

## Tribal Land Terminology and Trust Land Acquisition Process

### Tribal Land Categories

- 1) **Reservation Land:** An area of land reserved for a tribe or tribes under treaty or other agreement with the United States, executive order, or federal statute or administrative action as permanent tribal homelands.
- 2) **Trust Land:** Land held in trust by the United States government, through the Secretary of the Interior, on behalf of an individual Indian or Tribe.
- 3) **Restricted Land:** Land the title to which is held by an individual Indian or tribe and which can only be alienated with approval by the Secretary.
- 4) **Fee Land:** Form of ownership in which the owner may freely alienate and encumber title to the land without federal approval.

### Trust Land Types

The Indian Reorganization Act of 1934 (48 Stat. 984, 25 U.S.C. § 461 et seq.) Title 25 CFR Part 151 describes the conditions under which trust title to land may be acquired.

There are two general types of land acquisition: mandatory and discretionary

- 1) *Mandatory:* Trust acquisition that is directed by Congress or a court that *requires* the Secretary to accept land into trust for an individual Indian or Tribe.
- 2) *Discretionary:* Trust acquisition that does not *require* the Secretary to acquire title to any interest in land to be held in trust by the United States on behalf of an individual Indian or Tribe. The Secretary may accept or deny the request for acquisition.

### Trust Land Acquisition

*Fee to Trust:* Fee to trust land acquisitions involve the acquisition in trust of whole or undivided interests in fee lands. There are three types:

- ***On-reservation discretionary trust acquisitions:*** Requires written application, site inspection, certification of inspection and possession, a preliminary title opinion, a notice of application, an environmental compliance review, comments on the notice to application, response to title objections, publication notice, a final certification of inspection, acceptance of conveyance, and recording.
- ***Off-reservation discretionary trust acquisitions:*** Requires written application, site inspection, certification of inspection and possession, a preliminary title opinion, a notice of application, an environmental compliance review, comments on the notice to application, response to title objections, an analysis and notice of decision, a final certification of inspection, acceptance of conveyance, and recording.
- ***Mandatory trust acquisitions:*** Requires written application, site inspection, submission of title evidence, an environmental compliance review, preparation of a note of acquisition, a final inspection, acceptance of conveyance, and recording.

Sources: Bureau of Indian Affairs Fee to Trust Handbook Release # 16-47, Version IV (rev. 1), Issued: 6/28/16; Bureau of Indian Affairs website at [www.bia.gov](http://www.bia.gov)