Acquiring Land Into Trust for Indian Tribes

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Thank you. I do not know how to follow that very passionate presentation that we just heard, so if you want to go to sleep I will understand. First of all, I want to say thank you to the New England School of Law for asking the Bureau of Indian Affairs (BIA) to participate in this Symposium. The BIA always welcomes the opportunity to explain its role in acquiring land into trust for Indian tribes and, since I am with Indian Affairs, I ask that you hold the boos until after I am finished.

I want to make a couple of opening remarks. First, because I am in a room full of attorneys, or would-be attorneys, although I am not an attorney I think by osmosis I may be one, as I have worked with attorneys all of my life. I suppose I may be an attorney because, in part, I like hearing the sound of my own voice. So if I run too long, that is the reason. Second, I do not have an accent. I come from Oklahoma where the King's English is spoken properly and at the correct tempo. The rest of you are the ones with the accent.

Anyway, moving on to address the process of acquiring land into trust for Indian tribes.

I left a handout here, and many of you probably saw it out on the table (see attached).[1] This handout addresses the high level approach to acquiring land by trust. While it appears to be a very simplified process based on the outline that you were given, there are a lot of things that go into the process. I will attempt to address the major events that occur at this high level.

The Secretary of the Interior has the authority, through various statutes, to take land into trust for Indian tribes and Indian individuals. The Secretary's authority is discretionary, meaning that he or she may solely decide the fate of an application to acquire land into trust. There are

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1. BUREAU OF INDIAN AFFAIRS, U.S. DEP'T OF THE INTERIOR, ACQUISITION OF TITLE TO LANDS IN TRUST BY THE SECRETARY OF THE INTERIOR (2002).

acquisitions that are nondiscretionary however, and those generally come about in three ways: (1) legislative action by Congress placing land into trust or directing the Secretary to place land into trust; (2) settlements to put land into trust; and finally, (3) court decisions. I am here today only to talk about the discretionary decisions, as that is where the Secretary exercises her discretionary authority to approve an application.

The only place where we do not acquire land into trust is Alaska. The Annette Island Reserve is the only place in Alaska where land has been taken into trust. In 1999, we went through a regulation development procedure to amend our current regulation. In it, we were going to explore the authority for acquiring land into trust for Alaskan Natives. This process is ongoing.

Prior to the allotment period, Indian tribes owned all of the lands. When Congress passed the Allotment Act in 1887,[2] it gave the tribes the ability to allot (give) a parcel of the land to their individual members. It was through this allotment process that Indians lost the majority of their land. Since the Allotment Act of 1887, approximately ninety million acres of land were removed from Indian hands. Currently, we are in the process, under the regulations, of reacquiring some of this land. However, it is important to be aware that Indians are still losing land today. Indians today lose land through condemnation, by eminent domain, and by other Indians who, like myself, decide that they do not need the federal government's supervision of their lands, so they ask that the restrictions be removed. Land also is lost by the foreclosure of mortgages. For example, if I mortgaged my land and went into default, they would foreclose on me and take the land. Another way land is lost is through probate. Due to the intermarriage of an Indian and a non-Indian, if the Indian dies and the non-Indian inherits the Indian's interest, the land is moved out of trust. Presently, the BIA has about fifty-six million acres of trust land,[3] of which Indian tribes own forty-six million acres,[4] and individuals own approximately ten million acres.[5]

Recently, Congress asked the BIA to collect data. This data collection covered a six-year period, during which time the BIA acquired approximately 290 thousand acres into trust. However, at the same time, Indians lost about 120 thousand acres. The two are sort of balancing themselves out.

The regulations governing the acquisition of land into trust were first

2. The Indian General Allotment (Dawes) Act, ch. 119, 24 Stat. 388 (1887) (codified as amended at 25 U.S.C. §§ 331–34, 339, 341–42, 348–49, 354, 381 (2000) (repealed 1934)).

3. *See generally* BIA ANN. REP. OF INDIAN LANDS (1997).

4. *See id*.

5. *See id*.

published in 1980.[6] Prior to 1980, no real standard existed for taking land into trust; nor was there a great need to take land into trust, since Indian tribes did not have any money to acquire land. The advent of Indian gaming has somewhat changed the entire look of what is going on in Indian country. Not all Indian tribes have the resources with which to buy land and place it into trust, however, the perception among both the casual observer and those who work with Indians is that every acquisition done by an Indian tribe is for gaming. Yet not all Indian tribes want to engage in gaming activities. Most Indian tribes have a greater necessity to meet the needs of their memberships through housing, health facilities, governmental facilities, and so on.

