INDIAN AFFAIRS
DIRECTIVES TRANSMITTAL SHEET

(modified DI-416)

DOCUMENT IDENTIFICATION NUMBER 76 IAM 15	SUBJECT Sale of Trust and or/Restricted Land Interests by BIA Employee to the Indian Land Consolidation Program	RELEASE NUMBER #08-31
FOR FURTHER INFORMATION Indian Land Consolidation Center, BIA		DATE MAY 0 9 2008

EXPLANATION OF MATERIAL TRANSMITTED:

Pursuant to the 130 DM 3.4, the Indian Land Consolidation Center is responsible for establishing land consolidation polices, providing technical advice and assistance to Regions with regard to the implementation of the land acquisition program. The Center is also responsible to provide oversight, direction, monitoring and program evaluation for the Indian Land Consolidation Program.

The purpose of this Policy is to establish procedures for the conveyance of fractionated land interest(s) in trust or restricted land purchased by the Indian Land Consolidation Program (ILCP) from an Employee of the Bureau of Indian Affairs.

Please direct any questions to the Indian Land Consolidation Center at (715) 682-0310.

Jerry L. Gidner
Director, Bureau of Indian Affairs

FILING INSTRUCTIONS:

Remove: None

Insert: 76 IAM 15 (New)

1.1 Purpose. The purpose of this Policy is to establish procedures for the conveyance of fractionated land interest(s) in trust or restricted land purchased by the Indian Land Consolidation Program (ILCP) from an Employee of the Bureau of Indian Affairs.

1.2 Scope. This policy applies to the following seven BIA Regional Offices: Navajo, Midwest, Great Plains, Northwest, Western, Eastern Oklahoma, and Rocky Mountain.

1.3 Policy. 25 CFR 140.5(e) states that BIA Staff employed in the office or installation of the Bureau which recommends, approves, executes or administers a sale involving property, which is either held in trust or subject to a restriction against alienation by the United States for Indians, can not benefit or appear to benefit in such sale of real property or any interest therein. To do so would be to invite a fine, imprisonment or both and removal from office; unless such a sale is approved by an authorized officer of the Bureau of Indian Affairs. If an individual seller, who also is an employee of the Bureau of Indian Affairs, requests to sell his or her interests to the ILCP, 25 CFR 140.5 must be addressed.

25 CFR 140.5(e)(1-2) identifies the conditions, if applicable, that need to be addressed before authorization is granted: (1) The conveyance of an interest in property is authorized by law. (2) Selling of property interests by Bureau of Indian Affairs employees must be conducted on the basis of sealed bids or public auction and may only be waived by the Assistant Secretary on the basis of a full report showing (i) the need for the transaction, (ii) the benefits accruing to both parties, (iii) that the consideration shall be not less than fair market value, and (iv) an affidavit signed by the employee shall accompany each proposed transaction denying they exerted influence over the seller. A 1988 memorandum from the Assistant Secretary, Indian Affairs provides the authority to waive the sealed bid requirement to the Area Director, unless the parties to the sale are related to the Area Director by blood or marriage. This authority may also be re-delegated to the Agency Superintendents.

The requirements of 25 CFR 140.5 may be met through a request for waiver of bid signed by the employee and approved by the authorized official. This request will include a transmittal memorandum from the ILCP Coordinator to the Authorized Officer identifying the employee requesting to divest of interest(s) to the ILCP. The Coordinator will confirm that a complete application was received; that it includes the identification of the tribe that will take possession of the interests; and the need for that authorized officer to approve the request. The criteria as described under 25 CFR 140.5(e)(1-2) will be addressed in the request for waiver. The conveyance is authorized by the Indian Land Consolidation Act Amendments of 2000. The need for the transaction is to consolidate fractional interests. The benefit to the employee is monetary. All interests are purchased in the name of the tribe and the tribe benefits from the consolidation of ownership interests. The employee is selling and the affidavit identified in 140.5(e)(2)(iv) will affirm that influence and knowledge did not affect the sale.

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). See Section 213-216 of the Act.

1.5 Responsibilities.

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

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, BIA is responsible for overseeing the Regional Directors and disseminating policy to them.

D. Deputy Bureau Director, Trust Services, BIA 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.