



**US Department Of The Interior  
Bureau of Indian Affairs**

# **LEASING & MORTGAGES ON TRIBAL LAND**

*An General Overview Prepared for the 2016 CDIC*

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# PRESENTATION ROAD MAP

- What Brings the BIA Here Today
- BIA's Administration of Leasing on Tribal Land
- Steps Taken at the BIA to Achieve An Approved Residential Lease and Mortgage
- Locating Your Contacts at the BIA
- Other Resources

# PRESENTATION ROAD MAP

- Overview of BIA
- Overview of OTS
- History
  - Cobell Litigation
  - Trust Reform
  - Land Buy Back
- Today's Environment
  - Regulations
  - Special Project Group
- HEARTH Act

# WHAT BRINGS THE BIA HERE TODAY?

*(Why is the BIA involved in “our” lending process?)*

The long-standing legal and political relationship between Indian tribes and the federal government.

- Demonstrated through treaties, federal court decisions, statutes and implementing regulations.
- Resulting in the Federal Government’s responsibility for land and natural resources held in trust for the beneficial use of Tribes and Individual Indians in the United States.
- The Bureau of Indian Affairs oversees and administers the functions necessary to uphold the trust.
- BIA’s role in the lending process arises from its administration and oversight of leasing functions (i.e., leases, amendments, assignments, subleases, and **mortgages**) for tribal and individually owned trust or restricted lands.



# BIA's ADMINISTRATION OF LEASING ON INDIAN LAND

- Federally-Recognized Tribes can negotiate long-term leases of tribal trust and restricted lands, for business, residential, agricultural, and other purposes under 25 U.S.C. § 415 (The Indian Long Term Leasing Act) and the BIA's implementing regulations at 25 CFR Part 162 including:
  - Subpart B: Agricultural Leases
  - **Subpart C: Residential Leases**
  - Subpart D: Business Leases
  - Subpart E: Wind and Solar Resource Leases
- **Leases** entered into by tribes under 25 CFR Part 162 **require approval by the Secretary of the Interior**. The Secretary's approval authority for leases is generally delegated to BIA Regional Directors and/or Agency Superintendents.
- The HEARTH Act provides a process where Federally Recognized Tribes can develop their own leasing regulations and execute leases without Secretarial approval of each lease – we will discuss this in more detail later in the presentation.

# BIA's ADMINISTRATION OF LEASING ON INDIAN LAND, CONT.

The BIA addresses many issues associated with administration of the leasing function including, but not limited to:

- Reviewing and approving leases, amendments, assignments, subleases, and **mortgages**.
- Encoding accurate contract/lease information into the BIA's system of record, *the Trust Asset and Accounting Management System* ("TAAMS").
- Keeping in mind that BIA's responsibility is to the tribe or Indian landowner, respond to inquiries from lessees or the general public regarding leases on trust lands.
- Cooperate with other government agencies, as authorized, that are undertaking actions that overlap, intersect, are dependent upon, or are affected by the BIA's trust responsibilities regarding Indian lands.

# STEPS TAKEN AT BIA TO THE APPROVED RESIDENTIAL LEASE & MORTGAGE (25 CFR §§ 162.301- 162.374

- With an approved lease contract, Tribes (and Individual Indian owners of allotted trust land), can enter into mortgages of their leasehold interest.
  - *25 CFR § 162.003: Leasehold mortgage means a mortgage, deed of trust, or other instrument that pledges a lessee's leasehold interest as security for a debt or other obligation owed by the lessee to a lender or other mortgagee*
- The BIA follows the provisions of 25 CFR §§ 162.301- 162.374 to review, process, and approve a residential lease and §§ 162.359 -162.360 address the approval process for a residential leasehold mortgage.
- As with leases, amendments, assignments, and subleasees, the BIA must approve leasehold mortgages unless it finds a compelling reason not to do so, based on certain specified findings (see §§ 162.359 -162.360).
- Although ultimately each Region or Agency processing a Residential lease fulfills the requirements of the CFR, the internal steps taken to meet those requirements can differ.
- If you are a lender that wants to submit a proposed mortgage to the BIA for approval, **it is critical** that you contact the Region/Agency having jurisdiction over the land.