As I said, we, in 1999, were trying to amend the acquisition rule. It was about that time that we also changed administrations. When President George W. Bush was elected, we started looking at the regulations again, and the decision was made to withhold publishing them in a final rule. However, we are still actively looking at some areas that may need further examination, largely because of public concern.

Some of those issues involve housing for home site purposes. What is the process? Can we make it simpler? Should it be less difficult? What should be the standards of review? How is the BIA deciding whether or not to approve an application? What is the availability of the applications for review? One of the things we get asked when we notify the public that we have an application is, "May we, the public, see the application?" They tell me stories about how they heard on the radio that morning that such and such was happening. However, to some extent, as the BIA is governed by the Freedom of Information Act[7] and the Privacy Act,[8] we cannot release all of the information. Instead, we have to redact the information. Well, as you know, anytime you redact something people think you're hiding something. As a result, we are trying to figure out a way to meet the public's need to view what is in the applications, while protecting the privacy of the applicant tribes.

The other effort we are considering is the use of computer technology. We are looking at the possibility of putting up a reading room of all of our applications, so anyone throughout the nation may go in and look and see where the applications are nationwide. Like I said, these are all going to be discussed in the near future, and not one of these initiatives has been finalized.

Who has the authority to approve these acquisitions? The statutes give that authority to the Secretary, and the Secretary has redelegated that

6. *See* 25 C.F.R. pt. 151 (2003).
7. 5 U.S.C. § 552 (1966).
8. *Id*. at § 552(a).

authority down through the various levels. The Secretary delegated to the Assistant Secretary for Indian Affairs; the Assistant Secretary redelegated to the Deputy Commissioner of Indian Affairs; and the Deputy Commissioner redelegated to the Regional Directors of the BIA. The only exception to these redelegations is gaming acquisitions.

All gaming, and gaming-related acquisitions, must be approved by the Assistant Secretary. Any time a tribe makes one of these applications, the local BIA Regional Office must submit it to the BIA Central Office for review and a decision.

For what purpose may land be taken into trust? There are three primary reasons for which Indian tribes take land into trust: (1) to facilitate tribal self-determination through governmental offices, healthcare, and public services; (2) for economic development, such as gaming, and maybe an industrial park or a shopping mall; and (3) for Indian housing. Like I said, gaming falls into the section of economic development, but the process of using land for gaming is not part of the acquisition process. Gaming is how the land is used and is not a part of the process of acquiring land. Sometimes, these two things come together in one application because the tribe wants the land in trust and, as soon as they succeed in obtaining trust status for the land, they develop it for gaming purposes. These two actions are often processed simultaneously, even though the land must first be placed into trust before it can be developed. Gaming is a whole different process from acquiring land into trust.

I want to go through how we take land into trust. First, we need an application, which the tribes can submit in any form. Generally, it is by a tribal resolution. In the application, the tribe must address (i) the existence of the statutory authority to acquire the land, (ii) the need for the land, (iii) the purpose for which the land is going to be used, (iv) the impact on the state and local political subdivisions, (v) any jurisdictional problems, (vi) the ability of the BIA to discharge additional responsibility, and (vii) compliance with NEPA.[9] Of course, the factors that really matter in these applications are the impact on the state and political subdivisions and the jurisdictional problems.

We heard this morning about the joint agreements between tribes, states, and local governments to address these concerns. The BIA encourages tribes to address these concerns in the sense that we encourage them to work with the local and state governments to arrive at these cooperative agreements. Why do we do that? Because it just makes the whole process easier. Any time you have an application where all the parties are in agreement, the whole process is just simpler. As soon as someone starts

9. National Environmental Policy Act of 1969, Pub. L. No. 91-190, § 1, 83 Stat. 852 (codified as amended at 42 U.S.C. § 4321 (2000)).

raising a flag, politics come into the mix, making it more difficult to process the applications. Difficulty arises when we have to explain why we may approve an application when we have public concerns.

