



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

OCT 04 2017

Dear Tribal Leader:

The application process for taking land in trust can be costly for Tribes. In consideration of the often-times limited tribal resources, the Department of the Interior (Department) is considering revisions to 25 CFR § 151.11 and § 151.12 that will reduce the burden on tribal applicants. In furtherance of the Department's commitment to government-to-government consultation, enclosed is a copy of draft revisions to the fee-to-trust regulations at 25 C.F.R. Part 151.

The draft revisions create a two-step review and approval process for off-reservation trust acquisitions, while distinguishing off-reservation trust acquisitions for the purposes of gaming from off-reservation trust acquisitions for other purposes. During the initial review, Tribes would be required to provide certain application information. Only if an application meets certain threshold criteria, would the applicant proceed to the final review in which more resource-intensive information would be required. This two-step process would provide Tribes with more certainty as to the possibility of an approval before expending significant resources.

Additionally, the draft revisions reinstate the 30-day waiting period between when a decision is issued and when land is taken into trust. This will help to prevent situations where title is transferred into trust and a Tribe expends resources developing that land, only to face protracted litigation and the possibility of a court reversing the Department's decision and ordering that the land be taken out of trust. The draft revisions provides that on the 31st day, the Department will take the land into trust unless a court orders otherwise.

In addition to comments on the draft revisions, we are seeking input on the following questions:

1. Under what circumstances should the Department approve or disapprove an off-reservation trust application?
2. What criteria should the Department consider when approving or disapproving an off-reservation trust application?
3. Should different criteria and/or procedures be used in processing off-reservation applications based on:
 - a. Whether the application is for economic development as distinguished from non-economic development purposes (for example tribal government buildings, or Tribal health care, or tribal housing)?
 - b. Whether the application is for gaming purposes as distinguished from other (non-gaming) economic development?
 - c. Whether the application involves no change in use?

4. Should pending applications be subject to new revisions if/when they are finalized?
5. Do Memoranda of Understanding (MOUs) and other similar cooperative agreements between tribes and state/local governments help facilitate improved tribal/state/local relationships in off-reservation economic developments? If MOUs help facilitate improved government-to-government relationships, should that be reflected in the off-reservation application process?

We will be hosting a listening session at the National Congress of American Indians (NCAI) annual convention in Milwaukee, Wisconsin, on Monday, October 16, at 9:00 a.m. (in conjunction with the session on Indian trader regulations). In addition, we will be hosting the following formal Tribal consultation sessions:

Date	Time (Local)	Location
Tuesday, November 14, 2017	9:00 a.m. - Noon	Seattle, WA
Thursday, November 16, 2017	9:00 a.m. - Noon	Sacramento, CA
Wednesday, November 29, 2017	9:00 a.m. - Noon	Phoenix, AZ

Please RSVP to consultation@bia.gov if you plan to attend one of the three consultation sessions listed above. As our schedule is still evolving, please periodically check the calendar on the following website for times and other updates, found at:

<https://www.indianaffairs.gov/as-ia/raca/regulations-development-andor-under-review/fee-trust-regulations-25-cfr-151>

Please provide any written input on the Consultation Draft, as well as any input on the questions listed above, by midnight on December 15, 2017, to consultation@bia.gov or the address below:

Attn: Fee-To-Trust Consultation
Office of Regulatory Affairs & Collaborative Action
Office of the Assistant Secretary – Indian Affairs
1849 C Street NW, Mail Stop 4660-MIB
Washington, DC 20240

I look forward to your ideas for decision-making criteria and your input on the Consultation Draft. Please feel free to contact Elizabeth Appel at (202) 273-4680 if you would like any additional information on this effort.

Sincerely,



John Tahsuda
Acting Assistant Secretary – Indian Affairs

Enclosures