

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFIARS
CHICKASAW AGENCY

RIGHT OF WAY PACKAGE

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PLEASE NOTE:

All forms above have fields that auto-populate with information from previous fields. This ensures that all forms are completed correctly with the same information i.e. identical dates and identical individuals.

- The ROW Application and the Evidence of Authority form must have the **SAME** person sign with the **SAME** date.
- An *Owner Consent to Access Form* must be completed for **EACH** restricted/trust owner before company starts the project. Please request a Title Status Report from the BIA for all restricted/trust owners.
- An *Owner Consent to Grant Right-of-Way Form* must be completed for **EACH** restricted/trust owner **after** an appraisal has been approved by the BIA. (Request a Title Status Report from the BIA for all restricted/trust owners.) *Please note: A company can submit a 3rd party appraisal to be reviewed and approved by the BIA or the BIA can conduct an appraisal independent of the company. If the company chooses to do a 3rd party appraisal, please contact the BIA before work begins to ensure all stipulations are met. (3rd party appraisals are much faster.)*
- The BIA Checklist is not to be completed by company. This is just a reference document.

ROW APPLICATION

**UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
CHICKASAW AGENCY
RIGHT-OF-WAY APPLICATION**

RIGHT-OF-WAY APPLICATION MUST IDENTIFY [§169.102(a)]:

1. Applicant Name: _____
2. Applicant Address: _____
3. Tract(s) or parcel(s) affected by the right-of-way: _____
4. General location (easement description): _____
5. Purpose: _____
6. Term (Renewal, if applicable): _____
7. Identify ownership of permanent improvements associated with the right-of-way and the responsibility for constructing, operating, maintaining, and managing; or removal of permanent improvements under §169.105:

REQUIRED SUPPORTING DOCUMENTS [§169.102(b)]:

1. Accurate legal description of the right-of-way, its boundaries, and parcels associated with the right-of way;
2. A map of definite location of the right-of-way; (25 CFR 169.102((b)(2); survey plat signed by professional surveyor or engineer showing the location, size, and extent of the ROW and other related parcels, with respect to each affected parcel of individually owned land, tribal land, or BIA land and with reference to the public surveys under 25 U.S.C.§ 176, 43 U.S.C. § 2 AND § 1764, and showing existing facilities adjacent to the proposed project;
3. Bond(s), insurance, and/or other security meeting the requirements of §169.103;
4. Record of notice that the right-of-way was provided to all Indian landowners;
5. Record of consent that the right-of-way meets the requirements of §169.107, or a statement documenting a request for a right-of-way without consent under §169.107(b);
6. If applicable, a valuation meeting the requirements of §§ 169.110, 112, 114;
7. With each application, if the applicant is a corporation, limited liability company, partnership, joint venture, or other legal entity, except a tribal entity, information such as organizational documents, certificates, filing records, and resolutions, demonstrating that:

- a. The representative has authority to execute the application;
 - b. The right-of-way will be enforceable against the applicant; and
 - c. The legal entity is in good standing and authorized to conduct business in the jurisdiction where the land is located.
8. Current environmental and archaeological reports, surveys, and site assessments, as needed to facilitate compliance with applicable Federal and tribal environmental and land use requirements;
9. If required, a statement from the appropriate tribal authority that the proposed right- of-way is in conformance with applicable tribal law.

THE APPLICANT FURTHER STIPULATES AND EXPRESSLY AGREES AS FOLLOWS:

To conform and to abide by all applicable requirements with respect to the right-of-way herein applied for. The applicant agrees to conform to and abide by the rules, regulations, and requirements contained in the *Code of Federal Regulations*, Title 25 Indians, Part 169, as amended, and by reference includes such rules, regulations and requirements as a part of this application to the same effect as if the same were herein set out in full.

Applicant Point of Contact Information:

Point of Contact's Name: _____

Point of Contact's Title: _____

Point of Contact Address: _____

City: _____

State: _____

Zip: _____

Phone: _____

Fax: _____

Email: _____

Date: (M) _____ (D) _____ (Y) _____

Applicant's Name: _____

Signature: _____

Evidence of Authority

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
CHICKASAW AGENCY

EVIDENCE OF AUTHORITY OF OFFICERS TO EXECUTE PAPERS
(To be sworn to by the President or Secretary of a Corporation and sealed with its seal)

I solemnly swear that _____ was on the ____ day of _____, _____ the duly appointed _____ of _____, a corporation organized under the laws of the State of _____ at which time he/she executed the application for a Right-of-Way on behalf of said corporation, covering certain Restricted/Trust Indian lands in the State of Oklahoma; that he/she was fully empowered to execute said instrument and all papers in connection therewith, and that his/her action in executing the same binds the said corporation to full performance of all obligations there under.

[CORPORATE SEAL]

Signature, Title _____ Date _____

ACKNOWLEDGEMENT

STATE OF OKLAHOMA)
)ss
COUNTY OF _____)

Before me, a Notary Public, in and for said County and State on this ____ day of _____, _____, personally appeared _____ to me known to be the identical person who executed the within and foregoing instrument, and acknowledged to me that he/she executed the same as his/her free and voluntary act and deed for the uses and purposes therein set forth. In witness whereof, I hereunto set my official signature and affixed my notarial seal the day and year last above written.