Now, back to the process. As soon as we receive the application, we notify the state and local governments that we have it. The state and local governments must then respond with why they think we should not be putting the land into trust. It has to be more than, "We don't want it. We think it's gaming. Don't do it." We need evidentiary documentation to support why the local government feels it is impacting their jurisdiction or their tax base. The BIA must thoroughly review every application. There is no set format for these applications, as every one is unique. We cannot apply what is done with one application to another application. They are not all the same and there are different considerations for each application. If a tribe acquires land off the reservation, we require additional information from the tribe telling us how, for example, by going fifty miles off the reservation the reservation will benefit. What benefits are going to come from it?

Once we have completed our review and our analysis, we issue a decision. This decision requires a thorough analysis of all the facts and documentation, environmental clearances, archeological studies, and all of the things that weigh into the action. Once a decision is issued, we have to give everybody the right to appeal our decision. We refer to this as our administrative appeals process, and it is for anyone who disagrees. After the administrative appeals period is exhausted, and if our decision is sustained, we must publish a notice in a local newspaper saying, in effect: we are going to take title to this land thirty days from the date we file the notice of intent to accept title to land into trust. We then go into what we call our judicial review, which means anyone can file an action in federal court in an attempt to overturn our decision.

If we disapprove an application, we notify the applicant tribe, who can then appeal the decision. If we are sustained in the appeals process for the disapproval, then the tribe can take us to federal court and say the administrative process was in error. The only exception to this process is a decision made by the Assistant Secretary. Such a decision is deemed final for the Department. The only appeal from a decision by the Assistant Secretary is that which takes place in federal court.

If we have gone through the whole process, and the BIA has been sustained through the administrative appeal and the judicial appeal, then we notify the applicant to complete the title requirements. We then approve the deed and have it recorded in the county where the land is located. We then put it in our title offices, and the land is in trust.

Now, granted this is a very high level, quick rundown of the process. Like I said, it is more complex and generates a lot of documentation.

Everyone is required to supply evidence for what they want to accomplish. Indian tribes sometimes think that they are entitled to the land because it is a trust responsibility of the government. We do not argue or debate that contention. Rather, we look only at the merits of the application.

United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
Washington, D.C. 20240

IN REPLY REFER TO:

ACQUISITION OF TITLE TO LANDS IN TRUST BY THE SECRETARY OF THE INTERIOR

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BRIEF HISTORY:

The Secretary of the Interior is authorized under various statutory authorities to accept title to land on behalf of Indian tribes and individuals, thereby placing the title to land "in trust." There are several statutory authorities for the acquisition of title to land in trust (see Authorities, 25 CFR 151) as well as legislative, mandated and settlement act acquisitions. However, the primary statutory authority used for the acquisition of trust title is Section 5 of the Indian Reorganization Act (IRA) of 1934, 25 U.S.C. 465. The main goal of Section 5 is to reverse the precipitous decline in the economic, cultural, governmental and social well-being of Indians caused by the disastrous late nineteenth century federal policy which facilitated the breakup of reservations though "allotment" and eventual disposal (sale) of reservation lands. Until the passage of Public Law 97-459 (96 Stat. 2517) on January 12, 1983, Section 5 of the IRA was not available to all Indian tribes. However, Section 2202 extended the provisions of Section 5 to all Indian tribes provided that nothing superseded any previous Act of Congress which governs the acquisition of land for Indians in any specific tribe, reservation or state.

At the present time, the acquisition regulations do not cover the acquisition of land in trust status in the State of Alaska, except acquisitions for the Metlakatla Indian Community of the Annette Island Reserve or its members. The Department's policy for not taking title to lands in trust in Alaska is based on a September 15, 1978, Opinion of the Associate Solicitor of Indian Affairs that concluded that the Alaska Native Claims Settlement Act precluded the Secretary from taking land into trust for Natives in Alaska, except Metlakatla. On January 16, 2001, the Solicitor, U. S. Department of the Interior, rescinded the Associate Solicitor's 1978 Opinion. In the preamble of the final rule for the acquisition of title to land in trust, the Department determined that the prohibition in the existing regulation on taking Alaska lands into trust (other than Metlakatla) ought to remain in place for a period of three years during which time the Department will consider the legal and policy issues involved in determining whether the Department ought to remove the prohibition on taking Alaska lands in trust. No action has been taken since the regulation was withdrawn.

