



U.S. Department of the Interior
"To-Be" Trust Business Model
Process Template

Title: Hold Hearing <i>Identify the process in the "Verb Noun" format. (Ex: Maintain Ownership)</i>	Process Number O.3.2.3 _____
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1. Process Definition *Provide an overview of the process and define its starting and ending points*

1.1 Starts With	An interested party's request for a hearing or the review of the probate file indicated a hearing would be required.
1.2 Process Overview	<p>Judge retrieves the electronic probate via the interactive probate software tool. They review the probate file and conduct any needed pre-hearing conference (review the inventory and answer any questions the interested parties may have), request any needed information/documentation, perform any needed legal research, schedule a hearing, request briefs, subpoena witnesses, send and post notices and conduct the hearing.</p> <p>Identify problems with this process that may be resolved through BRDM (B.5.1 Conduct Outreach Activities and B.5.2 Post Outreach Activities). Provide support and/or participate in outreach activities.</p>
1.3 Stops With	The hearing (including any supplemental hearings) has been conducted.

2. Trust Business Objectives *Identify the Comprehensive Trust Management Plan strategic goals and business objectives to which this process contributes.*

Goal/Objective
2.1 Expand self-governance compacts and self-determination contracts. Foster expansion of self-governance compacts and self-determination contracts in a manner consistent with DOI's fiduciary responsibilities.
3.2. Probate and estate administration. Consistently prioritize and quickly resolve probate and estate administration cases to effectively meet asset management and beneficiary service requirements.
3.3. Title, realty, and administrative information. Develop, maintain, and make readily available accurate and current asset ownership and administrative information managed to professional fiduciary standards

3. How should Beneficiaries be involved in this process?

Beneficiary Involvement
Beneficiary should attend the hearing, testify, raise an argument, file briefs, and supply any requested information/documentation needed to reach a decision.



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4. Organizations, Offices and Roles. *Identify the organizations that should be involved in performing the process.*

4.1 DOI Organizations. *Identify the DOI organizations, offices and roles that contribute to this process. DOI organizations include the Office of the Secretary, BIA, OST, BLM, MMS, OHA, OSM among others. Offices include Central Offices, Regional Offices, Agency(Field) Offices, etc. Using the CTM, Appendix D, identify and describe each role that contributes to the execution of the process.*

Organization	Office	Role	Contribution
BIA	Probate		Provide Assistance to Judge with relevant information or testimony. Identify problems with the process that may be resolved through BRDM outreach activities. Provide support and/or participate in the outreach activity.
BIA	Land and Natural Resource Use and Management		Provide Assistance to Judge with relevant information or testimony.
BIA	Land and Natural Resource Planning		Provide Assistance to Judge with relevant information or testimony.
BIA	Beneficiary Relationship and Development Management		Provide Assistance to Judge with relevant information or testimony.
BIA	Programs (Probate, Forestry, Social Services, BIA Schools, etc.)		Provide Assistance to Judge with relevant information or testimony.



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Organization	Office	Role	Contribution
Single Adjudication Office	Regional		<p>Judge retrieves the electronic probate file which includes a draft decision. They review the probate file and conduct any needed pre-hearing conference, request any needed information/documentation, perform any needed legal research, schedule a hearing, request briefs, subpoena witnesses, send and post notices and conduct the hearing.</p> <p>Identify problems with the process that may be resolved through BRDM outreach activities. Provide support and/or participate in the outreach activity.</p>
Single Adjudication Office	Regional		<p>Provide legal support services for the judge.</p> <p>Identify problems with the process that may be resolved through BRDM outreach activities. Provide support and/or participate in the outreach activity.</p>
OHA	IBIA		<p>They are authorized by the Secretary to hear, consider, and determine finally for the Department appeals taken by aggrieved parties from actions by judges on petitions for rehearing or reopening, interlocutory appeals, allowance of attorney fees, and from actions of BIA officials as provided in Sec. 4.1(b)(2).</p>



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Organization	Office	Role	Contribution
Tribes	Applicable Tribal office		For compacted and contracting Tribes that have assumed this responsibility, the Tribe performs all DOI functions except those considered inherently federal. Identify problems with the process that may be resolved through BRDM outreach activities. Provide support and/or participate in the outreach activity.