My Commission Number: _____
My Commission Expires: _____ Notary Public

Owner Consent to Access Property

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

OWNER CONSENT TO ACCESS PROPERTY

APPLICANT NAME: _____

APPLICANT ADDRESS: _____

DATE: _____

LANDOWNER NAME: _____

RIGHT-OF-WAY DESCRIPTION (Section, Township, Range, County, State, Acreage and allottee):

EASEMENT PURPOSE: _____

_____ is proposing to submit an application for right-of-way for a _____ over or across your land(s) as described above for _____ years.

As part of the right-of-way process, pursuant to 25 CFR § 169.101, _____ must:

- Notify each affected landowner of its intent to submit a right-of-way application to the Bureau of Indian Affairs, Chickasaw Agency P.O. Box 2240, Ada, Oklahoma 74821 (580-436-0784), and
- Obtain written permission of the Indian landowners to access for surveying purposes or as described below under § 169.101(b).

I give my permission to _____ to enter upon my property and conduct environmental, appraisal and land surveys for the proposed easement.

Owner Signature

Date

Signature Witness One

Signature Witness Two

Print Name

Print Name

Date

Date

If you have any questions, please contact Ms. Rachel Howell 580-436-0784 or _____ at _____.

Owner Consent to Grant ROW

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

OWNER CONSENT FORM

LANDOWNER NAME: _____ TRACT NO. _____
LANDOWNER UNDIVIDED INTEREST: _____
PURPOSE OF EASEMENT: _____
FAIR MARKET VALUE: _____ TERM: _____
EASEMENT LEGAL DESCRIPTION (Section, Township, Range, County, State and Acreage): _____

The undersigned, owner of an undivided _____ restricted/trust interest in the subject property, acknowledges the proposed request for grant of easement for a Right-of-Way submitted by:

I agree to the following (Please Check No. 1 or No. 2):

_____ **1. I do give consent** I do give my consent to the BIA to grant an easement for right-of-way and I agree to the following terms, compensation, and bonding.

TERMS (check one of the following):

- _____ **a.** I give my consent to the right-of-way as proposed.
_____ **b.** I give my consent to the right-of-way, however, I negotiate for the following terms:

COMPENSATION (check one of the following):

- _____ **a.** I give my consent to the compensation of \$ _____, or the appraised Fair Market Value, whichever is greater.
_____ **b.** I waive any compensation. I understand that I am entitled to receive at least Fair Market Value of the property but I waive this compensation because:

AND (please select one)

- _____ I want to know what the Fair Market Value is based on valuation.
_____ I waive my right to a valuation to determine Fair Market Value. I understand that I am entitled to a valuation of the property but I waive it because of _____ . By signing below, I'm stating I understand.

BONDING (check one of the following):

- _____ **a. I give my consent** to the BIA to waive any bond, insurance, or alternative form of security for the grant of easement for a right-of-way.
_____ **b. I do not give my consent** to waive any bond, insurance, or alternative form of security.

_____ **2. I do not give consent** to the granting of an easement for right-of-way.

Owner Signature

Date

Signature of Witness One: _____
Printed Name: _____
Date: _____

Signature of Witness Two: _____
Printed Name: _____
Date: _____

Executive Requirements

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

EXECUTIVE REQUIREMENTS

Requirements for a corporation or company to hold an Indian leases are as follows:

1. Certified Copy of Articles of Incorporation, certified by the Secretary of State.
2. Letter from the Oklahoma Tax Commission, Business Tax Division, verifying there is a current Franchise Tax Return on File.
3. If foreign corporation, certificate from Secretary of State of Oklahoma showing appointment of resident agent for service of process.
4. In duplicate, General Financial Statement.
5. In duplicate, List of Officers and Directors.

Requirements for a limited liability company to hold an Indian leases are as follows:

1. Certified Copy of Certificate of Limited Liability, certified by the Secretary of State (certificate and filing documents).
2. Certified Copy of Articles of Organization of an Oklahoma Limited Liability Company (certificate and filing documents.)
3. In duplicate, List of Officers and Members.

FEQUENTLY ASKED QUESTIONS

Frequently Asked Questions

- **Why does the Bureau of Indian Affairs (BIA) regulate rights-of-way across Indian land?**

The Department of the Interior holds approximately 56 million acres of land in trust/restricted status for Indian Tribes and individual Indians. Congress has enacted laws requiring Departmental approval of rights-of-way across Indian lands.

- **Is a Service Line Agreement the same as a Right-of-Way?**

No. A service line is a utility line running from a main line, transmission line, or distribution line that is used only for supplying telephone, water, electricity, gas, internet service, or other utility service to a house, business, or other structure. *See* § 169.51. If there is an existing service line, and you want to construct another service line branching off from it, the existing service line becomes a main line for which a right-of-way grant is needed.

