

INDIAN AFFAIRS DIRECTIVES TRANSMITTAL SHEET

(Modified DI-416)


DOCUMENT IDENTIFICATION NUMBER 52 IAM 5	SUBJECT IIM Land Use Agreement Direct Payment Arrangement	RELEASE NUMBER 08-37
FOR FURTHER INFORMATION Trust Services		DATE JUL 21 2008

EXPLANATION OF MATERIAL TRANSMITTED:

The purpose of the policy is to standardize and simplify direct payment arrangements provided for in a trust land use agreement approved by the Secretary of the Interior or his/her delegated designee.

Typically, a land use agreement is a lease, permit, contract, or grant. In the past, land use agreement payment terms allowed some of the ownership interests in a tract of land to receive use payments directly from the user while other ownership interests were paid to the Government and maintained in an individual Indian account. During the leasing period, these arrangements changed numerous times. This practice overly complicated administration of the use agreement and management of income receipting and distribution.

The Government has a responsibility to account for the funds received that were generated from trust resources and this policy will strengthen the income collection process and improve accountability to beneficial owners.

for 

Jerry Gidner
Director, Bureau of Indian Affairs

FILING INSTRUCTIONS:

Remove: None

Insert: 52 IAM 5

INDIAN AFFAIRS MANUAL

- 1.1 Purpose.** The purpose of the policy is to standardize and simplify direct payment arrangements provided for in a trust land use agreement approved by the Secretary of the Interior or his/her delegated designee. Typically, a land use agreement is a lease, permit, contract, or grant. In the past, land use agreement payment terms allowed some of the ownership interests in a tract of land to receive use payments directly from the user while other ownership interests were paid to the Government and maintained in an individual Indian account. During the leasing period, these arrangements changed numerous times. This practice overly complicated administration of the use agreement and management of income receipting and distribution. The Government has a responsibility to account for the funds received that were generated from trust resources and this policy will strengthen the income collection process and improve accountability to beneficial owners.
- 1.2 Scope.** This policy applies to the terms of payment included in land use agreements approved by the Secretary of the Interior or his/her delegated designee for individual beneficial owners.
- 1.3 Policy.** It is the policy of the Bureau of Indian Affairs (BIA) that trust land use payments are to be made directly to the centralized commercial lockbox established for the purpose of receiving these funds. An exception will be granted when 100% of the beneficial owners agree to a direct pay* relationship with the associated lessee. The lessee must make direct payments to all beneficial owners that were granted an exception. All land use agreements must include the following provisions:
- A. land use payments must be made in accordance with the billing invoice that is mailed approximately 45 days prior to the payment due date;
 - B. land use payments for direct pay beneficial owners returned to the lessee due to an undeliverable status must be forwarded to the centralized commercial lockbox with evidence of the returned mailing within two (2) business days of receipt;
 - C. direct payment(s) to a beneficial owner identified as agency pay in the contract are prohibited unless a modification to the lease payment schedule has been previously authorized by the Secretary of the Interior or his/her delegated designee.

It is the policy of the BIA to not authorize a direct pay exception for land use agreements that involve restricted accounts such as supervised, encumbered, estates, and whereabouts unknown. Land use agreements must also provide that the lessee certify direct payment was made to all beneficial owners by signing the declaration on the land use billing invoice. Trust Services will assist beneficial owners in the enforcement of the lessee's obligation to pay beneficial owners directly; however, it is the responsibility of beneficial owners to notify BIA if there is a delinquent or deficient payment.

This policy is effective for all land use agreements approved on or after October 1, 2007, and will be codified in the regulations in the near future. All new land use agreements should be issued in accordance with this policy.

* Tribal ownership is treated as individual if it is a mixed ownership lease.

INDIAN AFFAIRS MANUAL

1.4 Authority.

- A. 25 USC § 25 CFR §162 et seq; 25 CFR §162.226

1.5 Responsibility.

- A. **Director, Bureau of Indian Affairs (BIA)** is responsible for the development of National Policy affecting Indian lands.
- B. **Deputy Director, Field Operations, BIA** is responsible for overseeing the Regional Directors and dissemination of policy to them.
- C. **Deputy Director, Trust Services, BIA** is responsible for assisting in the dissemination of trust resource policy and information to the Regional Directors.
- D. **Regional Directors, BIA** are responsible for carrying out policy as directed, and for overseeing the implementation of policy either directly or via Agency Superintendents.