe, the Secretary *may*, upon his discretion, enforce the provisions of or cancel a lease.

- **Existing and Future Leases**

- Leases already in place (executed and approved under 25 CFR 162) are still subject to BIA's leasing regulations.
- Approval of Hearth Act Regulations does not preclude Tribes from electing Secretarial Approval process under 25 CFR 162.

## **THE BIA'S ROLE AFTER TRIBAL LEASING REGULATIONS ARE APPROVED:**

- **Lease Review: There is no in-depth BIA review.**
  - The HEARTH Act lease must be executed pursuant to the Tribe's authority under its approved HEARTH Act code.
  - A HEARTH Act Lease **must not** have any reference to the Secretary or Secretarial authority under 25 CFR 162 regulations.
  - A HEARTH Act Lease must be signed by all parties to the lease and include standard contract provisions such as duration and payment compensation.
  - There must be a legal description sufficient for LTRO to record.
- **Approval:**
  - The Secretary **does not** approve lease documents executed under a tribe's HEARTH Act leasing regulations.
  - HEARTH Act lease documents are approved by the Tribe pursuant to its approved HEARTH Act regulations.
  - HEARTH Act Tribal authority and 162 Secretarial authority **are not interchangeable**.

## THE BIA'S ROLE AFTER TRIBAL LEASING REGULATIONS ARE APPROVED:

- **TAAMS Encoding:**

- Tribes are required to provide BIA with a **copy** of all HEARTH Act lease documents (lease, amendment, assignment, leasehold mortgage, renewals and subleases).
- Encoding HEARTH Act lease documents must be done by either the Tribe that has contracted or compacted realty functions, or BIA.
- In preparation for encoding, a cursory review should be done before entry into the TAAMS system.

- **Recording & TSR's:**

- LTRO is responsible for recording all HEARTH Act lease documents.
- The Tribe, that has contracted or compacted realty functions, is responsible for submitting HEARTH Act leases to LTRO for recordation purposes after they've been encoded into the TAAMS system.
- BIA will perform the encoding functions if the Tribe does not have TAAMS access.
- For HEARTH Act leasehold mortgage documents, the Lender and Tribe **MUST** work together to correct any recording or Title issues that arise from HEARTH Act leasehold mortgage documents.