

§ 151.12

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will be provided to the applicant, who will be given a reasonable time in which to reply, if they choose to do so in their discretion, or request that the Secretary issue a decision. In reviewing such comments, the Secretary will consider the location of the land and potential conflicts of land use. The Secretary presumes that the Tribe will benefit from the acquisition.

§ 151.12 How will the Secretary evaluate a request involving land for an initial Indian acquisition?

(a) The Secretary shall consider the criteria in this section when evaluating requests for the acquisition of land in trust status when a Tribe does not have a reservation or land held in trust.

(1) The existence of statutory authority for the acquisition and any limitations contained in such authority;

(2) The purposes for which the land will be used; and

(3) If the land to be acquired is in fee status, whether the Bureau of Indian Affairs is equipped to discharge the additional responsibilities resulting from the acquisition of the land in trust status.

(b) The Secretary shall give great weight to acquiring land that serves any of the following purposes, in accordance with § 151.3:

(1) Furthers Tribal interests by establishing a Tribal land base or protects Tribal homelands;

(2) Protects sacred sites or cultural resources and practices;

(3) Establishes or maintains conservation or environmental mitigation areas;

(4) Consolidates land ownership;

(5) Reduces checkerboarding;

(6) Acquires land lost through allotment;

(7) Protects treaty or subsistence rights; or

(8) Facilitates Tribal self-determination, economic development, or Indian housing.

(c) When reviewing a request for a Tribe that does not have a reservation or land held in trust, the Secretary presumes that the acquisition will further the Tribal interests described in paragraph (b) of this section, and adverse impacts to local governments' regulatory jurisdiction, real property

taxes, and special assessments will be minimal, therefore the application should be approved.

(d) Upon receipt of a written request for land to be acquired in trust when a Tribe does not have a reservation or land held in trust, the Secretary shall notify the State and local governments with regulatory jurisdiction over the land to be acquired. The notice will inform the State or local government that each will be given 30 calendar days in which to provide written comments to rebut the presumption of minimal adverse impacts to regulatory jurisdiction, real property taxes, and special assessments. If the State or local government responds within 30 calendar days, a copy of the comments will be provided to the applicant, who will be given a reasonable time in which to reply, if they choose to do so in their discretion, or request that the Secretary issue a decision. In reviewing such comments, the Secretary will consider the location of the land and potential conflicts of land use. The Secretary presumes that the Tribe will benefit from the acquisition.

§ 151.13 How will the Secretary act on requests?

(a) The Secretary shall review each request and may request any additional information or justification deemed necessary to reach a decision.

(b) The Secretary's decision to approve or deny a request shall be in writing and state the reasons for the decision.

(c) A decision made by the Office of the Secretary or the Assistant Secretary—Indian Affairs pursuant to delegated authority, is a final agency action under 5 U.S.C. 704 upon issuance.

(1) If the Office of the Secretary or Assistant Secretary denies the request, the Assistant Secretary shall promptly provide the applicant with the decision.

(2) If the Office of the Secretary or Assistant Secretary approves the request, the Assistant Secretary shall:

(i) Promptly provide the applicant with the decision;

(ii) Promptly publish notice in the FEDERAL REGISTER of the decision to acquire land in trust status under this part; and