



THE SECRETARY OF THE INTERIOR
WASHINGTON

ORDER NO. 3400

Subject: Delegation of Authority for Non-Gaming Off-Reservation Fee-to-Trust Acquisitions

Sec. 1 Purpose. The purpose of this Order is to delegate authority to Bureau of Indian Affairs (BIA) Regional Directors to issue decisions on all requests for non-gaming off-reservation fee-to-trust acquisitions.

Sec. 2 Authorities. This Order is issued under the authority of section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), as amended, and Pub. L. 116-260, the Consolidated Appropriations Act, 2021.

Sec. 3 Background. Fee-to-trust applications involve the acquisition in trust of whole or undivided interests in land held in fee. There are several types of possible acquisitions, and operating procedures for each type are documented in detail in the handbook, entitled “Acquisition of Title to Land Held in Fee or Restricted Fee Status (Fee-to-Trust Handbook).” This Order provides guidance to the Department of the Interior (Department) regarding delegated authority for the review and approval of off-reservation fee-to-trust acquisitions under 25 C.F.R. 151.11.

On April 6, 2017, the Acting Assistant Secretary – Indian Affairs (AS-IA) provided notice to all BIA Regional Directors that the delegated authority for off-reservation fee-to-trust decisions would lie with the Acting AS-IA, and that delegated authority for off-reservation fee-to-trust decisions for gaming applications would lie with the Deputy Secretary of the Department. The AS-IA later issued a National Policy Memorandum, NPM-TRUS-36, which rescinded and replaced the Acting AS-IA’s April 6, 2017, notice and the directives contained therein. NPM-TRUS-36 delegated authority to issue decisions for gaming and non-gaming off-reservation fee-to-trust acquisitions to the AS-IA. NPM-TRUS-36 was extended once and then converted to permanent policy in Part 52 Chapter 15 of the Indian Affairs Manual (IAM).

52 IAM 15 delegated the authority to issue decisions on all requests for off-reservation fee-to-trust acquisitions to the AS-IA, including the authority to decide requests for mandatory and discretionary off reservation fee-to-trust acquisitions, regardless of whether such requests are gaming-related.

Sec. 4 Policy. It is the policy of the Department to effectively and expeditiously process off-reservation fee-to-trust applications consistent with the Department’s Part 151 regulations.

Sec. 5 Directives. Consistent with applicable laws and regulations, I hereby delegate authority to the BIA Regional Directors to issue decisions on all requests for non-gaming, off-reservation fee-

to-trust acquisitions. The delegated authority for deciding requests for off-reservation fee-to-trust acquisitions that are gaming-related remains with the AS-IA. The AS-IA will process such applications in coordination with the Indian Affairs Office of Indian Gaming. I further direct that the IAM or any other internal guidance be revised consistent with this Order.

Sec. 6 Effect of the Order. This Order is not intended to and does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

Sec. 7 Expiration Date. This Order is effective immediately and will remain in effect until the appropriate provisions are incorporated into the IAM, or until the Order is amended, superseded, or revoked, whichever occurs first.



Secretary of the Interior

Date: **APR 27 2021**