

§ 162.437

25 CFR Ch. I (4–1–25 Edition)

landowners for individually owned Indian land, that the lessee has complied with all lease obligations; and

(2) Release the performance bond or alternative form of security to the lessee, unless we determine that the bond or security must be redeemed to fulfill the contractual obligations.

§ 162.437 Must a lessee provide insurance for a business lease?

Except as provided in paragraph (c) of this section, a lessee must provide insurance necessary to protect the interests of the Indian landowners and in the amount sufficient to protect all insurable permanent improvements on the premises.

(a) The insurance may include property, crop, liability, and casualty insurance, depending on the Indian landowners' interests to be protected.

(b) Both the Indian landowners and the United States must be identified as additional insured parties.

(c) We may waive the requirement for insurance upon the request of the Indian landowner, if a waiver is in the best interest of the Indian landowner, including if the lease is for less than fair market rental or nominal compensation. For tribal land, we will defer, to the maximum extent possible, to the tribe's determination that a waiver is in its best interest.

APPROVAL

§ 162.438 What documents are required for BIA approval of a business lease?

A lessee or the Indian landowners must submit the following documents to us to obtain BIA approval of a business lease:

(a) A lease executed by the Indian landowners and the lessee that meets the requirements of this part;

(b) For tribal land, a tribal authorization for the lease and, if applicable, meeting the requirements of §§ 162.420(a), 162.426(b), and 162.428(a), or a separate signed certification meeting the requirements of §§ 162.426(b) and 162.428(a));

(c) A valuation, if required under § 162.420 or § 162.421;

(d) Proof of insurance, if required under § 162.437;

(e) A performance bond or other security, if required under § 162.434;

(f) Statement from the appropriate tribal authority that the proposed use is in conformance with applicable tribal law, if required by the tribe;

(g) Environmental and archeological reports, surveys, and site assessments as needed to facilitate compliance with applicable Federal and tribal environmental and land use requirements, including any documentation prepared under § 162.027(b);

(h) A restoration and reclamation plan (and any subsequent modifications to the plan), if appropriate;

(i) Where the lessee is not an entity owned and operated by the tribe, documents that demonstrate the technical capability of the lessee or lessee's agent to construct, operate, maintain, and terminate the proposed project and the lessee's ability to successfully design, construct, or obtain the funding for a project similar to the proposed project, if appropriate;

(j) A preliminary plan of development that describes the type and location of any permanent improvements the lessee plans to construct and a schedule showing the tentative commencement and completion dates for those improvements, if appropriate;

(k) A legal description of the land under § 162.418;

(1) If the lease is being approved under 25 U.S.C. 415, information to assist us in our evaluation of the factors in 25 U.S.C. 415(a); and

(m) If the lessee is a corporation, limited liability company, partnership, joint venture, or other legal entity, except a tribal entity, information such as organizational documents, certificates, filing records, and resolutions, that demonstrates that:

(1) The representative has authority to execute a lease;

(2) The lease will be enforceable against the lessee; and

(3) The legal entity is in good standing and authorized to conduct business in the jurisdiction where the land is located.