Fee-to-Trust
Step-by-Step Process for
On-Reservation (Discretionary)

STEP 1
Review of Written Request or Application

STEP 2
Encode Fee-to-Trust System of Record

STEP 3
Respond to Incomplete Request/Application

STEP 4
Site Visit and Certificate of Inspection & Possession (CIP)

STEP 5
Preparing Preliminary Title Opinion (PTO)

STEP 6
Preparing Notice of Application (NOA)

STEP 7
Environmental Compliance Review

STEP 8
Comments to Notice of Application

STEP 9
Clearance of PTO objections before Notice of Decision (NOD)

STEP 10
Prepare Analysis & Notice of Decision (NOD)

STEP 11
Preparing the Publication Notice

Steps Continued

STEP 12
Preparing Final CIP

STEP 13
Acceptance of Conveyance

STEP 14
Final Title Opinion and Recordation

STEP 15
Recording at Land Titles and Records Office

STEP 16
Completed Application Packet

For more information about this process contact:

UNDERSTANDING THE

Fee-to-Trust Process
For Discretionary Acquisitions

U.S. DEPARTMENT OF THE INTERIOR
MARCH 3, 1849

U.S DEPARTMENT OF THE INTERIOR

U.S. DEPARTMENT OF THE INTERIOR 1824 BUREAU OF INDIAN AFFAIRS

BUREAU OF INDIAN AFFAIRS

Frequently Asked Questions

1. What is a fee-to-trust land acquisition? A fee-to-trust land acquisition is a transfer of land title from an eligible Indian /tribe or eligible Indian individual(s) to the United States of America, in trust, for the benefit of the eligible Indian Tribe or eligible Indian individual(s).

2. Who is eligible to apply for a fee-to-trust land acquisition? Indian tribes and individual Indian persons who meet the requirements established by federal statutes and further defined in federal regulations are eligible to apply for a fee-to-trust land acquisition. See 25 Code of Federal Regulations (CFR) § 151.2; 25 United States Code (USC) § 479and § 2201.

3. If you are eligible, how do you submit an application? All applications for a fee-to-trust acquisition must be in writing and specifically request that the Secretary of the Interior take land into trust for the benefit of the applicant. If you are an eligible Indian tribe, the request may be in the form of a tribal resolution. See 25 CFR § 151.9.

4. Where should an eligible applicant submit an application ? Applications shall be submitted to the Bureau of Indian Affairs (BIA) office that has jurisdiction over the lands contained in the application. If the applicant does not know which BIA office has jurisdiction the applicant should contact the BIA Division of Real Estate Services at (202) 208-7737 or at http://www.bia.gov/WhoWeAre/RegionalOffices/index.htm

5. What information is the applicant required to provide to accompany the application for a fee-to-trust acquisition? The applicant must provide a legal description of the land to be acquired, the legal name of the eligible Indian tribe or individual, proof of an eligible Indian tribe or eligible person, the specific reason the applicant is requesting that the United States of America acquire the land for the applicant's benefit, a title insurance commitment addressing the lands to be acquired and information that allows the Secretary of the Interior to comply with the National Environmental Policy Act (NEPA) and 602 Departmental Manual 2 (602 DM 2) – Hazardous Substances.

6. What laws, regulations and standards apply to a fee-to-trust acquisition? There are different laws that must be satisfied. Most acquisitions are authorized under 25 USC § 465, Section 5 Indian Reorganization Act (1934) and reviewed under 25 CFR § 151. However, the Interior Department must comply with all federal laws, including compliance with NEPA, 602 DM 2 Hazardous Substances Determinations, National Historical Preservation Act (NHPA) and U.S. Department of Justice Title Standards. See 25 CFR § 151.13.

7. What are the applicant's responsibilities if they receive a written request from the Bureau of Indian Affairs requesting additional information to process an application? The applicant must reply back to the BIA within the time frames identified in the written correspondence requesting additional information. All correspondence from the BIA requesting additional information will include each specific document needed to proceed with processing the application and will include the specific time the applicant has to provide the requested information. It is very important that the applicant maintain written communication with the BIA throughout the process when the applicant is contacted by the BIA. If the applicant needs additional time to respond to a request for additional information, they must contact the BIA as soon as possible and make the request for an extension of time in writing. The BIA will reasonably accommodate requests from applicants for additional time to provide information, and will notify applicants in writing of the decision regarding the request.

8. What happens if I do not respond? If the applicant does not respond in the time stated in the letter or any extension, the BIA will either return the application or take into consideration failure to provide the information. If the applicant has failed to provide information on a non-critical title issue, the BIA will take into consideration that there is insufficient or negative information in forming BIA's decision on the application and may result in a denial.

9. Are there entities that will be provided notice of an application for a fee-to-trust acquisition? Yes. State and local governments, including tribal governments having regulatory jurisdiction over the land contained in the application, will be notified upon written receipt of an application for a fee-to-trust acquisition. The notice will inform the entities that each will be given 30 days in which to provide written comments as to the acquisition's potential impacts on regulatory jurisdiction, real property taxes and special assessments.

10. Will all applications from eligible Indian tribes and eligible Indian individuals result in a fee-to-trust acquisition? No. Each application will be evaluated to determine if the applicable criteria defined in the CFR has been addressed (25 CFR § 151.10). The official authorized to accept the fee-to-trust acquisition will decide whether or not to accept the fee-to-trust acquisition. All decisions to accept or deny a fee-to-trust acquisition shall be in writing. If the acquisition is denied, the applicant will be advised of the reasons for the denial and will be notified of the right to appeal the decision and where the applicant's appeal must be filed.

11. How long does the process take? The length of time to complete the process varies depending on the required steps. The required steps differ for on-reservation or off-reservation trust acquisitions and mandatory or discretionary acquisitions.

12. Can I get a report on the progress of my application? Yes. The BIA tracks the steps and progress of applications and they will provide you a report upon your request.