

INDIAN AFFAIRS DIRECTIVES TRANSMITTAL SHEET

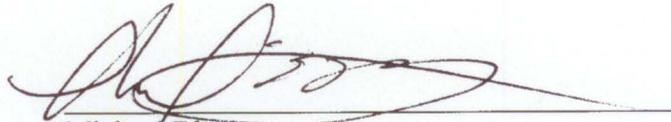
(modified DI-416)

DOCUMENT IDENTIFICATION NUMBER 76 IAM 14	SUBJECT Purchase of Trust and/or Restricted Land Interests at Probate	RELEASE NUMBER #13-06
FOR FURTHER INFORMATION Office of Trust Services		DATE APR 12 2013

EXPLANATION OF MATERIAL TRANSMITTED:

This policy establishes the procedures for the purchase of fractionated land interest(s) in trust or restricted land from an estate by the Bureau of Indian Affairs (BIA), through an established land consolidation program including the Indian Land Consolidation Program (ILCP) and the Land Buy Back Program for Tribal Nations.

The previous release of this policy applied only to land sale transactions involving the ILCP, pursuant to The Indian Land Consolidation Act, as amended in 2000 and 2004.



Michael Black
Director, Bureau of Indian Affairs

FILING INSTRUCTIONS:

Remove: 76 IAM 14, dated March 13, 2008

Insert: 76 IAM 14

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- 1.1 Purpose.** This policy establishes the procedures for the purchase of fractionated land interest(s) in trust or restricted land from an estate by the Bureau of Indian Affairs (BIA), through an established land consolidation program.
- 1.2 Scope.** This policy applies to all BIA offices in the regions where an established land consolidation program is acquiring or has acquired fractional land interests. This policy does not apply to purchases of fractional interests initiated by a Tribe or an Individual.
- 1.3 Policy.** Effective immediately, the following policy will be implemented with regard to the purchase of fractional interests by the BIA at Probate.
- A.** As the land consolidation program(s) targets a reservation to acquire fractional interests, the program(s) will determine whether the tribe with jurisdiction over that reservation is interested in the BIA purchasing fractional interests during Probate proceedings. If the Tribe is interested, then a consent, in writing (Tribal Resolution), should be secured from the Tribe to indicate their approval for purchases of fractionated land during Probate.
- B.** With the consent from a particular tribe, the established land consolidation program(s) should be notified of all estate accounts from the local probate office with jurisdiction, as they are created. The land consolidation program(s) will then request from the BIA Land Title Records Office (LTRO) a listing of all the decedent's fractional interests in a decedent's estate with a death date of June 20, 2006 or later, prior to or at the same time that the probate file is referred to Office of Hearings and Appeals (OHA).
- C.** The established land consolidation program(s) shall, upon receipt, review the listing and identify any interests that are located within a reservation under the jurisdiction of a tribe that has requested the BIA to purchase fractional interests during Probate proceedings. The land consolidation program(s) will determine whether those identified interests are within a tract that has a current fair market value on file. Current fair market value should be all encompassing to include mineral interests, timber, etc., to accurately reflect what is being purchased. The land consolidation program(s) will not consider purchasing the interest(s) if the value is not current, is incomplete, or does not exist.
- D.** Within the time frames of the probate proceedings, the established land consolidation program(s) will forward a letter ("Bid") to OHA identifying which land interest(s), if any, the program would like to purchase on behalf of the tribe and what the program is willing to pay for the selected land interest(s).
- E.** If OHA receives a "bid" from an established land consolidation program, the program will then receive the "Notice of Hearing/Purchase at Probate."
- F.** Upon completion of OHA scheduled Hearings, OHA will provide "Notice" to the established land consolidation program whether the program is the successful bidder for any of the interests bid upon. The "Notice" states that upon receipt of the

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purchase price the interest(s) will be transferred to the tribe. It will also identify the parcel(s), interest(s) sold, purchase price, and the account number where the purchase price is to be deposited.

G. When the established land consolidation program receives the "Notice" of a successful bid, the program will prepare a SF-1081 Form, requesting the transfer of the purchase price of the acquisition to the estate account defined in the "Notice." This transfer request will be made through the Document Library with the "Notice" received from OHA used as the transaction document justification and faxed to the Office of the Special Trustee (OST).

H. OST should promptly notify OHA when the purchase price is received in the designated account. Also, the established land consolidation program should advise OHA that payment has been made.

I. Sale of the interests is by "Probate Order." The Order will confirm that the interests purchased by the Secretary for the Tribe were transferred upon receipt of payment. An acquisition initiated by the Indian Land Consolidation Program (ILCP) is encumbered by a purchase lien and the encumbrance will be cited within the probate order. An acquisition initiated by the Land Buy Back Program for Tribal Nations is not encumbered in any way.

J. After issuance of the Probate Order, there is a 30 day period where a written petition for rehearing or appeal may occur; after that 30 day period, the Order becomes final. After 15 days from the date the Order becomes final, the established land consolidation program(s) will view the "title" of those parcels in which the interests were purchased to ensure encoding on the title is correct for the interests purchased.

1.4 Authority.

- A. The American Indian Probate Reform Act** of October 27, 2004, P. L. 108-374 (118 Stat. 1773)
- B. The Indian Land Consolidation Act** of November 7, 2000, amended P.L. 106-462 (114 Stat. 1991). Section 206 of the amended act allows the Secretary to sell to eligible purchasers, trust or restricted interest(s) in land from the estate of an individual passing by intestate succession after June 20, 2006. The interest(s) eligible for sale are those interest(s) that if passing to an heir through the probate proceeding, represent less than 5% of the entire undivided ownership of the land. The definition of eligible purchaser includes the Secretary on behalf of an Indian Tribe with jurisdiction over the interest(s).

1.5 Responsibilities.

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

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- B. Director, Indian Land Consolidation Center is responsible for coordinating the Bureau's nationwide program to consolidate fractionated interests in Indian lands pursuant to statutory requirements.
- C. Deputy Bureau Director, Field Operations is responsible for overseeing the Regional Directors and disseminating policy to them.
- D. Deputy Bureau Director, Trust Services is responsible for assisting in the dissemination of trust resource policy and information to the Regional Directors.
- E. Regional Directors, BIA are responsible for carrying out policy as directed, and for overseeing the implementation of policy either directly or via Agency Superintendents.