4.2 Non-DOI Organizations. *Identify the non-DOI organizations that support the execution or contribute to this process.*

Non-DOI Organization	Contribution

5. Event(s) *Identify the events or conditions that start the process. Describe each event and indicate the frequency (daily, monthly, quarterly, etc.) in which each event is expected to occur. An event may be an external interaction (a beneficiary submits an application), the expiration of a period of time (a lease is due to expire in 90 days), or the realization of some pre-defined threshold (an IIM account reaches the automatic disbursement threshold).*

Event	Description	Estimated Frequency
Determination that the Probate requires a hearing.	After a review by the Single Adjudication Office it is determined that the estate must have a hearing to make a decision.	
Interested parties request for a hearing	A hearing may be required as a result of a Beneficiary requesting a hearing because they did not agree with the proposed record based decision mailed to them.	

6. Inputs and Outputs. *Identify and describe all inputs and outputs related to this process. Inputs are information or materials used during the execution of the process; outputs are materials or information produced by the process.*

6.1 Inputs

Input	Description



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Input	Description
Probate File	All the information and any needed documentation to determine the heirs of the estate or identify issues of fact that may require a hearing. Also, includes a draft decision from the Interactive probate software tool and copies of the notices and postings (notice to interested parties).
Testimony	Sworn testimony given at the hearing to determine the facts and help the Judge make a decision.
Internet legal resources	On-line legal research sites, both subscription and free.
Electronic People searches	On-line people searches, both subscription and free.
Notes produced from Judges research	These are notes that help identify issues, resolve issues and assist in drafting the final decision. These are personal notes that will not be in the final record.
Briefs	Written statement prepared by an attorney or interested party to be presented as evidence to the judge. May be a request for a rehearing or additional evidence not submitted at the hearing
Motions	Request for a ruling from the judge on a pertinent issue
Interpretation of judges instructions/questions and testimony	For non-English speaking Indians an interpreter is needed to interpret the judges instructions/questions and their testimony

6.2 Outputs

Output	Description
Probate File	All the information and any needed documentation to determine the heirs of the estate or identify issues of fact that may require a hearing. These may include: Estate Assets Report, Document(s) verifying Decedents death, will, genealogy, claims, Appraisal/Valuation, Renunciation/Disclaimer, field research, internet people searches, any needed additional information/documentation for a presumption of death hearing, draft decision, Tribal purchase options, copies of the notices and postings (notice to interested parties), Decision to hold a hearing or instructions for mailing a proposed decision, copy of the mailed proposed decision and names of the interested parties receiving the mailing (if it was a request for a hearing from a mailed decision), copy of posting and notices sent for hearing date/time/place, record of the hearing, Interim orders, rulings on motions.



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Output	Description
Record of the hearing.	Tape recording and any relevant documents received at the hearing.
Interim orders	Judges orders taking an action that affects the estate before the final decision.
Ruling on a Motion	Decision on the request for a ruling



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7. Fiduciary and Legal Obligations and Controls

7.1 Obligations

Identify and describe the legal and fiduciary obligations that impact this process. For each obligation, indicate the document or commitment that defines the obligation and the citation (paragraph or section) within the document that pertains to this process.

