



Exercising Sovereignty and Expanding Economic Opportunity Through Tribal Land Management

A STUDY ADDRESSING THE RANGE
OF OPTIONS TO EXPEDITE LAND
TITLE PROCESSING ON INDIAN LANDS

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The information contained in this report is not intended to be comprehensive but to provide an introduction to relevant issues and policies and some preliminary thoughts about options available to tribal (and other) policymakers. The positions and opinions found within this paper are the views of the authors only and are not representative of the views of the NCAI, the NCAI Policy Research Center or First Nations Development Institute.

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EXECUTIVE SUMMARY

While the United States faces one of the most significant housing crises in the nation's history, many forget that Indian housing has been in crisis for generations. This report seeks to take some important steps toward a future where safe, affordable, and decent housing is available to Native people in numbers sufficient to meet the housing needs that exist in Indian country today.

This study provides first-of-its-kind analysis of a critical barrier to homeownership on Indian lands. It analyzes the success of tribes that have taken responsibility (in whole or in part) for administering the land title process on tribal lands. It also addresses the challenges those tribes have faced.

While recent policy interventions (like the 184 loan product of the Department of Housing and Urban Development (HUD)) have encouraged expanded mortgage lending on Indian lands, the lengthy time often required to generate Title Status Reports (TSRs) for many Native peoples poses a critical threat to homeownership on Indian lands. Some major banking institutions have abandoned the 184 program (or not utilized it in the first place) because of frustrations with the process for generating title reports on reservation lands.

Whether managed by state governments, local governments, or private contractors (on the behalf of state or local governments), title processing is almost universally faster and more efficient on non-Indian lands. The exceedingly slow title processing on Indian land presents at least three major challenges for Native nations: sovereignty, economic development, and equity. With regard to sovereignty, land title processing impacts the capacity of tribal governments to make and enforce their own decisions. With respect to economic development, the frustratingly long process for generating a title report leads some—both tribal leaders and citizens—to give up completely on dreams of home ownership for tribal members and on successful economic development for the tribe. Finally, this barrier presents a fundamental inequity. Native people who wish to build, improve, or purchase a home on Indian lands face a barrier to their dream that is not faced by any other person or community in America.

The case studies and profiles presented in section 2 detail remarkably different tribes that share very similar experiences as they attempt to transform the title process for their communities. Each tribe we interviewed identified a positive motivation (i.e., the tribe wants to exercise sovereignty and manage this process) and a negative

motivation (i.e. the tribe knows there is a significant backlog and the Bureau of Indian Affairs (BIA) is not going to clear it unless we step in) for playing a role in land title processing. The case studies also identify the commonalities among tribes related to the process for transferring Land Title and Records Office (LTRO) functions from the BIA to the tribe, as well as the outcomes of that process. Interviews with BIA regional offices revealed promising practices that would significantly improve land title processing if enacted in all regions.

The data in the report supports a number of conclusions:

- Tribal LTROs have had positive impacts on their communities.
- The BIA does not provide tribal LTROs with sufficient funds for setup and operation.
- Tribes that lack the resources to pay for the LTRO transition need alternative ways to manage LTRO functions.
- Creative alternatives for establishing tribal LTROs may exist and should be developed.
- Related policies can expedite the ultimate goal of expanded tribal homeownership.
- The BIA needs to clarify and standardize their land management processes.
- Additional tribal LTRO pilot sites will likely enhance existing and future policy.

This report includes many important recommendations that are supported by data:

- Clear the backlog of encoded and updated title documents (Recommendation 1).
- Standardize the LTRO process and develop consistent messages across both local and regional BIA offices (Recommendations 2-3).
- Identify and support tribes interested in managing the land title process through pilot studies, training, and technical assistance (Recommendations 4-6).
- Conduct detailed studies of the costs associated with start-up and ongoing management of tribal LTROs (Recommendation 7).
- Provide access to model citizen education strategies, alternative title processing systems, and other policies that can expedite tribal homeownership (Recommendations 8-10).

INTRODUCTION

This report provides first-of-its-kind analysis of the experience of tribes seeking to expedite the processing of land title on Indian lands. To frame the report's findings, Section 1 outlines the significant obstacles to homeownership strategies for Native communities, then addresses the motivations for conducting the study, details the research methods, and outlines the insights of the Study Committee that guided the Research Team's activities. In Section 2, the report delves into the experiences of five tribes that are managing aspects of the land title process in their communities. At least three Native nations currently compact or contract with the BIA to manage all aspects of the land title process: Confederated Salish and Kootenai Tribes (CSKT), Confederated Tribes of the Colville Reservation (Colville), and Morongo Band of Mission Indians. Several LTRO staff members and tribal members at Morongo Band of Mission Indians were interviewed for this report, on site; CSKT and Colville were not available for a site visit at the time of our research, due to the Trust Asset and Accounting Management System (TAAMS) conversion process occurring at that time (an explanation of this software is provided later in the report; it is a necessary item for a full-fledged tribally run LTRO office). However, we provide two profiles of the LTRO establishment process for CSKT and Colville, based on public knowledge, with some additional feedback from members of the advisory committee. At least two other tribes—the Saginaw Chippewa Tribe of Michigan and Oneida Nation of Wisconsin—manage some aspects of the land title process (but do not compact or contract for all aspects of the process), and on-site interviews with key LTRO staff and other stakeholders from these two tribes are included in this section. In Section 3, the report details findings from a site visit and in-depth interview at BIA regional offices—the Northwest Office in Portland, Oregon, and the Great Plains Office in Aberdeen, South Dakota. Finally, Section 4 of the report draws conclusions and makes specific recommendations about the future of land title processing on Indian lands.



SECTION 1:

Study Context

**HOUSING ON INDIAN LANDS:
CONTEXT FOR THIS STUDY**



SECTION 1: STUDY CONTEXT

Housing on Indian Lands: Context for This Study

As an increasing number of Americans face the reality of foreclosure, financial institutions struggle to stay afloat, and Congress enacts bold recovery measures, many forget that Indian housing has been in a state of crisis for generations. Forty percent of on-reservation housing is considered substandard (compared to six percent outside of Indian country), and nearly one-third of homes on reservations are overcrowded. Less than half of the homes on reservations are connected to public sewer systems, and 16 percent lack indoor plumbing.¹ This report seeks to take some important steps toward a future where safe, affordable, and decent housing is available to Native people in numbers sufficient to meet the housing needs that exist in Indian country today. It will not be a short journey.

The contemporary challenges for Indian housing find their source in successive federal policies that have undermined the availability of adequate housing on Indian lands for hundreds of years. The removal and allotment eras substantially altered both the volume and type of land available for the development of Indian housing. Proponents of homeownership look to the Homestead Act as a keystone moment in the history of “the American Dream” of homeownership. However, this view fails to acknowledge that the Homestead Act depended upon the allotment policy’s confiscation of nearly two-thirds of Indian lands to provide a large amount of land for non-Indian settlement (framed as “surplus” land at the time).²

Despite the devastating effects of these federal policies, dedicated federal funding for Indian housing strategies is a relatively recent phenomenon. It was not until the Self-Determination era began in the 1960s that the federal government actively focused on the housing needs of non-urban Native people. Policy to encourage the development of Indian Housing Authorities (IHAs) was only

implemented in the early 1960s as a result of a 1961 departmental report that revealed the severe crisis in Indian housing. Although Congress established the U.S. Department of Housing and Urban Development (HUD) in 1965 to consolidate several housing programs and address nationwide housing concerns, a unified approach to tackling the unique and pronounced challenges in Native communities did not emerge until almost 30 years later. The creation of HUD’s Office of Native American Programs (ONAP) provided the government with a structure through which to coordinate housing strategies, in partnership with tribes, to ensure safe, affordable, and decent housing for Native people.

The 1990s offered a number of important innovations in Indian housing. The 1996 enactment of the Native American Housing Assistance and Self-Determination Act (NAHASDA) was rightly seen as a significant event in the history of Indian housing.³ NAHASDA consolidated a number of existing programs into the Indian Housing Block Grant (IHBG). This system empowered tribes to more effectively develop, implement, and manage strategies to meet the specific housing needs of their community. NAHASDA also created the Title VI program that provides guaranteed loans for the development of affordable housing projects. This funding source has provided gap financing in the early stages of development and has successfully supported innovative housing strategies such as the “Apache Dawn” project of the White Mountain Apache Tribe, a 250-unit housing project built using the first-ever mortgage revenue bond in Indian country.⁴

Section 184 of the Housing and Community Development Act of 1992 began to address one of the fundamental challenges faced by Indian housing—the lack of private mortgage financing. The program provided an assured federal payment of 100% of an outstanding mortgage balance if a borrower defaulted on his/her loan. The program authorizes the BIA and HUD to approve borrowers and land leases in order to guarantee loans from private lenders to Native American families, tribes, and housing authorities. The home and the leasehold interest in the home site are mortgaged and are subject to liquidation in case of foreclosure,

although eligible tribal members, the tribe, or the relevant Indian Housing Authority are first offered a chance to assume the leasehold interest and continue payments. In order to participate in HUD mortgage guarantee programs, HUD must review the tribe's legal ordinances which include: leasing, mortgage lending, eviction and foreclosure as well as the code enforcement process through the tribal courts system or another court of competent jurisdiction (designated by the tribe). In 2004, HUD expanded the Section 184 program to allow tribes to petition the agency for the right to extend their service area or "Indian Area" to include Native-owned homes off-reservation. These off-reservation units exist in areas where a particular tribe traditionally resided or where significant members now live. As a result, certain tribes can now apply the Section 184 program to all of their members residing within a particular state instead of just within their reservation's borders.⁵

Additional mortgage programs are offered by USDA Rural Development and the U.S. Department of Veterans Affairs. These programs are not uniquely tailored to Indian country, but they do provide qualified borrowers with access to affordable credit to purchase homes. These agencies have also partnered with ONAP and the BIA in efforts to improve the mortgage-lending process on Indian Lands and to provide resources that will better explain the process for accessing a mortgage on tribal lands.

Amidst these positive developments stands a persistent barrier—the unacceptably long process of generating a Title Status Report (TSR). A TSR takes the place of a title commitment for land that is held in trust. (The distinction relies on the unique federal obligation over trust lands.⁶) The TSR is a necessary precursor to issuing a mortgage for a property on trust land. Tribal members have reported waiting months and even more than a year for their TSRs to be processed. The National American Indian Housing Council (NAIHC) has reported that some major banking institutions have abandoned the HUD Section 184 program (or not utilized it in the first place) because of frustrations with the process for generating title reports on reservation lands.⁷

While federal law mandates that the BIA maintain land title records offices (LTROs) and record tribal land documents, federal law does not mandate that the federal recording system serve as the basis for determining priority among mortgagees. That this is, in fact, the practice of mortgagees results from the lack of an alternative reliable recording system. The data in this report will underscore this point by demonstrating that the establishment of tribal land records offices is not only an exercise in sovereignty but may also provide a system of recording mortgages and other title documents that is more efficient than the current system. This will likely result in increased mortgage lending.