# LOCATING YOUR CONTACTS AT THE BIA

- The first step is determine which of BIA's 12 Region's has jurisdiction over the land in question.
- Generally easily determined by which State the land is located, however, in some cases more than one Region may have oversight of the same State.
- It is also helpful to know the Land Title and Records codes associated with the land



# LOCATING YOUR CONTACTS AT THE BIA

<http://www.bia.gov/>

<http://www.bia.gov/WhoWeAre/RegionalOffices/index.htm>

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**Media Advisory**  
New Mexico Attorney General, Bureau of Indian Affairs, Tribal Law Enforcement, Service Providers & Coalition to Stop Violence Against Native Women Work to Combat Human Trafficking on Native American Lands

Lawrence S. Roberts  
Acting Assistant Secretary  
Indian Affairs

Consultation - FAQs | Consultations | Let's Move! | FY 2017 Budget Information

**NEWS**

11/16/16  
**New Mexico Attorney General, Bureau of Indian Affairs, Tribal Law Enforcement, Service Providers & Coalition to Stop Violence Against Native Women Work to Combat Human Trafficking on Native American Lands**

Albuquerque, NM - This week, prosecutors and special agents from the Office of the Attorney General joined the Bureau of Indian Affairs, tribal law enforcement agencies, service providers and the Coalition to Stop Violence Against Native Women (CSVANW) to combat human trafficking on Native American lands in New Mexico. The working conference, *Sax Trafficking in Indian Country*, demonstrates the critical importance of federal, state and tribal entities working together with service providers to attack human trafficking and protect victims on tribal lands in New Mexico.

11/16/16  
**BIA Director Michael Black to Keynote 25th Annual Indian Country Law Enforcement Officers Memorial Service**

WASHINGTON - Bureau of Indian Affairs (BIA) Director Michael S. Black will deliver the keynote address at the 25th Annual Indian Country Law Enforcement Officers Memorial Service being held Thursday, May 5, 2016, at the Bureau of Indian Affairs' Indian Police Academy in Artesia, N.M. He will be accompanied by BIA Office of Justice Services Deputy Bureau Director Darren Cruzan.

11/07/16  
**Acting Assistant Secretary Lawrence S. Roberts Announces \$9.1 Million Available for Tribal Energy and Economic Development Projects**

WASHINGTON - Acting Assistant Secretary-Indian Affairs Lawrence S. Roberts announced today the availability of approximately \$9.1 million for three funding opportunities for federally recognized Indian tribes, Alaska Native villages, Alaska Native regional or village corporations, and tribal corporations.

**SOCIAL MEDIA**

**This Week at Interior Nov...**

**Video: Tribal Nations Conference**  
November 2015

**Tweets by @IndianAffairs**

Indian Affairs @IndianAffairs  
On #NationalDay we remember and honor all #NativeVets that served - Acting AS-IA Larry Roberts

Indian Affairs @IndianAffairs

**REGION SELECTOR**

Click the map below to view an interactive map. You may also select a region from the list below to view more information about that region.

ALASKA | GREAT PLAINS | NORTHWEST  
SOUTHERN PLAINS | EASTERN | NAVAJO  
PACIFIC | SOUTHWEST  
EASTERN OILHOLDS | MIDWEST | ARIZONA  
WESTERN | MOUNTAIN

**CSC Ramah Class Notice (pdf)**

**FEDERAL ACKNOWLEDGEMENT FINAL RULE CFR 25 Part 83**

**BIE Funded School Replacement**

**Tribal Leaders Directory**

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**REGIONAL OFFICES**

Delivery of program services to the federally recognized tribes and individual Indians and Alaska Natives, whether directly or through contracts, grants or compacts, is administered by the twelve regional offices and 83 agencies that report to the BIA Deputy Director-Field Operations, located in Washington, D.C.

Each regional office is headed by a Regional Director who is responsible for all Bureau activities within a defined geographical area except education, law enforcement and functions of an administrative nature. The typical Regional Office includes a Deputy Regional Director for Trust Services and Deputy Regional Director for Indian Services.

The Deputy Regional Director for Trust Services oversees a staff of specialists responsible for natural resources (water resources, forestry and fire, irrigation and safety of dams), agriculture, (farm, pasture, and range), fish, wildlife and parks and real estate services (land acquisition and disposal land title records office, probate, rights-of-way, and lease/permit).

The Deputy Regional Director for Indian Services oversees a staff of specialists responsible for transportation (planning, design, construction, and maintenance) and Indian services (tribal governments, human services, housing improvement).

The twelve regional offices are located in the heart of Indian Country with the agencies located at the reservation level.

Here is a map of the regions.

**REGIONS**

Click the map to view our regions and their office contact information and the tribes served by that region

- Alaska
- Eastern
- Eastern Oklahoma
- Great Plains
- Midwest
- Navajo
- Northwest
- Pacific
- Rocky Mountain
- Southern Plains
- Southwest
- Western

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*QUESTIONS??*

*THANK YOU!*