Nationwide there are approximately 56 million acres of land held in trust or restricted status for American Indians and Alaska Natives. In 1961 there were 53 million acres in trust or restricted status; an increase of approximately 3 million acres over a 40-year period of time. Trust title is held by the United States of America for the use and benefit of an Indian tribe or individual, and restricted title is held by an individual Indian subject to the restriction that it cannot be alienated or encumbered without the consent of the Secretary or held in fee by an Indian tribe subject to the condition that it cannot be alienated without Congressional authority (25 U.S.C. 177). Approximately 46 million acres of the trust lands are owned by Indian tribes. Between 1887 and 1934, over 90 million acres passed out of Indian ownership under the allotment policies of the General Allotment Act. Of the approximately 90 million acres of tribal land lost though the allotment process, only about 8 percent have been re-acquired in trust status since the IRA was passed 67 years ago.

The fact remains that Indians today continue to contend with the loss of lands. Indian lands lose their trust and restricted status due to voluntary sales by the owners, individual Indians requesting and receiving a patent in fee for their land, foreclosures of mortgages on trust land, condemnation by states and entities possessing the right of eminent domain, and probates where non-Indians have inherited by intestate succession or devise an interest in Indian trust and restricted land.

Year	**Data Source**	**Acres**	**Square Miles**
1883	Report of the Commissioner of Indian Affairs	135,998,101	212,497
1888	Report of the Commissioner of Indian Affairs	118,484,302	185,131
1902	Report of the Commissioner of Indian Affairs	75,148,643	117,420
1907	Report of the Commissioner of Indian Affairs	53,549,103	Not Collected
1997	BIA Annual Report of Lands	55,737,451	Not Collected

REGULATORY HISTORY:

Regulations governing the process by which the Secretary exercises her discretionary authority to take land into trust under the IRA were first published in 1980, and can be found in Title 25, Code of Federal Regulations, (CFR), 151. In April 1999, the Department proposed amendments to the Part 151 regulations, 64 Fed. Reg. 17574. Comments were received on the proposed changes to the rule until December 29, 1999, from a wide variety of Indian tribes and individuals, tribal groups, local and state governments and other interested groups and individuals. Also during the comment period, the Department conducted meetings and consultations with Indian tribes and other interested parties in Washington D.C., Albuquerque, NM, St. Paul, MN, Sacramento, CA, Mesa, AZ, and Portland, OR. In total, comments were received from 343 Indian tribes, 335 individuals, 65 state and local governments, 9 congressional offices and 7 federal agencies. The Department considered all the comments received and

on January 16, 2001, published the final rule, 66 Fed. Reg. 3452. The final rule was to be effective on February 15, 2001.

Notices were published in the Federal Register extending the effective date of the final rule while the Department reviewed the final but not effective acquisition rule.

On April 1, 2001, the Office of the Federal Register published an update to Title 25, Code of Federal Regulations, and included both the final but not effective final acquisition rule as well as the existing land acquisition rule originally published in 1980. The April 2002 edition of Title 25, Code of Federal Regulations, only contains the existing rule (1980).

On April 26, 2001, the Department published a Notice, 66 Fed. Reg. 73, extending the effective date of the regulation for 120 days or August 13, 2001. During the first 60 days of the 120-day period the Department sought comments from the public on whether the final rule should be "amended in whole or in part" or "withdrawn in whole or in part." The comment period expired on June 15, 2001. During the second 60-day period, the Department was to review and evaluate the comments and make a determination on whether to amend the rule in whole or in part or withdraw in whole or in part.

On August 13, 2001, the Department published a Notice in the Federal Register, 66 FR 42474, requested public comment on whether to withdraw the final rule and proposed further rule making to address the public's continued concerns. The comment period expired on September 12, 2001, and the Department received a total of 139 submissions: 93 from Indian tribes, 18 from state and local governments and federally elected officials and 28 from interested groups and individuals.

In November 9, 2001, the Department published a Notice in the Federal Register,Vol. 66, No. 218, withdrawing the final but not effective acquisition rule in order to address five specific areas of concern (housing for home site purposes, land use plans, standards of review, availability for review of applications and use of computer technology).

The Department is presently preparing to begin a process to consult with Indian tribes and stakeholders. To this end, a consultation document will be prepared that will focus on the identified areas of concern. Planning for consultation is tentatively planned for March 2003 to obtain input on the ways to address the identified areas of concern.

AUTHORITY TO APPROVE ACQUISITIONS:

The delegated authority for the issuance of decisions on acquisition applications has been delegated from the Secretary of the Interior (209 Departmental Manual 8) to the Assistant Secretary -Indian Affairs who re-delegated the authority (230 Departmental Manual 1) to the Deputy Commissioner of Indian Affairs, except for gaming acquisitions, who re-delegated the authority (3 Indian Affairs Manual) to the Bureau of Indian Affairs' Regional Directors. In some instances, the Regional Directors have re-delegated the authority to the Bureau of Indian Affairs' Superintendents/Field Representatives.