In recent years, the Bureau of Indian Affairs has implemented a range of information management systems in an attempt to expedite title processing. The most recent iteration—the Trust Assets Accounting Management System (TAAMS)—is covered extensively in this report in the sections on site visits with specific tribes and particular BIA offices.

The lengthy process to attain a title report is rooted, in part, in historical policy failures. The allotment policy of the late-nineteenth and early-twentieth century allowed land allotted to Indians to be divided among their heirs (and so on, for generations). This policy led to a proliferation of fractionated interests in each tract of land, presenting an enormous impediment to housing development and undermining the efficient use of Indian land for other economic development purposes.⁸ The intransigence of the problem has often served as the basis of the argument for continued BIA control over the land title process and often functions to magnify the inefficiencies of the process.

The problem of fractionation is also closely linked to difficulties managing probate. This is a particularly severe problem that costs time and resources in the management of ever-smaller parcels of land.⁹ The federal government has attempted to address this problem through a variety of federal policy instruments, including the Indian Land Consolidation Act of 1983 and its subsequent amendments.¹⁰ These efforts culminated in 2004 with the passage of the American Indian Probate Reform Act (AIPRA)¹¹,

which replaced state law with a universal federal probate code for Indian lands. The federal code was enacted “to limit fractionation, keep land in the hands of the Indian children of the owner, and encourage the drafting of wills.”¹² At a fundamental level, the strategies outlined in this report are focused on clearing the significant hurdle posed by long wait times to receive TSRs.

Why conduct a study like this?

In light of the challenges detailed above, a study like this is essential. The intolerably slow title process on Indian land presents at least three challenges—to sovereignty, to economic development, and to equity. Whether managed by state governments, local governments, or private contractors (on behalf of state or local governments), title processing is almost universally faster and more efficient on non-Indian lands. In fact, international experts on title systems rightly claim that “only those societies with a settled system of land tenure and exchange will have achieved stability and economic progress.”¹³ In other words, the future economic success and political stability of Indian country is dependent—to no small degree—on effective and efficient land management systems.

On a macro level, land title processing impacts the capacity of tribal governments to make and enforce their own decisions. If the tribe wants to develop a housing project to meet the needs of its citizens, it faces a significant barrier. If the tribe wants to develop an enterprise, create a wildlife reserve, or change the designation of any tract of land at all, it needs to wait a considerable amount of time—sometimes years—before it can enact the plan. The above examples of the impediment to sovereignty also underscore the challenges to economic development. Tribal leaders and tribal members are frustrated by the lengthy and often unnecessarily complex process required to obtain a TSR. This frustration leads some, both leaders and citizens, to give up completely on dreams of home ownership for tribal members and successful economic development for the tribe.

Finally, this barrier presents a fundamental inequity. Native people who wish to build, improve, or purchase a home on Indian lands face a barrier to their dream that is not faced by any other person or community in America. There are, undoubtedly, barriers to homeownership for other Americans, but none that present such a persistent and pervasive challenge as the barriers created by the broken system for managing title on Indian lands. Therefore, addressing this subject presents innovations that can strengthen sovereignty, expand opportunities for economic development, and increase equity of access to homeownership for all Americans.

This study is a natural fit with the mission and vision of the two organizations leading the Research Team and those represented on the Study Committee. The NCAI Policy Research Center works to achieve the vision of “supporting Indian country in shaping its own future,” and First Nations Development Institute believes that, “when armed with appropriate resources, Native peoples hold the capacity and ingenuity to ensure the sustainable, economic, spiritual, and cultural well-being of their communities.”¹⁴ The content of this report will support the innovation of Native people in shaping their own future. The case studies emphasize innovation at the individual tribal level and highlight areas that require systemic reform. The study was shaped by a diverse committee of experts and stakeholders from the tribal, federal, nonprofit, and private sectors, united by a shared goal: to fix a broken system in the interests of a brighter economic future across Indian country.

It is also important to note that this study is intended to be a foundational document on and introduction to this topic. It is one of the first reports to study the system for processing title on Indian lands in this level of detail, from both the tribal and BIA points of view. As we explored the expertise of the Study Committee, Research Team, and outside experts, it became clear there was much about land title processing options that still needed to be explored. While we initially gained a sense that a considerable number of tribes are seeking to address challenges with the title processing system, no one we interviewed proved to be entirely clear about which tribes were managing their own title process and what their experience had been.

Compiling the answers to these and other questions will better equip tribal and federal policymakers to most effectively address this significant challenge to the economic success of Native communities.

Research Methods

In order to understand the extent of the issues related to land title processing in Native communities, the Research Team went directly to people in the communities and organizations whose work touches these issues on a regular basis. These key informants guided the Research Team to form a strategy that would identify and address specific issues and problems with a particular focus on viable solutions. Project leaders established a research agenda, research parameters, and research protocols to collect the data needed to better understand the issues and make useful recommendations for addressing them. Researchers then identified and interviewed a number of experts and leaders in the areas of Native American land tenure, land title processing, and mortgage lending.

The data collection strategy included the following steps:

- reviewing a large body of literature to create a framing piece that examines the policies, issues, and challenges related to land management and land tenure issues for American Indian tribes (with a focus on barriers to homeownership)
- establishing a Study Committee of experts in the areas of land title processing, housing, and mortgage lending (particularly related to Native communities) to assist us in gaining important information about how policies are implemented in the field and to establish project focus and parameters
- interviewing representatives of tribes compacting and/or contracting with the Bureau of Indian Affairs (BIA) to control and implement LTRO functions
- completing on-site interviews with LTRO staff in at least one Native community with a fully

functioning, tribally run LTRO, and closely examining others

- interviewing representatives of tribes that have instituted a number of the functions of an LTRO, but have not compacted or contracted with the BIA for all functions
- interviewing LTRO and supervisory staff at regional BIA LTRO offices

Project researchers and partners used these methods to identify common challenges and innovative strategies for operating LTRO functions, to compile useful information, and to make recommendations to tribes who wish to gain more control over and better manage their lands.

Reasons for Forming a Study Committee and Key Insights

The complex nature of the issues addressed in this study, coupled with the shared interest of many stakeholders, led NeighborWorks, NCAI, and First Nations to form a Study Committee of experts to guide and advise the Research Team as the research progressed.¹⁵

In addition to participating in a number of conference calls and two meetings—one to launch the study, another to shape the final research design—a representative group of Study Committee members were asked to participate in in-depth interviews to give their perspective on the issues to be addressed by the study. A number of themes emerged from these interviews that supported the findings of the fieldwork conducted as the study proceeded.

Key Findings from Study Committee Interviews

Study committee members and interviewees from tribes agreed on some key issues related to land ownership and management functions for Native Nations. First, it was agreed that tribes should not only be allowed but encouraged to gain more control over land, home, and business ownership sales and transactions, and to more directly participate in

realty, land title, and records processes. This could mean that a more streamlined BIA/tribal system for land title processing would include provisions where tribes were granted more control over sales and transactions and at least some of the resources necessary to implement them (or to implement them through tribally sanctioned entities). A critical component of any such proposal would be the flexibility to allow for local innovation. Interviews revealed a significant level of tribal interest and desire for land control that is likely to improve efficiencies of such functions as title tracking, certifying, and encoding.

The main issue facing both tribes and BIA offices in this regard seems to be that a system has been established over time, in the name of the “trust relationship” between tribes and the U.S. Government, granting effectual control over Native lands to the BIA. It should be possible for the United States to exercise trust responsibility to Native nations while encouraging true self-governance (sovereignty). The federal government should seriously examine laws and regulations that do not actually facilitate land title processes for tribes, and strengthen those that do effectively facilitate those processes. In many cases, these laws actually impede tribes from making progress in developing a land title process that meets their needs. Furthermore, the BIA is the BIA—a government agency, not a realtor or mortgage broker. Land title is a process that has significant private sector involvement for almost every other person in America. The knowledge of many BIA staff in this area appears to be somewhat limited, particularly in the workings of land title processing in the private sector. This means BIA staff who do have training and experience may lack a natural career path that would allow Indian country to continue to benefit from their expertise. Many knowledgeable staff leave, transfer, get promoted, or retire, forcing slowdowns that are due either to prolonged periods of training or cutbacks (i.e., no one is hired to take their place). This can result in inefficiencies, slowdowns in processing, and general confusion.

The study committee highlighted some promising practices (and related laws) that allow tribes to take the lead on effective land ownership, management, and control. One practice the committee underscored is mentioned several times in this report. The Indian Self Determination and Education Assistance Act of 1975, Pub. L. 93-638 25 U.S.C. Sec. 450, often referred to as the “Self Determination Act” or, simply, “Public Law 638,” gives tribes the ability to compact and/or contract with the federal government to discharge government, utility, and other services and functions that were previously performed by the BIA. Four of the tribes whose LTRO offices are described in this report have taken advantage of this opportunity. Another is assignment law, which allows tribal members the equivalent right to will land to family members, so that they gain more control over anything that takes place on the land than they would have otherwise.



SECTION 2:

Tribal Experience



SECTION 2: TRIBAL EXPERIENCE

The three case studies and two profiles outlined in this section detail remarkably different tribes that share very similar experiences as they attempt to transform the title process for their communities. The case studies and analysis, along with information in the profiles, underscore the twofold challenge of improving LTRO processes. On the one hand, there is significant underinvestment in the resources necessary to get tribal land records updated. That is, when tribes take over the process and make significant investments of tribal resources, the records are brought up to date, and the process functions much more efficiently. On the other hand, the process itself is cumbersome. No matter how many resources are dedicated to improving title functions, federal regulations, the impact of the Cobell litigation, and several other external factors continue to keep land title processes from operating at maximum efficiency.

Each tribe we interviewed identified a positive motivation (i.e. the tribe wants to exercise sovereignty and manage this process) and a negative motivation (i.e. the tribe knows there is a significant backlog, and the BIA is not going to clear it unless we step in) for playing a role in land title processing. As each tribe undertook land title functions, they identified a significant backlog in land title processing at the BIA office. They each express varied levels of frustration at unclear messages from the BIA. These conflicting messages range from different information given by the local and regional BIA offices to a frustration that the process for becoming a TAAMS pilot site seemed less than transparent. The access to TAAMS was a particular issue for tribes that did not have a BIA office on the reservation.