- **Who is my contact at the BIA – Chickasaw Agency?**

Rachel Howell – Realty Specialist
580-436-0784
Rachel.Howell@bia.gov
P.O. Box 2240
Ada, Oklahoma 74821
WEB-SITE: <https://www.bia.gov/regional-offices/eastern-oklahoma/chickasaw-agency>

- **Do I need consent from the restricted owners to conduct a survey and environmental work?**

YES. See the *Owner Consent to Access Property Form*.

- **How do I get a consent from a restricted estate to do conduct a survey and environmental work on restricted property?**

Superintendent will sign the *Owner Consent to Access Property Form* for each estate.

- **Am I in trespass if I conduct a survey or environmental work without consent from a majority of restricted owners?**

YES and penalties will be due the owners.

- **Who will sign the *Owner Consent to Grant ROW Form* for restricted estates?**

Superintendent.

- **Do I need all restricted owners to sign before a ROW can be approved?**

No. Majority of restricted interest must be obtained.

- **Where do I mail my ROW Payment?**

OVERNIGHT MAIL:
US BANK GOVERNMENT LOCKBOX
ATTN: OST #979121
1005 CONVENTION PLAZA
ST LOUIS MO 63101

Frequently Asked Questions

- **Is a valuation or compensation required if the grantee is a utility cooperative providing a direct benefit to the Indian land or a Tribal utility?**

Compensation is not required if the grantee is a utility cooperative providing a direct benefit to the Indian land or a Tribal utility, and BIA may waive a valuation.

- **May landowners waive the right to compensation?**

Landowners may waive the right to compensation and BIA may determine the waiver is in their best interest, but any landowner who does not waive their right must receive fair market value. A valuation is required so that landowners know the amount of compensation they are waiving, unless 100% of the landowners waive their right to compensation.

- **May a Tribe waive the right to compensation?**

The rule promotes Tribal self-determination by ensuring that Tribes receive just compensation for rights-of-way on Tribal land, as determined by the Tribes themselves. Compensation may be in any amount the Tribe negotiates, or may be an alternative form of rental, such as in-kind consideration. The BIA will not require a valuation, if the Tribe provides documentation that the Tribe has determined the compensation is in its best interest.

ROW Checklist

BIA RIGHT-OF-WAY CHECKLIST

Applicant: _____ Purpose: _____
 Land Status: Tribal Allotment Location: _____
 New Renewal Amendment Assignment Mortgage

DATE: _____ **DOCUMENTATION:** _____ **YES** **NO** **N/A**

Preliminary Documents

_____ Applicant's Letter of Intent to Obtain ROW
 _____ Title Status Report, Landowner Name and Address
 _____ Permission to Survey from Landowners
 _____ Field Inspection (Photos, Maps, etc.)

Right-of-Way Application Package

_____ Acknowledgement Letter
 _____ Incomplete/Complete Letter

Consent(s):

_____ Tribal Resolution
 _____ Landowner(s) Consent to Grant ROW
 _____ Spreadsheet - consent percentage calculation
 _____ Superintendent/Regional Director per 25 CFR 169.108

Maps:

_____ Survey Plat/Legal description
 _____ Location Map showing adjacent existing facilities

Environmental Compliance:

_____ Categorical Exclusion (CatEX)
 _____ Environmental Assessment (EA)
 _____ Finding of No Significant of Impact (FONSI)
 _____ Environmental Impact Statement (EIS)
 _____ Record of Decision (ROD)
 _____ NHPA Section 106
 _____ ESA Section 7 review

Valuation:

_____ Valuation Report received
 _____ Valuation Review requested (OASIS)
 _____ Certification of Valuation Review by OST Appraisal Services
 _____ Fair Market Value _____
 _____ Applicant's Offer _____
 _____ Letter(s) to Landowner(s) re: FMV

Corporate Documents:

_____ Authority of Officers to Execute Documents
 _____ Articles of Partnership or Association
 _____ State-certified corporate charter
 _____ License to do business (Tribe and/or State)

Waivers:

_____ Valuation (Appraisal, market analysis, etc.)
 _____ Bond(s), insurance, and/or alternative form of security
 _____ Compensation
 _____ Permission to cross existing rights-of-way, if applicable

Decision

_____ Findings and Recommendation Report for Decision
 _____ Letter - Notice of Intent to Grant b/c Landowners So Numerous (if applicable)
 _____ Letter - Approval or Denial with Appeal Right to Parties
 _____ Payment - Lockbox or Proof of Payment for Direct Payment
 _____ Grant of Easement for ROW Approval Date: _____

Distribution:

_____ Applicant
 _____ Tribe
 _____ Landowner(s), if requested.

Post Decision

_____ Encode in TAAMS:
 _____ LAC: _____ TAAMS ID No. _____
 _____ Contractor ID No. _____
 _____ Scan Image
 _____ TIR Log
 _____ Recording No. _____
 _____ Construction Completion (Due Diligence)
 _____ Final Field Inspection Report

Prepared by: _____ Title: _____ Date: _____