The authority for issuance of decisions relating to the acquisition of land for gaming and gaming related purposes has not been re-delegated from the Assistant Secretary - Indian Affairs. Thus, all decisions for the acquisition of lands for gaming or gaming related must be issued by the Assistant Secretary - Indian Affairs. The Bureau of Indian Affairs at the Regional and Agency/Field office level is responsible for ensuring the proper preparation of the acquisition application in accordance with 25 CFR 151, and, submission of the application with a decision recommendation to the Central Office, Bureau of Indian Affairs, for review and issuance of the decision by the Assistant Secretary - Indian Affairs.

ACQUISITION APPLICATION PROCESS:

The acquisition of title to land in trust is governed by the acquisition regulation contained in Title 25, Code of Federal Regulations, Part 151. The vast majority of the acquisition applications are conversions of title. This means an Indian tribe acquires title to the land in fee simple in their name and request that the Secretary accept title in trust for the Tribe's use and benefit. The following is an overview of the of the application processing.

Step 1 Applicant makes an application (25 CFR 151.9). There is no prescribed form for the application. However, applications must contain: (151.3, 151.7, 151.8 and 151.9)

A. A resolution (if a tribe) or letter setting forth: identity of parties, describe the land and estate being acquired, other information such as whether the acquisition is on, off or adjacent to the reservation, purpose of the acquisition (tribal self-determination, economic development or Indian housing); statutory authority for the acquisition, tribal authority for the acquisition, and consent by tribe of having jurisdiction of the land for non-member acquisition.

B. Applicant must thoroughly address the following factors: (151.10)

~ existence of the statutory authority for the acquisition;

~ need for the land;

~ purpose for which the land will be used;

~ degree of assistance needed if applicant is an individual;

~ impact on the state and its political subdivisions resulting from the removal of the land from the tax rolls;

~ potential jurisdictional problems and conflicts of land use;

~ ability of the Bureau of Indian Affairs to discharge the additional responsibilities with the taking of the land into trust;

~ information to comply with the National Environmental Policy Act and other environmental laws;

~ appraisal of property when land valued at more than $100,000 and an abstract of title is used to support title.

IF the land to be acquired is located off-reservation, then the following additional information must be supplied: (151.11)

~ Applicant must provide a business plan that specifies the anticipated benefits associated with the proposed use.

Step 2 BIA notifies the State and its political subdivisions of the proposed acquisition (151.10).

~ Provide 30 days for submission of comments. Grants extension of time to submit comments for justifiable reason. Request information on:

~ Annual amount of property taxes currently levied on the property, any special assessments with amount, which are currently assessed against the property;

~ Any governmental services which are currently provided to the property by your jurisdiction;

~ If subject to zoning, how the property is currently zoned;

~ Notice must include the name of applicant, proposed use of the land, description of the property and statement that application (excluding information exempted by the Freedom of Information Act) are available for review at the BIA office.

Step 3 Furnish any comments from State and its political subdivisions to applicant and seek applicant's rebuttal to the comments .

Step 4 BIA deciding official must thoroughly review application, comments and all relevant documentation, including environmental data, submitted in connection with the application (151.12), and if the land is located off-reservation, the deciding official must also consider (151.11).

The location of the land to be acquired relative to the state boundaries, and its distance from the boundaries of the tribe's reservation shall be considered as follows:

~ As the distance between the tribe's reservation and the land to be acquired increases, greater scrutiny is given to the tribe's justification of anticipated benefits from the acquisition;

~ Greater weight is given to the concerns raised in the comments of the State and its political subdivisions.

Step 5 BIA must promptly issue decisions on application, and:

Notify the applicant and interested parties of the decision and include a copy of the analysis used in the decision making process;

Advise applicant and interested parties of the right to appeal decision, and;

Provide 30 days to file notice of administrative appeal (25 CFR 2) . Appeals are to the next higher level of decision making; e.g., appeals to decisions of BIA Agency Superintendents are made to the Regional Directors and Regional Director decisions are appealed to the Interior Board of Indian Appeals (IBIA) or jurisdiction over the appeal can be assumed by the Assistant Secretary - Indian Affairs.