Most of the tribes were primarily motivated by the challenges the land title process posed to their homeownership strategy, which was typically a key

part of their self-determination plan. Access to the 184 loan product (and other conventional mortgages) was limited by the slow delivery of TSRs and a number of tribes identified this as a key motivation for taking on the land title process (at least in part) at the tribal level.

The experiences of the tribal sites revealed that insufficient BIA resources were dedicated to the LTRO function. In each case the BIA lacked the necessary staff to clear the existing backlog and maintain updated land title records. When tribes chose to contract or compact for the land title function (or take on a part of that function), the BIA could not provide sufficient funds to cover start-up and ongoing costs for tribal LTRO offices. This left each tribe in a position where they needed significant tribal resources to make the process both effective and sustainable.

Below is a bulleted list detailing findings that emerged as key themes in each of the site visits.

Typical reasons for tribes wanting to take over LTRO functions:

- to establish and increase tribal sovereignty over existing tribal lands (or lands that have been recently acquired and placed into trust)
- to facilitate access to homeownership for tribal members by reducing the time it takes to purchase or build homes on tribal lands, including the elimination of backlogs at the BIA
- to increase the number of community members obtaining traditional financing for home and business property loans
- to establish tribal control over and improve the general processing of chains of title and ownership, including instituting better records management

Typical process for transferring LTRO functions from the BIA to tribes:

- Conduct a careful study of all aspects of the potential transfer.
 - What is the extent of the backlog? (How long has it been since the records have been updated and encoded, and what is the volume of outstanding records?)
 - How much will it cost to implement the transition? Consider the following factors:
 - How many staff members will be needed to manage the office? What skills/training do they need?
 - What equipment will be needed? How much will it cost?
 - How much funding is available from the BIA to pay for the transition and ongoing execution of the LTRO function?
 - What is the tribe's relationship with the local and regional BIA offices? Where are those offices located? Will the tribe have access to the TAAMS system on-site?
 - Talk to other tribes who have experienced the transition. Focus particularly on those tribes that are similar in size, economic profile, etc. and/or who have had to work with the same BIA regional office.
- Tribes must consider the following factors, if the transfer moves forward:
 - The transition agreement with the BIA must detail the amount of start-up and ongoing funding allocated to the tribe.
 - The transition process is costly, and BIA funds are currently not adequate. To move forward effectively, tribes must be willing and able to subsidize LTRO establishment and ongoing operations (sometimes heavily), including paying for mapping and plotting lands, surveying, creating zoning rules, recording services, etc.

- Tribes must identify staffing needs (both training of current staff and recruitment of new staff) and ensure they are hired, trained, and/or cross-trained in all LTRO functions and processes.
- Equipment, computers, software, supplies, and related services must be purchased and additional space acquired (for new employees and equipment).
- A good working relationship with a local and/or regional BIA office is essential, as this will facilitate a positive training and information-sharing environment for LTRO staff.
- Agreements about access to software must be in place. A number of tribes had difficulty negotiating the installation of the TAAMS system at tribal land management facilities (particularly when there was no BIA office on the reservation).
- Additional relationships and/or memorandums of understanding (or similar agreements) established with local financial institutions, mortgage lenders, title companies, and other community partners are helpful.
- Citizen education proves very important, as certain challenges remain and tribal members must know exactly what kind of improvements they can (and can't) expect.

Typical outcomes of taking over the LTRO functions:

- increased mortgage volume through increased opportunities for tribal members to get 30-year and other standard conventional loans at fair market value
- expedited (and more accurate) access to title information
- increased economic development opportunities for the tribe
- increased confidence in tribal government from tribal members, when members experience the improvements in service resulting from the work of the tribal government and their partners

A Note About TAAMS

This study was complicated by the fact that the BIA title management system is a moving target. Since at least the mid-1990s there has been recognition of the need to improve the BIA land title management system, resulting in the leasing of a technological solution—the Trust Asset Accounting Management System (TAAMS). TAAMS is a centralized data management system outsourced to CGI Inc. that includes modules for title, leasing, accounting, and reports. This IT system is intended to improve all aspects of the trust system, but particularly the management of title data and integration with other systems. For the last 10 years, the BIA has been implementing the TAAMS system in a phased process and converting data from previous systems. According to the BIA, TAAMS implementation was completed as of mid-2008, with the only remaining task of “post cleanup” where records that have been converted to TAAMS by contractors must be reviewed and corrected. However, it appears that much data encoding is still a work in progress. (State Report Number 33 in *Cobell v. Kempthorne*, August 1, 2008).

The Bureau of Indian Affairs reports that the TAAMS system is successful in improving the responsiveness in requests for title information, and there is some evidence that this is true. Quarterly accounting reports provided to Indian landowners now include title ownership data, and some regions of the BIA report better response times to requests for TSRs. In addition, the centralized TAAMS system appears to enhance the possibilities for federal-tribal partnerships and cooperation in managing title data. However, most of the reports regarding the TAAMS system come in the context of the *Cobell v. Kempthorne* trust accounting litigation and may be difficult to accept at face value. Also, it appears that in some regions the BIA is still experiencing significant delays in TSRs because of shortages in personnel, training, and a lack of management priorities. As a recommendation for future study, an independent study of the TAAMS system and related management issues should be conducted in order to evaluate whether TAAMS will be effective in delivering mortgage TSRs and other necessary title information to tribal and Indian landowners.

Tribally Run LTRO Office

The following case study of the Morongo Band of Mission Indians (Morongo) in California highlights some of the land management efforts of Native nations currently operating LTROs in their communities. Morongo is located just outside of a major metropolitan area in California, near Palm Springs. They are one of the three tribes that have compacted and/or contracted with the BIA to run all LTRO functions, and they receive funding from the BIA to do so. Morongo is a key example of the tribes that have taken over all aspects of LTRO functions since the tribe, like the others, has invested (and continues to invest) significant tribal resources for development

and ongoing support of land management operations, including establishing their LTRO office.

We conducted telephone, online, and in-person interviews with staff from the LTRO and land management office of Morongo to collect data for use in this report. Interviewees were candid with project researchers, generously sharing information pertaining to the challenges and successes they experienced while establishing their LTRO, their current challenges and successes, and their thoughts on the value to tribes of establishing tribally run LTROs. The main interviewees also expressed interest in doing what they can to assist other tribes who are considering exploring the opportunity to initiate this process in their community.

Morongo Band of Mission Indians LTRO Office

KEY FEATURES, OUTCOMES, AND RECOMMENDATIONS

The Morongo Band of Mission Indians (Cahuillas) reside on the Morongo Indian Reservation, located in northern Riverside County, California, amidst the cities of Banning and Cabazon, both of which extend partially onto reservation land. The reservation has a land area of about 49 square miles, with a resident population of close to 1,000 people (the majority of whom are Native Americans). Information about Morongo Indian Reservation land management provided by our interviewees include the following:

- The Morongo Indian Reservation is comprised of approximately 34,500 acres.
- The reservation consists of tribal and individual trust tracts.
- The number of individual tracts managed is approximately 625, ranging from a maximum of 5 acres to a minimum of .5 acres, with total acreage of individual parcels at approximately 1250 acres.
- There is no BIA office located on the Morongo Indian Reservation.

Lessons learned from the Morongo LTRO experience:

- Conduct an extensive assessment of the existing backlog.
- Explore the funding options extensively to ensure your tribe accesses all available resources for start-up and ongoing costs.
- Encourage the BIA to consider approving a tribal consortium to manage tribal LTRO processes (if appropriate).
- Ensure access to effective software is a consideration as you prepare for a possible transition. This may include extensive negotiation with the BIA over off-site access to the TAAMS system.
- Identify and train existing and/or new staff to ensure they have the necessary skills to effectively manage the tribal LTRO office.
- Develop a plan—in cooperation with the tribal council and other key stakeholders—to ensure tribal members are educated about the benefits (and limitations) of tribal administration of the LTRO functions.

Morongo runs most of their own tribal services under P.L. 638, compacted or contracted agreements made prior to 2003, which is also the case with the other tribes we interviewed. The tribe has a self-determination strategy, which includes gaining control over resources, services, and tribal lands; they run their own public works department, fire department, and other services. The Realty and LTRO functions were contracted with the BIA in 2003 (although the conversation began over a year before), and the tribe has taken over all aspects of these two functions. The decision to take on these functions originated from motivations that include the desire to regain, control, and better utilize tribal lands, as well as to eliminate the considerable backlog of TSR requests that create long waits to get certified TSRs for obtaining mortgages and completing other land transactions for the tribe and tribal members.

In the late 1970s, Morongo was a member of the All Mission Indian Housing Authority (AMIHA) in the state; but the tribe left AMIHA and instituted their own tribal housing authority in 2000. Since 2000 the tribe has managed approximately 60 HUD leases, the majority of which have been paid off over the last 7 years. They currently maintain 20 leases. The tribe has been utilizing HUD 184 loans since 2000 but wanted to better utilize the product for their members, since the potential for doing that was compromised by both the Cobell case “stoppage” and the backlog of un-encoded records and TSRs. From the time Morongo contracted for LTRO functions, the Morongo Realty Department has been performing the services of Realty and LTRO in a more timely fashion than was accomplished previously by the local BIA agency. The tribe has since processed a significant number of mortgages and residential leases (before the transition, hardly any were completed). Morongo still has a backlog of requests for TSRs for the purpose of 184 loans, but that is being reduced at an expeditious rate. Morongo Realty Department is also catching up on the BIA’s backlog of probate, gift deeds, land sales, and other land transactions.

The closest BIA Agency office to Morongo is in Riverside, California, which is approximately 37 miles from the Reservation. Travel times, due to

traffic, etc., can be as much as one hour each way. The tribe has an excellent working relationship with their BIA Agency office, and our interviewee stated that the Riverside office is generally supportive of the tribe’s efforts to perform the function of Realty and Title. The distance between tribe and agency, however, did create some issues in getting permission to utilize TAAMS as part of the transition to a tribal LTRO. The other two tribes that have transitioned to a tribal LTRO (Confederated Salish and Kootenai Tribes [CSKT] in Montana, and Colville Indian Reservation in Washington) also have a BIA Agency office on reservations.