Obligation	Source	Business Impact
25 CFR 15		Change and combine with 43 CFR 4 to accommodate the new process.
43 CFR 4		Change and combine with 25 CFR 15 to accommodate the new process.
25 CFR Part 17		Action of will on Osage
25 CFR Part 16		Estates of Indians of the Five Civilized Tribes
5 USC 552 (FOIA)		Freedom of Information Act
5 USC 552a (Privacy Act)		Provides for the protection and accuracy of information about individuals.
5 USC 554 – 557		Administrative Procedures Act (APA) to ensure due process during the probate process.
Babbitt v. Youpee		The court decision finding ILCA unconstitutional because heirs of trust property that was escheated to Tribes were not compensated. This has and will continue to have a significant impact on probate.
Indian Land Consolidation Act (ILCA) of 1984, Amended 2000		The Indian Land Consolidation Act was passed to prevent further fractionation and to consolidate fractional interests in allotted lands. When there are no eligible heirs, land can be purchased by a co-owner or by the tribe in an effort to reduce fractionation and emphasize tribal sovereignty. ILCA also, in defining the term Indian, redefines who is eligible to hold land in Trust and cash. Has not been implemented and may be replaced by another amendment to ILCA.
25 USC 372 - General Allotment Act		Sec. 372. Ascertainment of heirs of deceased allottees; settlement of estates; sale of lands; deposit of Indian moneys If we want to include land in the expedited probate this might have to be changed (provide notice and hearing).
25 USC 355		Five Civilized Tribes act that commits the probates to state district court. May be amended by a proposed Five Nations Citizens



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Obligation	Source	Business Impact
		Land Reform Act which would make DOI responsible for the probate of Five Nation beneficiaries trust/restricted estates.
25 USC 331 Repealed by P.L. 106-462 (ILCA 2000)		Osage authority to do Inter vivos trusts and state court to do Osage probates.
25 USC 373		Disposal by will of allotments held under trust.
25 USC 373(a)		Disposition of trust or restricted estate of intestate without heirs; successor tribe; sale of land.
25 USC 373(b)		Descent and distribution for restricted estate or homestead on the public domain
25 USC 372a.		Heirs by adoption
25 USC 374		Attendance of witnesses – authority for judges to require attendance of witnesses at hearings to determine the heirs of decedents, held in accordance with sections 372 and 373.
25 USC 375		Determination of heirship of deceased members of Five Civilized Tribes
25 USC 375(a)		Jurisdiction of Secretary of the Interior over probate and distribution of estates not exceeding \$2,500 for the Five Civilized Tribes of Oklahoma.
25 USC 375(c)		Disbursement of sums not exceeding \$500 to heirs or legatees for the Five Civilized Tribes of Oklahoma.
25 USC 375(d)		Disposition of estates of intestate members of Cherokee, Creek, Chickasaw, Choctaw, and Seminole Nations of Oklahoma dying without heirs. Land will escheat back to the Tribe with jurisdiction.
25 USC 376		After August 1, 1914, any officer or employee appointed or designated by the Secretary of the Interior or the Commissioner of Indian Affairs as special examiner in heirship cases shall be authorized to administer oaths in investigations committed to him: Does not apply to Osage Indians nor to the Five Civilized Tribes of Indians in Oklahoma.
25 USC 378		Partition of allotment among heirs - If the Secretary of the Interior shall find that any inherited trust allotment or allotments are capable of partition to the advantage of the heirs, he may cause such lands to be partitioned among them, regardless of their



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Obligation	Source	Business Impact
		competency, patents in fee to be issued to the competent heirs for their shares and trust patents to be issued to the incompetent heirs for the lands respectively or jointly set apart to them, the trust period to terminate in accordance with the terms of the original patent or order of extension of the trust period set out in said patent.
25 USC 379		Sale of allotted lands by heirs.
25 USC 356		Allowance of undisputed claims of restricted allottees of Five Civilized Tribes- No undisputed claims to be paid from individual moneys of restricted allottees, or their heirs, or uncontested agricultural and mineral leases (excluding oil and gas leases) made by individual restricted Indian allottees, or their heirs, shall be forwarded to the Secretary of the Interior for approval, but all such undisputed claims or uncontested leases (except oil and gas leases) shall be paid, approved, rejected, or disapproved by the Superintendent for the Five Civilized Tribes of Oklahoma: Provided, however, That any party aggrieved by any decision or order of the Superintendent for the Five Civilized Tribes of Oklahoma may appeal from the same to the Secretary of the Interior within thirty days from the date of said decision or order.
Tribal Probate Codes	Tribal Law	Approved Tribal Probate codes to be used in distributing trust assets in an estate.
Uniform Indian Probate Code	Law	One Indian Probate Code that supercedes all state codes now used.