Step 6 Title evidence (title insurance or abstract of title) is requested from applicant if a decision to approve the application is made (151.13). BIA seeks a preliminary title opinion from the Department's Office of the Solicitor.

Step 7 **IF A DECISION IS TO APPROVE AN APPLICATION, AND**

AN ADMINISTRATIVE APPEAL IS NOT FILED - BIA prepares and publishes in a newspaper of general circulation serving the affected area a notice of the decision to take title to the land into trust **OR** the Federal Register if the Assistant Secretary - Indian Affairs makes the decision. Notice must state that a final agency determination to take land in trust has been made and the Secretary shall acquire title in the name of the U.S. no sooner than 30 days (judicial review period) after the notice is published.

Upon expiration of the 30 days (judicial review period) and if no action is initiated in federal court to challenge the acceptance of title, then the BIA deciding official executes a conveyance instrument accepting title to the land in trust after satisfying all of the title requirements imposed by the Office of the Solicitor (151.14).

If during the judicial review period (30 days) an action is filed in federal court that challenges the intent to take title in trust, no further action is taken until the judicial proceedings have been exhausted. If the BIA's decision is upheld, then it will accept title to the land after satisfaction of title requirements. If not, the applicant is notified and the application will be filed without further action, unless the applicant continues the legal proceedings.

IF AN ADMINISTRATIVE APPEAL IS FILED - BIA will adhere to the prescribed appeal process (25 CFR 2). The notice of the decision to take title to the land in trust is not published until the administrative appeal process is exhausted.

If the BIA decision is affirmed in the administrative appeal process and no further court appeal is initiated, BIA will:

~ Prepare and publish in newspaper of general circulation serving the affected area a notice of the decision to take title to the land into trust;

~ Notice must state that a final agency determination to take title to the land in trust has been made and the Secretary shall acquire title in the name of the U.S. no sooner than 30 days (judicial review period) after the notice is published;

~ Upon expiration of the judicial review period (30 days) and if no action is initiated in federal court, the BIA deciding official executes a conveyance instrument accepting title to the land in trust after satisfying all of the title requirements imposed by the Office of the Solicitor (151.14);

~ If during the judicial review period (30 days) an action is filed in federal court challenging the notice of intent to take title to the land in trust, no further action is taken until the judicial proceedings have been exhausted. If the BIA decision is upheld, then it will accept title to the land after satisfying all of the title requirements imposed by the Office of the Solicitor (151.14). If the BIA decision is not upheld, the application will be filed without further action unless the applicant continues the legal proceedings.

NOTE: Decisions issued by the Assistant Secretary - Indian Affairs are not appealable under the administrative appeal process and are final for the Department. Any challenge to a decision of the Assistant Secretary - Indian Affairs must be made in federal court.

IF A DECISION <u>IS TO DISAPPROVE</u> AN APPLICATION, AND:

AN ADMINISTRATIVE APPEAL IS NOT FILED - BIA will notify applicant, all interested parties and file the disapproved application without further action.

AN ADMINISTRATIVE APPEAL IS FILED - BIA will adhere to the prescribed appeal process (25 CFR 2). If the BIA decision is affirmed in the appeal process, the application will be filed without action unless the applicant files an action in federal court seeking a court ruling on the administrative decision. If the BIA decision is overturned in the administrative appeal process, the decision may be remanded for further consideration and issuance of a new decision.

Step 8 Applicant satisfies title requirements and furnishes documents to BIA. BIA reviews to determines if the documents satisfy title requirements and seeks advice from the Office of the Solicitor to resolve.

Step 9 BIA records the approved conveyance instrument in the State's land records system and BIA's land records system. The application case file is closed, retained for the prescribed period and the file is transferred to the Federal Records Center as specified.

Step 10 BIA furnishes recorded conveyance instruments together with documents evidencing satisfaction of title requirements and the Office of the Solicitor issues a Final Title Opinion setting forth that title to the land is owned by the United States in trust for the applicant.

Step 11 Final Title Opinion and title evidence (title policy or abstract of title) is filed of record in BIA' s land title system. The acquisition case file is submitted to the Federal Records Center in accordance with the records disposition schedule.

The submission of an application does not equate to an approved application. Each fee-to-trust application is unique and must be evaluated on its own merits using the criteria found in 25 CFR 151. The act of filing an application with the Secretary does not in itself mean or guarantee that the land will be placed into trust status.