In spite of the challenges posed by the travel between the tribal realty offices and the BIA LTRO, Morongo was chosen as a pilot project (along with CSKT and Colville) for conversion to TAAMS at the Tribal level (the tribe previously used LRIS and IRMS). It was the sense of our interviewee (and additional research conducted by the research team) that, had Morongo not been selected as a pilot site, they may not have gotten access to TAAMS—at least not without a longer wait and additional negotiations—and would not have made as much progress in updating their records. The tribe utilizes the BIA TAAMS systems for all titles, encumbrances, recordings, and distributions of income from land, greatly expediting the tribe’s land management processes. Morongo Realty staff attended all trainings necessary to utilize the TAAMS system and receive ongoing technical assistance provided by the contractor who developed the TAAMS system.

The tribe had to involve legal counsel in order to win approval for the installation of the TAAMS system on the reservation. Approval was received in September 2007. The process of operating TAAMS is currently the same with the tribe as it is for the BIA, and the Morongo Realty Department conforms to all BIA policies and regulations. The BIA handed over all related land records to the tribe after the contract went into effect, and the tribe now organizes, maintains (updates), and stores these records.

The main impact of tribal management of the LTRO process is that many more land and home purchase transactions are currently being made than ever before. The tribe has significantly increased com-

munication and cooperation between the Realty and LTRO functions because it controls the entire process. In other words, the two offices work closely together to resolve title issues and to “clean up” title to expedite land and mortgage transactions. Everyone in the department is cross-trained to ensure better understanding of the purpose of each function and how various function duties and tasks affect each other. LTRO functions are completed in a more immediate fashion, with the tribe approving all TSRs. The only process retained by the BIA is signing authority (the tribe still needs the Superintendent’s signature for all conveyance documents).

As was the case at CSKT and Colville, Morongo received contract allocation funds from the BIA for LTRO. The BIA Agency office had never contracted with a tribe for Realty and LTRO, and had to research how they might go about the process. Morongo was proactive about the situation and met with the BIA staff director of the Pacific Region office, the deputy regional director in Sacramento, the superintendent at the Southern California Agency, and the superintendent’s key staff, to expedite the process and help determine the best way to proceed. It took about 18 months to actually negotiate the whole contract, the main sticking point being what is a fair calculation of the total funds Morongo would get for start-up costs and for contracting these functions. In the end, Morongo received \$25,000 from the BIA for the title function and \$15,000 for the realty function, for a total of \$40,000 for both functions.

As it turned out, that amount was not nearly enough to run the Realty and LTRO offices. The tribe had to expend significant resources to hire staff, purchase equipment, and fund office expenses and related functions. While preparing for the transition, the tribe was made aware of the opportunity to apply for one-time start-up funds from the BIA. They estimated all start-up costs for items like computers, furniture, and office supplies. Their experience led them to advise that other interested tribes carefully consider all possible expenses in advance. For instance, if a tribe does not have office space on the reservation for the LTRO and must lease space off-site, they could include security deposits and related costs in their start-up funding request. The tribal

interviewee recommended a comprehensive strategy to estimate all possible expenses and ensure a margin for oversights and disallowed costs. For example, one important thing Morongo did not consider was the cost to copy BIA records, which ended up costing the tribe about \$35,000 (to make over 56,000 copies). That particular “hidden” cost only covered Realty records—they have yet to copy the LTRO records. Many such “unplanned” costs will come up, and the tribe has to cover them if the BIA does not.

In the end, Morongo opted to take the amount of dollars they were to receive from the BIA compacts and contracts for running their government functions and put part of those funds into the Realty and LTRO functions. They reconfigured the functions of all tribal programs and placed them into four trust services (realty, title, social services, and natural resources). This strategy made dedicated funds available to pay for LTRO salaries, hire more staff, and assist in providing additional funds for equipment and services deemed necessary for catching up on realty records.

Our interviewee suggests that executing an LTRO transition process should be feasible for any size tribe if the scale is adjusted. It could also be done at the BIA level, through a consortium of tribes paying for staff at the Bureau to work solely on their Realty and LTRO functions. Morongo is part of a fee-to-trust consortium of about seven tribes in California that are allocated one person in the BIA Realty office to work solely on their fee-to-trust transactions. The BIA has not yet offered tribes the option of such a consortium for the title function, but it may be a possibility.

Our interviewee found the actual process of transitioning from BIA Realty and LTRO to tribal-run functions very time consuming and somewhat tedious. The 638 contract negotiations took approximately 18 months to complete, and even though the tribe actually took over the LTRO functions in 2004, they had to work with the Department of Interior until late in 2007 to get access to TAAMS at the tribal level. Morongo experienced issues related to creating a secure space for the computer and obtaining security clearances for staff. When they finally received approval they had to work with

a team of technology experts to install the system and then undergo training on the system. Additionally (as it also was with the other tribes), not all documents received from the BIA had been converted to TAAMS. Some land records were converted but still had to be encoded by hand (due to errors), posing significant challenges to catching up on and maintaining records.

Despite all the challenges of negotiating LTRO functions, getting TAAMS installed, and maintaining effective functions, the Morongo Realty Department established its own Realty and LTRO functions, and is providing high-quality services to the tribe. For example, Morongo Realty can now complete a gift deed in approximately 4 to 6 months, rather than the 2 to 3 year wait experienced prior to the transition. The response from tribal members has been mostly positive. There have been only a few negative reactions from some tribal members that seem to believe that, since Morongo is now running the Realty and LTRO functions, the tribe does not need to comply with onerous federal regulations that can significantly slow the process. Morongo Realty Department is trying to resolve this perception through education—offering workshops and meetings with tribal members to explain the processes for completing various land transactions and describing how tribal land transactions relate to federal regulations. This need to develop effective community education strategies was a common experience of tribal LTRO offices who were interviewed as part of this study.

Our interviewee wholeheartedly recommends that other tribes take over these functions if they determine that such a transition is both feasible and cost-effective. The interviewee also suggests that once the decision to operate an LTRO at the tribal level has been made, tribes research the processes and status of land records at local BIA agencies and pay attention to the need for careful staff training. Morongo has learned that nothing is cookie cutter in this regard. Every tribe's situation at the BIA office is unique and cannot be handled or addressed without detailed review by the individual tribe. One thing Morongo might have done differently is implement their own computer system at the beginning of the transition (instead of opting to wait and use

TAAMS). The assumption was that it would be done well before the actual 3-year wait Morongo experienced in the transition process, due to the negotiations needed to approve the installation of TAAMS at the tribal level, but that didn't happen. If other tribes are told that they must access TAAMS at the BIA-Agency office, they should contest that decision on the basis that it can be very time consuming, pose significant travel and other expenses, and create general difficulties when seeking to research tribal ownership and encumbrances from a distance. These factors all make the transition from BIA to tribal LTRO more costly and less productive if the tribe is required to access TAAMS only at the BIA-Agency office.

The main benefit that tribes will gain if they establish their own LTRO is control over their tribal lands and all of the self-governance benefits that come from that control. Morongo tribal members now have land-related documents easily accessible and available to them. Our interviewee also suggests that other tribes wanting to take over the LTRO process will need to hire staff who have backgrounds in real estate, title, or escrow—some will have to have an understanding of legal descriptions, surveys, and mapping. Morongo's local BIA Office was very helpful with training and technical assistance regarding the realty function, but the LTRO function was a more difficult transition. The BIA staff was not as cooperative and forthcoming with the tribe on the LTRO side, and obtaining needed information for the LTRO transition was a considerable challenge.

Two Land Management Profiles of the Other Known Native Nations Currently Running an LTRO Office

Two additional tribes are operating their own LTRO, having compacted and contracted with the BIA to do so. When we approached the tribes to schedule on-site interviews about their experience with this process, they were in the midst of the time-consuming and staff-intensive project of making the records conversion to TAAMS (getting on-site secure computers and security-approved staff, transferring

records, etc.). Staff members at both tribes conveyed a willingness to participate in this study, but after several attempts to schedule on-site interviews (and, in some cases, phone interviews) it was evident that it would have been too burdensome to the tribes to carve out the staff time to assist us in that way.

In lieu of on-site and telephone interviews, we compiled the following “profiles” of these tribal LTROs, using both publicly available information and additional information provided by Study Committee members.

Land Management Profile: Confederated Salish and Kootenai Tribes LTRO

The Confederated Salish and Kootenai Tribes (CSKT) are comprised of the Bitterroot Salish, the Pend d’Oreille, and the Kootenai tribes, and share the Flathead Reservation in northwest Montana, in the vicinity of the cities of Polson and Kalispell. Tribal membership numbers about 7,000. CSKT were the first tribes in the nation to compact or contract with the BIA for all LTRO functions (in 1996). As part of the tribes’ self-determination and self-governance strategy—initiated in the early 1990s—they contracted or compacted almost every aspect of the functions and programs that the BIA previously managed for them.

The Flathead Reservation is comprised of approximately 1.4 million acres of land, with over 6,000 tracts of land managed by the CSKT Tribal Land Department (TLD). Land classifications managed include tribal trust, tribal fee, individual trust, state, federal, fee simple, water, and fee land off-reservation. Land ownership on the Flathead Reservation is approximately half in tribal trust status, with the remainder owned in the various other classifications. A BIA office is located on the Flathead Reservation, with which CSKT has had a good relationship for many years.

When CSKT compacted with the BIA to run an LTRO, several BIA LTRO staff members were transferred to the TLD office as part of the original agreement. CSKT leaders have been open about the fact that restoring as many tracts of lost tribal land to the tribe as possible is important to them, and that they seek to establish greater control and stewardship over their own lands—which is likely their greatest motivation for establishing a tribally managed LTRO. But, as with Morongo, a secondary motivation was likely that the BIA serving CSKT

did have a backlog of requests for certified titles, making tribal land transactions take much longer than necessary.

CSKT now facilitates the completion of a much higher number of mortgage transactions and title certifications than they did before taking on full responsibility for their LTRO. CSKT continues to maintain a good relationship with the BIA office on the reservation, having made a relatively smooth transition to tribal management of the LTRO. CSKT Tribal Land Department staff spent considerable time at the BIA office, studying functions and processes related to running and managing an LTRO, eventually convincing the BIA that the CSKT staff was fully qualified to move un-encoded records to the TLD office to be brought up to date.

During and after the transition, CSKT acquired additional staff and equipment, including computers for their office, mostly supplied by the tribe, and took responsibility for training LTRO employees. As part of the contract agreement with the BIA, some funds were allocated to the tribe by the BIA, on a formula basis but, as with the other tribes, it is likely that these funds did not cover all the costs necessary for establishing an LTRO.