7.2 Controls

Identify and describe any controls (enforcement mechanisms) that may be used to ensure that the process adheres to obligations and internal process requirements. Controls may be reviews, audits, segregated duties, etc. Indicate the reason that each control should be introduced (name the obligation that a control is intended to enforce; indicate any controls required to ensure consistency or reliability).

Control	Reason	Description
Notes and Tapes	To assure the judge can recall all hearing facts	A tape recording is made during the hearing.
Appeal	Constitutionally guaranteed due process	An appeal will result in a decision being affirmed, reversed or remanded for further development.



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8. Mechanisms (Systems of Record) *Identify the mechanisms, or systems, that are needed to support the process (ex: Ownership, Leasing, Workflow Management, Office Filing System, etc.). Indicate the information and activities, relevant to this process, that each system supports.*

System Name	Support
Integrated Data	Information system containing all trust data
Interactive probate software tool	<p>Software tool that guides user through a probate. It is capable of prompting the user to ask additional questions based on previous answers supplied and/or requesting the proper documentation to verify answers given. It is capable of generating any forms/letters needed to probate the estate and generates a proposed decision based on the input. It is a seamless tool that flows from one sub process to the next electronically.</p> <p>It can generate forms to request needed documents such as adoption records, which are forwarded to judge for submission to appropriate state court for copies of the records. Sensitive records, e.g. adoption records, are accessible only by judges.</p> <p>If the electronic record is altered at the hearing or during finalize decision the system should assure the altered parts of the electronic probate are printed and added to the original record at the agency/field/Tribal office.</p>
Court reporting equipment	Use of current technology for use at hearings.
Lap Tops & Printers	To generate decision immediately at the hearing when possible.
Imaging Equipment	To image all documents received at the hearing. Original documents are then sent to the submitting office to be filed with all other original documents in the hardcopy probate file.
Law Library	Could be on-line, university library, office library etc.
Mailing Equipment	To expedite large mailings.
Hardcopy Records	Original probate records used to develop the electronic files.



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9. Inter-Process Relationships *Identify other trust processes that are related to this process (either predecessors or successors). If applicable, indicate the condition under which the processes are related.*

9.1 Predecessors. *Predecessors are processes that either produce information required by this process or that result in the need to execute this process.*

Process No.	Name	Condition of Relationship
O.3.2.1	Review of Probate File	Probates that did not meet criteria for an expedited probate are assigned to a Judge for a hearing.
O.3.2.2	Mail Proposed Decision	A hearing may be required as a result of a Beneficiary requesting a hearing when they disagree with the mailed records based decision.
O.3.2.5	Consider Appeals	An appeal may result in another hearing.

9.2 Successors. *Successors are processes that either use information produced by this process or that must be executed as a result of performing this process.*

Process No.	Name	Condition of Relationship
O.3.2.4	Finalize Decision	<p>This is the review of all testimony, documents introduced at the hearing, probate file and the application of the law to facts. It may require a request for additional information either from the Beneficiary. It will end when a final decision is drafted (edited draft decision from Prepare Probate Case), transcript prepared and the appeal period expires.</p> <p>If the electronic record is altered at the hearing or during finalize decision the system should assure the altered parts of the electronic probate are printed and added to the original record at the agency/field/Tribal office.</p>
B.5.1	Conduct Outreach Activity	When probate staff identifies a problem with the Prepare Probate Case that can be resolved by a BRDM outreach they will work with BRDM to develop an outreach activity.
B.5.2	Post Outreach Activity	After an outreach activity the probate staff will analyze the effectiveness of the activity.



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10. Comments *Summarize any discussion, problems, issues or recommendations that should be considered when reviewing process performance. Category Values (Note, Best Practice, Decision, Problem, Issue, Recommendation)*

Category	Comment
Recommendation	When appeals go to IBIA they should be able to access the electronic record via the interactive probate software tool.