

Department of the Interior

Departmental Manual

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Series: Departmental Management

Part 303: Indian Trust Responsibilities

Chapter 2: Principles for Managing Indian Trust Assets

Originating Office: Office of the Assistant Secretary - Indian Affairs

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2.1 **Purpose.** This Chapter provides Department-wide guidance for carrying out the Secretary's trust responsibility as it pertains to Indian trust assets.

2.2 **Scope.** The provisions of this Chapter are applicable to all Departmental bureaus and offices.

2.3 **Authority.** This Chapter is issued under the authority of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. § 4001, *et seq.*), and its implementing regulations.

2.4 **General Provision.** This Chapter is intended to enhance the Department's management of the Secretary's trust responsibility. It is not intended to, and does not, create any right to administrative or judicial review, or any legal right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies, or instrumentalities, its officers or employees, or any other person.

2.5 **Definitions.** For purposes of this Chapter, the following definitions apply:

A. "Beneficial owner" means both Indian tribes and individual Indians who are the owners of Indian trust assets held by the federal government in trust or with a restriction against alienation.

B. "Persons who manage Indian trust assets" means Departmental employees who have been properly delegated specific authority to manage or administer Indian trust assets.

C. "Indian trust assets" means lands, natural resources, money, or other assets held by the federal government in trust or that are restricted against alienation for Indian tribes and individual Indians.

D. "Trust responsibility" as used in this Chapter only pertains to Indian trust assets.

2.6 **Responsibilities.**

A. **Office of the Special Trustee for American Indians** is responsible for ensuring compliance with the requirements of this Chapter.

B. **Assistant Secretaries** will ensure that bureaus and offices under their jurisdiction comply with this Chapter.

C. **Heads of bureaus and offices** are responsible for ensuring that the principles in Paragraph 2.7 of this Chapter are carried out by their organizations as they:

(1) Review, modify or promulgate new regulations, policy statements, instructions or manuals;

(2) Develop legislative and budgetary proposals; and

(3) Manage, administer, or take other actions directly relating to or potentially affecting assets held in trust by the United States for Indian tribes and individual Indians.

2.7 Trust Principles. It is the policy of the Department of the Interior to discharge, without limitation, the Secretary's Indian trust responsibility with a high degree of skill, care, and loyalty. The proper discharge of the Secretary's trust responsibilities requires that persons who manage Indian trust assets:

A. Protect and preserve Indian trust assets from loss, damage, unlawful alienation, waste, and depletion;

B. Assure that any management of Indian trust assets that the Secretary has an obligation to undertake promotes the interest of the beneficial owner and supports, to the extent it is consistent with the Secretary's trust responsibility, the beneficial owner's intended use of the assets;

C. Enforce the terms of all leases or other agreements that provide for the use of trust assets, and take appropriate steps to remedy trespass on trust or restricted lands;

D. Promote tribal control and self-determination over tribal trust lands and resources;

E. Select and oversee persons who manage Indian trust assets;

F. Confirm that tribes that manage Indian trust assets pursuant to contracts and compacts authorized by the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450, *et seq.*, protect and prudently manage Indian trust assets;

G. Provide oversight and review of the performance of the Secretary's trust responsibility, including Indian trust asset and investment management programs, operational systems, and information systems;

H. Account for and timely identify, collect, deposit, invest, and distribute income due or

held on behalf of beneficial owners;

I. Maintain a verifiable system of records that is capable, at a minimum, of identifying: (1) the location, the beneficial owners, any legal encumbrances (i.e., leases, permits, etc.), the user of the resource, the rents and monies paid, if any, and the value of trust or restricted lands and resources; (2) dates of collections, deposits, transfers, disbursements, third party obligations (i.e., court ordered child support, judgements, etc.), amount of earnings, investment instruments and closing of all trust fund accounts; (3) documents pertaining to actions taken to prevent or compensate for any diminishment of the Indian trust assets; and (4) documents that evidence the Department's actions regarding the management and disposition of Indian trust assets;

J. Establish and maintain a system of records that permits beneficial owners to obtain information regarding their Indian trust assets in a timely manner and protect the privacy of such information in accordance with applicable statutes;

K. Invest tribal and individual Indian trust funds to make the trust account reasonably productive for the beneficial owner consistent with market conditions existing at the time the investment is made;

L. Communicate with beneficial owners regarding the management and administration of Indian trust assets; and

M. Protect treaty-based fishing, hunting, gathering, and similar rights of access and resource use on traditional tribal lands.

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