In all aspects of processing title, CSKT follows the same procedures as the BIA, however, the BIA must still approve leases, leasehold mortgages, and fee-to-trust transactions for CSKT. Title Status Reports (TSRs) require two approvals—one from the LTRO (managed by CSKT), and the other from the BIA superintendent. CSKT also purchased and uses the Trust Asset and Accounting Management System (TAAMS) for LTRO functions, which is the land management computer system supported by the BIA. TAAMS is designed to serve unique tribal needs, creating a “real time” situation between tribal LTROs and BIA records. The title process is not the

same for non-Indian communities; there are other computerized accounting systems that are more useful for their purposes. Morongo noted that the conversion to TAAMS from the previous BIA-supported Land Records Information System (LRIS) was time-consuming and somewhat complex, and CSKT had to make the same conversion.

The CSKT LTRO system could be replicated by other tribes, but at least several similar circumstances would likely have to be in place:

- a good relationship with a local BIA office (located on or close to reservations and tribal land management offices)

- ready access to both updated and not-updated tribal land records, and staff able to work extensively with the BIA office to learn LTRO methods and practices
- tribal funding and support for these efforts, and the costs and staff associated with infrastructure, equipment, staff, and training not supported by the BIA
- an LTRO training program for all land management staff

Land Management Profile: The Confederated Tribes of the Colville Reservation (Colville) LTRO Office

The Colville Reservation is located in the vicinity of Spokane, Washington. Twelve Bands of American Indians comprise the Confederated Tribes of the Colville Reservation: the Chelan, Colville, Entiat Lake; Methow, Moses-Columbia, Nespelem, Nez Perce, Okanogan, Palus, San Poil, and Wenatchee Bands. Tribal membership numbers about 8,500. Colville followed CSKT in compacting and contracting with the BIA to establish a tribal LTRO (in 1997).

Approximately 1.3 million acres of land comprise the Colville Reservation, with over 9000 reservation and public domain tracts of land managed by the tribe. Land classifications managed include tribal trust tracts, tribal fee tracts, surface allotments with mixed ownership, mineral trust ownership with some fee interests, fee-to-trust acquisitions, non-Indian and Indian-owned fee land (taxable), and parcels owned by the Federal government. Land ownership on the Colville Reservation is approximately 75% in trust status, with the remainder owned in various other types of classifications. A BIA office is located on the Colville Reservation, with which the tribe has traditionally maintained a good relationship.

As with CSKT, the Colville self-determination plan includes land reclamation, control, and management. Colville leaders have dedicated considerable efforts toward establishing tribal control over land management systems, with the goal of reclaiming as much of their reservation land as possible. Through self-determination efforts they have made it more feasible for tribal members to purchase, will, or gift land; build or purchase homes; and establish businesses on reservation land. Also, as with other tribes we interviewed, Colville Agency had to deal with a fairly extensive backlog of documents to be encoded by their local BIA. As previously mentioned, this backlog can severely slow down processes related to land ownership and management.

In the early 1990s, the Colville Indian Agency implemented LRIS and the Integrated Records Management System (IRMS) for funds distribution, demonstrating their ability to update tribal land ownership records in a timely manner. The tribes' ability to significantly improve efficiencies in these areas, whereby reducing the backlog of land records to be updated and encoded, seemed to have been a key incentive for Colville to begin negotiating with the BIA to take over all LTRO functions.

Colville Agency LTRO hired and trained staff to chain title, write and read legal descriptions, and interpret probates, wills, and deeds to restricted Indian lands, leases, liens, and encumbrances.

However, as with CSKT, the transition was made somewhat easier by the fact that the BIA office was located on the Colville Reservation—just a short distance from the Colville Agency—and some BIA staff members trained in LTRO functions were transferred to the Colville Agency. Colville realty staff had already maintained up-to-date manual records for allotment or inherited (trust) tracts within jurisdiction of the Colville Indian Agency, likely also helping to ease the transition.

When the BIA/Colville LTRO compact was struck, Colville was also using LRIS (as with CSKT) but has since converted to the newer TAAMS system. Both CSKT and Colville were chosen as pilot sites for TAAMS conversion by BIA superintendents (Morongo was later selected as the third site). The TAAMS system had to be routed to a secure location at a tribal facility and only security-approved staff was permitted to encode and update land ownership records and documents.

As with all the other tribes we interviewed, the process of taking over LTRO functions was likely costly for Colville. Besides new hires and training costs, Colville also purchased new equipment and supplies and had to expand physical space to store

increased documents and house additional staff. BIA funding for Colville, determined through the compact, was also established and allocated by a consideration formula, which could not have been adequate to cover Colville's costs in establishing and running an LTRO.

The Colville LTRO system could be replicated by other tribes but, again, at least several similar circumstances would likely have to be in place:

- Extensive research on the BIA LTRO processes would have to be conducted to ensure the tribe fully understands the expertise to be acquired and the time and costs involved in contracting or compacting for LTRO functions.
- The local BIA agency should be on reservation, or as close as possible to tribal lands.
- A plan would have to be developed to update records as fully as possible before taking responsibility for the LTRO function.
- BIA is likely to be inadequate to cover all costs of the transition and ongoing LTRO function; a plan would have to be developed to cover those additional costs.

Two Case Studies of Tribes That Perform Some Functions of an LTRO, But Do Not Contract or Compact With the BIA for All LTRO Functions

Several tribes currently perform some, but not all, of the functions of a BIA LTRO office. These tribes have not yet compacted or contracted for all the LTRO functions with the BIA, including access to TAAMS. However, some of these tribes have

created remarkably innovative solutions to lengthy title approvals, stalled mortgage transactions, lack of control of land records, and backlogs of pertinent records not updated or encoded—all related to BIA hold-ups. The following case studies showcase the efforts of these tribes to accomplish self-determination and sovereignty through land purchase and control by developing “work-arounds” to BIA LTRO and Realty backlogs and sluggish LTRO functions. Many of these tribes hope to be able to compact/contract with the BIA soon to take over all LTRO functions (including on-site access to the TAAMS system).

The Saginaw Chippewa Tribe of Michigan

KEY FEATURES, OUTCOMES, AND RECOMMENDATIONS

The Saginaw Chippewa Tribe of Michigan, which is comprised of the Saginaw, Swan Creek, and Black River Bands of Ojibwe Indians, is located on the Isabella Reservation, adjacent to the city of Mt. Pleasant, Michigan. There are 2,767 members of the tribe, many of whom live on or near the reservation. The tribe owns 3,200 acres, or an estimated 2 square miles of recently regained trust land, which is a small percentage of the original historical tribal territory (216 square miles or 138,248 acres). The LTRO of the Saginaw Chippewa Tribe, which runs in a parallel fashion to the local BIA LTRO, manages 80 tracts of land. The Isabella reservation boundary

consists mainly of tribal trust land, with allotted lands located within the six townships of the reservation, consisting of 18 allotted individual land tracts held in trust by the federal government.

Lessons learned from the Saginaw Chippewa LTRO experience:

- Ensure the legal infrastructure is in place to support the effective functioning of the tribal LTRO.
- Secure program and financial support from the tribal government.
- Centralize necessary records.
- Identify the skills and experience required of new staff and hire them.

Saginaw Chippewa, like the other tribes interviewed, is pursuing a role in the LTRO process to enhance tribal sovereignty. The tribe first decided to intervene in BIA land title processing after trying and failing to utilize the HUD 184 Loan Guarantee Loan product for members. The tribe was ready to process their first 184 loan when they received a letter from the BIA stating that the Cobell litigation meant TSRs would not be available. This eventuality brought the 184 loan program to a halt because one of the HUD 184 loan underwriting requirements is to present lenders with certified TSRs from the BIA.

The tribe then began to look for solutions to this dilemma, and in 2000 a tribal LTRO office was established on the reservation and tasked with assuming the responsibility of the BIA LTRO functions for tribal trust lands. Specifically, the office was established to expedite the mortgage process for members seeking to buy existing or newly built structures on tribal trust land. The tribal LTRO is completely funded by the tribe and supports one full-time and one part-time employee. The staff is self-trained—everything the staff learned about running an LTRO was learned by observation and trial and error. The LTRO manager observed

processes at the local BIA office, studied systems at a local Abstract Company (how to chain title and verify legal descriptions), and went to the County Register of Deeds to learn how documents were filed, recorded, and retrieved. Other staff also had to learn how to chain title, read and verify legal documents, and certify TSRs from the BIA, among other things.

After establishing an LTRO, the tribe began working with a lender who was able to assist them in developing a plan for completing 184 mortgages. All the legal issues were worked out among the tribe, the lender, Fannie Mae, Mt. Pleasant Abstract Company (a title insurance agent that is underwritten by Stewart Title), and a private mortgage company, utilizing an MOU established between the tribe and the BIA. The tribe then entered into partnership agreements with all these organizations and businesses, and implemented a mortgage facilitation plan.

Prior to the establishment of a tribal LTRO office, the tribe was accustomed to waiting 1 to 2 years before receiving certified TSRs from the BIA LTRO. Today, the tribal LTRO office can provide a certified TSR for tribal trust land mortgage transactions (which lending partners accept) in 24 hours or less. Tribal members had limited opportunities for home ownership before the tribal LTRO became operational. Typical on-reservation options were limited to single and double wide mobile homes, HUD mutual help homes, and HUD rentals. At that time, typical lending opportunities included a local lender offering 5-year balloon interest rate loans, and many predatory lenders offering high interest rate loans. Today, four reputable lenders offer tribal members standard 30-year fixed-rate mortgages. These loans are salable to Fannie Mae at current market interest rates.

Since the implementation of the tribal LTRO, 200 tribal members have been able to obtain mortgages on trust land property (a significant number, constituting almost 10% of the tribal population), for a total amount leveraged in mortgages of over \$19 million. Under the BIA LTRO, hardly any mortgages were completed at all. These changes have enabled tribal members not only to qualify

and get mortgages, but also to select the home of their choice—with purchase processes not dictated by federal governmental guidelines. The tribe considers these gains to be significant contributors to individual economic improvement and tribal self-governance.

The Saginaw Chippewa Tribe had always maintained impeccable records, so the biggest challenge in establishing a tribal LTRO was in centralizing documents from various sources, including the BIA, tribal legal staff, the tribal clerk, and the tribal administration. This initial process was very time consuming. However, this effort was accomplished, and the records the Tribal LTRO maintains contain real-time data at the tribal level. A complete audit of the BIA records at the time the tribe took over these processes found that the BIA backlog consisted of 5 years of documents that were yet to be updated.

Saginaw Chippewa's local BIA agency is the Michigan Office in Sault Ste. Marie (about a few hour's drive from the reservation), and their Regional BIA Office is in Aberdeen, South Dakota. There is no BIA office on the reservation. The tribal LTRO staff has developed a strong and collegial relationship with the LTRO staff at the local BIA agency. The tribal LTRO office receives calls on a daily basis from the local BIA requesting assistance with legal description verification, and the office consistently retrieves documents for the local agency. Recently, the local BIA agency was given the responsibility of entering all of the older land records and documents into the TAAMS system. They determined they would rather rely on backup documents provided by the tribal LTRO than the Regional office, since the tribe's process has proved faster and more accurate.

Currently, the tribe has not assumed the LTRO functions of allotted lands, probate, and the distribution of trust income. They use the LandMarc Land Titles and Records Management System (produced by Affiliated Computer Services [ACS]) to update and store records that are utilized by many County Registers of Deeds. However, the tribe wants eventually to assume all the LTRO functions, including probate and allotted lands; and when LTRO functions are negotiated with the BIA, they will also request that the TAAMS System be

installed on site, merging ACS records with TAAMS records. ACS, an independent system used solely for land title and records, is leased by the tribe, so there are ongoing costs, but there were no upfront costs. The ACS lease contract provides the tribe with the system, related equipment, and extensive on-site training and technical support (in cooperation with the tribe's IT Department). ACS and the tribe's IT Department provide all technical support for the tribal LTRO, with daily backups done in-house by the tribal department.

The success of this parallel or "limited" tribal LTRO has exceeded the tribe's expectations. This success continues to prove to Saginaw Chippewa's title and mortgage partners that the tribal LTRO meets the highest standards as they protect the integrity of the original documents and move toward securing the future of the tribe's land base and natural resources. The tribal LTRO staff members are seen as leaders in land management efforts and tribal self-determination and are highly sought after for presentations at various national conferences and forums.

The Saginaw Chippewa LTRO manager was inexperienced when the transition took place and was

hesitant to make initial contact with the local BIA to start the process (given the contentious relationship between the federal government and Native peoples over time). However, the initial conversations went better than expected; and the manager would certainly advise other tribes to do the same. The manager established processes through learning from partners, then bringing those processes back to the tribe and customizing what was learned to work for the Saginaw Chippewa community. The manager believes this method of learning the LTRO function from the ground up has given the tribe a more complete knowledge of both the processes and related consequences. This knowledge extends both to the impact on the transfer and control of Native lands and creating a homeownership strategy that works best for the tribe.

However, our interviewee suggests that other tribes wanting to institute an LTRO combine this type of hands-on learning with knowledge obtained from one or more of the tribes that have already established an LTRO. Tribes could then customize all the existing insights to create a strategy that fit the unique needs of their community without having to reinvent the wheel.

The Oneida Nation of Wisconsin

KEY FEATURES, OUTCOMES AND RECOMMENDATIONS

The Oneida Nation of Wisconsin has 14,533 members, one-third of whom live on or near the 65,000-acre Oneida Reservation, located just southwest of the city of Green Bay, Wisconsin. The Oneida Nation and tribal members own about 25% of the total land within the borders of the Oneida Reservation in both Brown and Outagamie counties in Wisconsin. This percentage will increase as the Oneida Nation continues to implement a plan to reacquire title to all the land within the boundaries of the reservation defined by the 1838 Treaty. Long-term goals of the Oneida Tribe include purchasing and recovering all lands within the original 1838 treaty boundaries; converting tribal-owned fee lands into trust; and distributing these lands according to

the needs of the community. In recent years, they have returned about 21,000 acres to tribal control.

Lessons learned from the Oneida LTRO experience:

- Stay current in title paperwork and processing. Do not get behind.
- Good communication within the tribal organization and between the tribe and the BIA is key.
- Teamwork and cross-understanding of job functions is essential.
- Challenges will present themselves but don't get discouraged when things slow down. Remember the progress that has already been made.
- Realize that what you are doing will make a positive impact on creating a solid land base for the tribe and will get many more tribal members into homes.

As with the other tribes we interviewed, self-governance is a driving force behind Oneida's land management strategies. The Oneida Nation's self-governance process (through P.L. 638) began in 1997. Around that time, researchers were hired by the tribe to research all original Oneida allotments, to gain chain of title on those tracts. In 2004, a fee to trust consortium was developed with the Shakopee Mdewakanton Sioux Community of Minnesota. (Fee to trust relates to the process for taking land already owned by a tribe in fee (currently in the local or state land titles system) and getting the approval of the Secretary of the Interior to take it into trust. While the process is distinct from land title processing, the two coincide once the land has been placed into trust and the tribe requests TSRs and related documentation to develop the land). The consortium expanded in 2006 and 2007 to include the Mille Lacs Band of Ojibwe of Minnesota and the Ho-Chunk Nation of Wisconsin. The expanded consortium then formed a fee to trust working group, which was formalized through an MOU, and was intentionally more interactive. Funding from the consortium tribes and the BIA went to the BIA Midwest Regional Office exclusively for the purpose of hiring extra staff to process backlogged applications for the tribes. Before the consortium was developed, only about one property per year was converted from fee land into trust land. Since the consortium, that number has increased considerably, and the four tribes plan to renew the current 3-year contract with the BIA. The consortium primarily takes the Ashland BIA office out of the process, but the process (especially getting certified TSRs from the BIA LTRO) is still quite lengthy. The tribe believes that their investment in this effort is worthwhile, but thinks the BIA could contribute more funds and/or staff to the process.

In 2004, the tribe requested that land records from the BIA be transferred to tribal control so that the tribe could begin to update records and expedite the process. Many boxes of files were transferred, but the tribe was not sure how to store and organize them most efficiently. Over the years, considerable organization and updating of these files and records has taken place, and the files contain all the backup documentation needed to get TSRs certified.

However, there are still some major roadblocks to the tribe's completion of this process. The main obstacle is that the tribe must maintain their records without on-site access to the BIA's TAAMS system.

The Oneida Nation plans to subdivide much of the land converted from fee to trust to build homes and sell them to tribal members (leasing the land). Agricultural and business properties will also be established. The Oneida Nation has created land lists for types of transactions and phases for completion. With these goals in mind, the Oneida Division of Land Management has instituted several policies to expedite the fee to trust process, particularly by developing an infrastructure, such as registered deeds being kept in a locked fireproof vault. However, as land records are brought up to date (a lengthy process), responses from the BIA to tribal requests for processing and certifying TSRs are confusing, sometimes contradictory, and not readily forthcoming.

The tribe has divided their fee-to-trust strategy into several phases, with the final goal of having a process in place at the completion of the phases that will allow the tribe to offer increased home ownership (and other tribal land transactions) opportunities for the tribe. Phase one has been mostly completed and was largely related to documenting Oneida's government buildings. Phase two is still ongoing. Establishing trust between the tribe and BIA has become an issue, since the tribe has received conflicting information on the requirements of the fee-to-trust process from various BIA agency staff. The Great Lakes agency, in Ashland, Wisconsin, is Oneida's local BIA office, and Aberdeen (South Dakota) is the Tribe's regional LTRO. There is no BIA office on the reservation.

Phases one and two will soon be completed, and the tribe plans to take over the complete LTRO process in the coming years. The transition process is working effectively at this point, with more land placed into trust in the last few years than was done in the 15 years prior to the start of the transition. However, this transition could be more efficient if the records were completely up-to-date. The speed of the second phase is still primarily in the hands of BIA, causing persistent delays. Even though a

regional BIA conference was held at Oneida in July, the tribe and BIA are still making slower-than-hoped-for progress in this regard. Many properties are “in the pipeline.” They are “in trust” as far as the county is concerned, but the BIA process still needs to be completed. Like Saginaw Chippewa, Oneida is learning the process strictly through trial and error. Currently the tribe is only working on properties obtained by the tribe before October 2004.

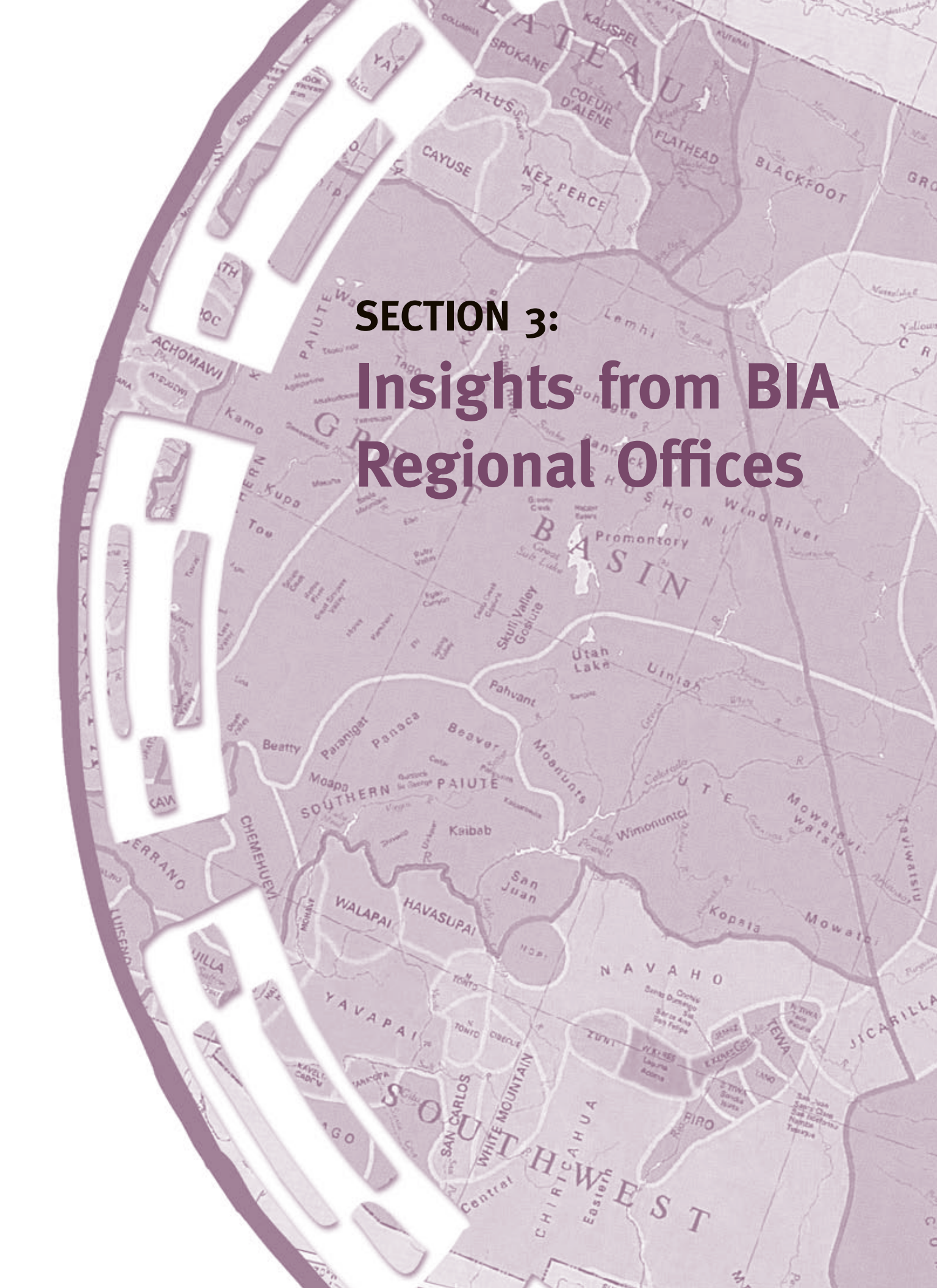
The Oneida Land Management Office file room is completely filled with all the backup documentation needed for LTRO functions. These documents have been fastidiously organized and carefully managed over the last several years. However, even with all the positive strides that have been made, Oneida still waits too long for the BIA LTRO to certify TSRs. The lack of a computer system link with the BIA means even access to general information is difficult. The tribe previously used LRIS for records management, but their capacity to use this system was affected by the Cobell lawsuit. The tribe has been told that until that issue is resolved, they are not allowed to have a computer system connection with the BIA.

The tribe wants an on-site TAAMS-dedicated and secured computer and security-cleared staff, which would allow them to complete all LTRO functions in-house and in a timely manner. They would like to be accepted as a pilot program for conversion to TAAMS (like CSKT, Colville, and Morongo) and are willing to work with the BIA to make this happen. The tribe has submitted an application to be a pilot site but is receiving mixed messages about their options. The local BIA Office has informed Oneida that no process for the complete transition to a tribal LTRO is currently established (with their office), so they do not know what the needed paperwork and documents would be.

Since the Oneida tribe has not compacted or contracted with the BIA for LTRO functions (other than through the fee to trust consortium), the tribe has completely covered the considerable cost of all land acquisition and management functions to date. The tribe would like to take over all LTRO functions but has been given contradictory estimates of how much this would cost, and how much of that money

would be supplied by the BIA. The tribe is willing to shoulder a reasonable amount of the burden but is not sure if the transition is worth the additional cost, which could possibly amount to hundreds of thousands of dollars.

However, the Tribe is proud of the accomplishments made in the area of LTRO to date, which include updated land-ownership records, more complete and organized files, acquisition of considerable amounts of new land, many completed applications for TSRs, two popular tribally instituted and run internal mortgage loan programs, a shortened TSR processing timeframe (a few months compared to a previous time frame of 1 to 2 years), streamlined land acquisition processes, and many more tribal members getting into their dream homes.



SECTION 3:
Insights from BIA
Regional Offices

SECTION 3: INSIGHTS FROM BIA REGIONAL OFFICES

In order to better understand the land title process and related issues from the BIA point of view, we interviewed representatives from two of the four BIA offices mentioned by our interviewees as being progressive, knowledgeable, cooperative with tribes, and dedicated to a smooth transition: the Northwest Office in Portland, Oregon; and the Great Plains Office in Aberdeen, South Dakota.

Each office addresses LTRO processes and functions with both uniformity and flexibility, and in ways that are more similar to each other than dissimilar. The two offices provided a range of insights to the Research Team. The following are a compilation of information, comments, and recommendations from both offices, organized by key insights.

Prioritizing Mortgage Transactions

- Both offices have 1- to 2-day turnarounds for mortgage TSRs.
- Both have a 1- to 2-month completion period on leasehold mortgages.
- A backlog still exists in post-TAAMS conversion clean up of general TSR requests for both offices, but not in mortgage TSRs.

Ongoing Issues With Backlogs

- Time taken to certify TSRs can vary from a few hours to a few years, depending on the documentation available.
- Both have a backlog of cleanup work related to conversion to TAAMS from LRIS and IRMS;

both offices think that it will take some time to completely clear the backlogs.

Staffing and Training Insights

- Both offices stated that they could use more staff and more funding to accomplish adequate trust services, particularly in light of post-conversion cleanup; their current staff is excellent but not adequate in numbers.
- TAAMS works well for them in general, but sufficient training is an issue for both.
- The Portland Office compacts and/or contracts with two tribes for LTRO (CSKT and Colville) and thinks that tribal LTRO staff should be required to get the same training as BIA LTRO staff (the Aberdeen Office does not compact or contract with any tribes for LTRO).

Communication Challenges

- Key staff (at both offices) were not aware that tribes in their region were interested in contracting/compacting for LTRO (other than those already doing so). The Research Team interviewed two tribes from one office's area and one from another that are interested, indicating a communication gap between the regional office and the tribes.

General Strengths of the Regional Offices

- Staffs in both offices attribute their success to a combination of good organization, prioritization skills of Superintendent, and good leadership.
- Both staffs express good will towards the tribes they work with who want to improve land title processes and want to continue to be part of the solution rather than become part of the problem.
- Both offices have exceptionally organized services, including excellent filing systems.

- Both offices employ land-mapping specialists.
- The Aberdeen LTRO staff has been granted several awards for accurate speed of service and quantities of product.

All BIA Office staff members that were interviewed think they work equally well with both the tribes they compact/contract with and the tribes not operating their own LTRO. This opinion is at least backed up by the tribes we interviewed. However, issues may still arise because many tribes deal more with the local BIA LTRO offices than the regional offices, and some of the local (and other regional) offices do not work as well with tribes. We interviewed two tribes who expressed interest in instituting tribal LTROs but found the process a daunting task due to the roadblocks and poor attitudes encountered at their local BIA office LTROs. According to these two tribes, staff in their local BIA offices responded negatively to requests for information. One interviewee reported the poor responses speak to a concern that the tribes' attempts to create tribal LTRO functions make BIA staff "worried about their jobs [going away]." It may be that the local BIA offices are not as progressive, easy to work with, or knowledgeable as the regional offices, but that has yet to be evaluated. Tribes report that the regional offices seem hesitant to intervene in negotiations between tribes and local BIA offices.

Some alterations of the system are already planned, but changes in the BIA system take many years—a time period that is unacceptably long for most tribes we interviewed. It is unlikely that complete separation of BIA and tribal LTROs will happen in the near future, so the development of parallel land title systems may be necessary (for both tribes and the BIA or other agency or department). These parallel systems may serve to convince the U.S. Government that tribal control can work as well or better than the present system. It may even perform at a level comparable to industry standards outside Indian country.



SECTION 4:
Conclusions and Recommendations

SECTION 4: CONCLUSIONS AND RECOMMENDATIONS

This section addresses key conclusions and recommendations supported by the work of the Research Team in developing this report. The conclusions are organized into the following themes:

- Tribal LTROs have had positive impacts on their communities.
- The BIA does not provide tribal LTROs with sufficient funds for setup and operation.
- Tribes that lack the resources to pay for the LTRO transition need alternative ways to manage LTRO functions.
- Creative alternatives for establishing tribal LTROs may exist and should be developed.
- Related policies can expedite the ultimate goal of expanded tribal homeownership.
- The BIA needs to clarify and standardize their land management processes.
- Additional tribal LTRO pilot sites will likely enhance existing and future policy.

The 10 recommendations are further explained below. In brief, the report recommendations are as follows:

1. Clear the backlog.
2. Standardize the LTRO process across local and regional offices.
3. Clarify the messages from the BIA, making them consistent across regions.

4. Identify the tribes that are interested in managing land title processes.
5. Provide funding for pilot studies.
6. Provide access to training and technical assistance for all tribes interested in managing the LTRO function/s.
7. Conduct detailed studies of the transition and ongoing costs associated with tribal LTRO offices.
8. Provide tribes with access to model citizen education strategies.
9. Identify additional policies that could facilitate tribal homeownership strategies.
10. Conduct further research to explore alternatives to the current title system.

Conclusions

Tribal LTROs have had positive impacts on their communities.

Tribal LTRO representatives were overwhelmingly positive about their tribes' decisions to initiate the process of establishing tribally run LTRO offices. Interviewees unanimously agreed that establishing an LTRO was a good thing for their tribal governments and communities on several levels. They also acknowledged that their particular tribal governments have, so far, been both willing and able to invest the considerable resources and commit themselves to establish all the functions of an LTRO within the tribe.

These tribal LTROs have firmly exercised self-determination by establishing a more effective mechanism for asserting control over their land base and by creating a sense of hope that their tribe can regain control over their land. The tribal LTROs almost buzzed with a sense of pride and hope for the work they were accomplishing. There was also

general consensus among tribal interviewees that tribes, as governmental institutions, are the natural place to house and manage land title records and backup documents, and provide updated, chained, and approved titles for tribal land transactions and sales.

The BIA does not provide sufficient funds.

While the impact of tribally run LTROs was universally positive, there was general agreement that the federal government, through the BIA, does not provide adequate funding for LTRO start-up and operational costs. In particular, they noted that additional funds should be provided for both BIA and tribal efforts to update the thousands of records that must be “cleaned up,” mostly due to ongoing staffing issues at the BIA and particular challenges posed by the conversion to TAAMS. This insight that emerged from each site visit experience underscores the reality that sufficient investment in the LTRO function by the BIA could significantly improve the land title process—regardless of whether the BIA continues to manage the title process or tribes compact or contract to manage it themselves.

Tribes that lack the resources to pay for the transition need alternatives.

Tribal LTRO staff, tribal leaders, Study Committee members, and many others agree that the process of establishing a tribally run LTRO is one that should be available to all tribes. However, this option may not be feasible for many tribes because of the required resources to cover staffing, equipment, and related expenses. The transition and operational costs for a tribal LTRO are considerable—perhaps too expensive for smaller tribes or those with no high-earning businesses, no high-yield natural resources, no casinos, or adequate physical government infrastructures to fund and administer a tribal LTRO.

Creative alternatives may exist and can be developed.

Where the size of the tribe is the major impediment to tribal management of the LTRO function, there are a range of alternatives. These tribes could explore partnerships with other tribes currently managing LTRO services; forming a consortium of tribes interested in managing their own LTRO function; or directly funding a position at the BIA to expedite the LTRO functions for their tribe particularly. In some instances, for tribes large and small, size is irrelevant to success in this area. Expenses could be completely prohibitive for less affluent tribes with a large number of members and a large land base.

Tribes could work with tribal intermediary organizations and the BIA to develop viable solutions to these problems. The issue of all tribes being able to afford running a system like TAAMS is also one that will have to be dealt with creatively. It may be that more low cost and less complex alternative land management software systems would be appropriate for some tribes.

Another alternative might be to study other successful models of land tenure outside Indian country in areas that share similar features with Indian lands, such as rural areas or other countries. For example, the notion of a county register of deeds model could be explored. There may be several such simple models that could be adapted by tribes. These models typically do not have onerous regulations and have been accepted as entirely reliable by courts, private businesses, and other government agencies over many years.

Related policies can expedite the ultimate goal of expanded tribal homeownership.

Mortgage lending on tribal trust lands requires not only the issuance of title status reports by BIA but also the approval of leases by BIA. Therefore, leasing is another important piece of the puzzle.

Most effectively expediting leasing transactions may include tribes enacting their own leasing ordinances, perhaps as part of a realty ordinance that also addresses land records. Study Committee members and tribal LTRO employees identified Congressional action to grant tribes the same authority enjoyed by the Navajo Nation (under 25 U.S.C. § 415(e). Under Section 415(e)) to enact a leasing ordinance that, once approved by BIA, empowers the tribe to issue leases with no further BIA approval. The benefits, both from a sovereignty enhancement and member service perspective, of tribal control over lease issuance and recording is obvious.

The BIA needs to clarify and standardize their processes.

Outside of Indian country, uniformity in laws and processing techniques is a key element of the success of the land title system. Uniformity is one of the main elements that is sorely lacking in many land tenure transactions related to Native lands. The standardization of BIA processes would be a significant benefit for tribes operating LTRO offices. Since BIA offices follow a range of different procedures and processes (intended or not), streamlining BIA processes could be a monumental task but would certainly improve efficiencies.

Streamlining and clarifying the process would also help to reduce confusion and frustration at each stage for tribes seeking to expedite title processing on tribal lands. The tribes presented in this study have good working relationships with their BIA offices, most often with both the local and regional offices. However, there was general consensus that there is a need for more consistent policies and messages coming from various BIA offices, related to Realty and LTRO functions, processes, and requirements. A particular example of this challenge was the need for transparency in the selection of “pilot” tribally run LTROs for TAAMS conversion. The selection process for tribes to become these pilot sites seemed somewhat arbitrary to many tribes, particularly those that struggled to access the TAAMS system. There appeared to be wide divergence in the extent that BIA offices were willing

to explore innovative solutions to land title processing issues and challenges experienced by tribes.

It is important to note that section 3 offers insights that can be applied immediately at the BIA regional office level. The priority given to mortgage TSRs and the efficiencies gained through those policies, could significantly improve outcomes at other regional offices. Best practices at BIA regional offices should be standardized across regional offices as soon as possible.

Improvements in the process have emerged from tribal innovation.

Each case study revealed key insights into the land title process. Uniformly, the case studies demonstrated that, even without tribal management of the LTRO process, sufficient investment in the land title process at the BIA level could significantly improve the process. It is important to remember, however, that absent these tribal innovations—both through 638 compacts/contracts and more targeted strategies—that insight would not be verifiable. Without the significant improvements in land title processing at CSKT, Colville, Morongo, Saginaw Chippewa and Oneida, the need to invest additional funds at the BIA level and to support ongoing innovation would lack empirical support. While system-wide reform is desirable, tribal innovation offers significant insight into that process.

Additional pilot sites will likely enhance existing and future policy.

The level of interest in the TAAMS pilot site opportunity indicates that additional pilot funding may support further tribal innovation in expediting the land title process. Federal funding to support pilot projects would provide more equal access for tribes (particularly those facing the barriers described above related to resources or scale) and likely enhance the range of insights available for improving the land title process at the local and national level.

Recommendations

The data presented in this report support the following recommendations:

1. Clear the backlog.

The federal government must provide sufficient resources and focus on the issue of land title processing to clear the backlog of encoded and updated title documents. It is a significant impediment to economic development on Indian lands.

2. Standardize the LTRO process across local and regional offices.

Section 3 of this report outlines procedures implemented at the regional office that have brought title processing much closer to industry standards outside of Indian country (though significant challenges still remain). These procedures (some as simple as prioritizing mortgage TSRs) should be mandated for all regional offices. Similar efforts should be enacted at the local level to ensure that the process is clear and equitable for all tribes.

3. Clarify the messages from the BIA.

Related to the previous recommendation, each regional and local BIA office seems to have divergent messages regarding the process and options for tribes seeking to play a role in title processing. Given the promising practices outlined in this report, it is essential that regional and local BIA offices develop standard processes for tribes that want to be involved in the land title process.

4. Identify the tribes that are interested in managing land title processes.

Interviews with BIA regional offices underscored the limited knowledge regarding tribes who are (or may be) interested in playing an active role in land title processing. Particularly if/when the BIA

clarifies their process, a detailed study should be conducted to explain to tribes the options available for managing their land title process and to identify the full extent of those who are interested.

5. Provide funding for pilot studies.

Tribal management of the LTRO functions has identified innovations, strengthened the exercise of tribal sovereignty, empowered tribal communities, and underscored existing systemic problems. The high level of interest in managing land title processes, coupled with the low level of access to that opportunity, recommends an extensive pilot study, or studies, that would allow tribes to demonstrate further innovation and identify ongoing challenges.

6. Provide access to training and technical assistance for tribes interested in managing the LTRO function(s).

The content of this report serves as a helpful foundation to guide tribes in preparing to manage all or part of the LTRO process. Tribes need a guide to support their efforts to prepare for and effectively manage the LTRO functions. Whether pilot studies are funded or not, access to introductory training and ongoing technical assistance is critical. Collecting that information and offering it as a training session at relevant conferences and providing information as an ongoing resource provided by relevant tribal intermediary organizations, would substantially expand the number of tribes able to manage the LTRO function(s).

7. Conduct detailed studies of the transition and ongoing costs associated with tribal LTRO offices.

While somewhat dependent on BIA process, the costs associated with tribal management of LTRO functions should be studied in more depth. Both tribes and the federal government need a better understanding of the true costs associated with the transition and ongoing tribal management.

8. Provide tribes with access to model citizen education strategies.

As the case studies demonstrated, many tribal members do not know what to expect once the tribe takes over the LTRO process. It is critical that tribes communicate effectively with their citizens to ensure there are realistic expectations and that successes can be celebrated.

9. Identify additional policies that could facilitate tribal homeownership strategies.

Per the conclusions above, a range of policies (including tribal and federal laws related to leasing) can significantly improve tribal homeownership efforts. These policies, along with other relevant strategies, must be considered by tribes and the federal government to help meet the goal of expanded homeownership opportunities for Native people.

10. Conduct further research to explore alternatives to the current title system.

Case study and Study Committee interviews identified relevant models—both internationally and in other areas of tribal self-governance—that could be applied to the land title process. Further study to assess the relevance and applicability of those models would be helpful to effective LTRO management.

36

Final Note

This report has illuminated some of the key strategies necessary to change the economic future for Native communities around the country. The Research Team and Study Committee look forward to working with tribes, the federal government, and other stakeholders to make this vision a reality.

¹US Commission on Civil Rights, *A Quiet Crisis, Federal Funding and Unmet Needs in Indian Country*, Executive Summary, July 2003, p. X and 50 available at <http://www.usccr.gov/pubs/na0703/na0204.pdf> (Last accessed February 1, 2007).

²Getches, Davis, Charles Wilkinson and Robert A. Williams, *Cases and Materials on Federal Indian Law*, 4th Edition, St. Paul, MN: West Group, 1998, pp93-99, 141-143.

³Native American Housing Assistance and Self-Determination Act of 1996, Pub. L. No. 104-330, 110 Stat. 4016 (codified as amended at 25 U.S.C. §§ 4101 4195 (Supp. IV 1998)).

⁴Statement of Assistant Secretary Orlando J. Cabrera, Field Hearing before the United States House Committee on Financial Services, Subcommittee on Housing and Community Opportunity. For more information on Apache Dawn, see also Harvard Project on American Indian Economic Development, *State of the Native Nations*, New York: OUP, 2007: 258.

⁵Mark Fogarty, *Liu adds to legacy though HUD 184 expansions*, Indian Country Today, May 9, 2005, available at <http://www.indiancountrytoday.com/archive/28165849.html> (Last accessed Feb. 28, 2007).

⁶For more information on the federal recording function, see 25 CFR Part 150, which defines that function. Further details are available at www.ncaiprc.org/landtitle.

⁷Press Release, NAIHC, Barriers to the Pathway for Homeownership High for Native Americans, NAIHC Chair Testifies- Bureau of Indian Affairs Hindering Home Ownership with Slow Title Process (July 31, 2006) available at <http://naihc.net/NAIHC/files/ccLibraryFiles/Filename/000000000894/073106-camp-verde.pdf> (Last accessed Feb. 10, 2007).

⁸Jessica A. Shoemaker, *Like Snow in the Spring Time: Allotment, Fractionation, and the Indian Land Tenure Problem*, 2003 Wis. L. Rev. 729, 729 (2003).

⁹*Id.* at 758-761.

¹⁰Indian Land Consolidation Act of 1983, Pub. L. No. 97-459, 96 Stat. 2515, 2517-19 (1982) (codified at 25 U.S.C. § 2201-2210 (1982)). And Jessica A. Shoemaker, *Like Snow in the Spring Time: Allotment, Fractionation, and the Indian Land Tenure Problem*, 2003 Wis. L. Rev. 729, 771 (2003).

¹¹American Indian Probate Reform Act of 2004, Pub. Law No. 108-374, 118 Stat. 1773 (2004).

¹²*A Quick Guide to the American Indian Probate Reform Act*, National Congress of American Indians, April 13, 2006 available at <http://www.itmatrust-funds.org/documents/IndianLandWorking%20group%20comments/06Apr13,%20Summary%20-%20American%20Indian%20Probate%20Reform%20Act,%20101306.pdf> (Last accessed March 2, 2007).

¹³John Manthorpe, “Land Registration – A health check,” Keynote address to the “Registering the World” conference, “On the Occasion of the Tercentenary of Land Registration in Ireland,” July 2007

¹⁴For more information on these organizations see www.ncaiprc.org and www.firstnations.org.

¹⁵A list of Study Committee members is available in the Acknowledgement section of this report.



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