


Indian Appraisals Project

Intertribal Monitoring Association
on Indian Trust

October 20, 2010

ITMA Annual Conference



Overview

- I. Background on the project
- II. Statutory, regulatory and administrative requirements
- III. Findings and recommendations



I. Background on the Project

- ITMA has fielded a number of questions relating to appraisals over the years
- ITMA 's FY2010 Grant Agreement included outreach on this issue and contemplated recommendations, if appropriate
- Report language in House FY2010 Interior spending bill
 - Report to assist in DOI's response to House Appropriations Committee



Methodology of Report

- ITMA facilitated interactive session at ATNI mid year meeting in May 2010
- Direct outreach --
 - Indian tribes, Indian beneficiaries, Indian organizations
 - Allottee associations
 - Academics
 - BIA and OST officials



II. Statutory, Regulatory, and Administrative Requirements for Appraisals

- Federal Statutes – No general appraisal requirement
 - ILCA generally requires fair market value (FMV)
 - Specific statutes govern appraisal or FMV requirements
- Federal Regulations – Generally impose additional requirements
 - 25 CFR § 152.24: “Except as otherwise provided by the Secretary, an appraisal shall be made indicating the fair market value prior to making or approving a sale, exchange, or other transfer of title of trust or restricted land.”



Statutory, Regulatory, and Administrative Requirements for Appraisals

- Administrative practice – most requirements established through memos and directives
- Oct. 31, 2000 memorandum from Deputy Comm'r Indian Affairs to BIA Regional Directors
 - Reaffirmed that “all trust asset transactions have estimates of fair market value or fair annual rental and direct you to guarantee this action is taken.”
 - Department continues to adhere to memo



Administration of Appraisals

- BIA requests appraisals from OST's Office of Appraisal Services (OAS)
 - OAS then –
 - prepares the appraisal or contracts with private appraisers, or
 - approves appraisals submitted by tribes that have contracted or compacted appraisals
- OAS is required to review all appraisals of Indian trust property
 - Inherently federal function



Substantive Appraisal Standards

- Appraisers must comply with –
 - Uniform Standards of Professional Appraisal Practice (USPAP); and
 - Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA)
- Appraisers must be state licensed



III. Findings and Recommendations

- (A) Delays in Obtaining Appraisals
 - General lack of resources, staff, and capacity
 - Lack of appraisers with experience working with federal and Indian lands
 - Bureaucracy and involvement of multiple government agencies
 - Appraisal not in the system until BIA submits request
- (B) Substantive issues with appraisals
 - Access to appraisal data, ability to correct appraisals
- (C) Broader policy issues



Recommendations to Address Delay

- (1) Expand previously approved waiver authority
 - CFR allows for Secretary to waive regulations for good cause
 - Secretary has approved appraisal waivers for BIA regions and individual tribes
- (2) Expand directive implementing Section 2214 of ILCA
 - Delegate authority to OST regions and allow for pilot projects
- (3) Waive estimate of value requirement for negotiated sales between individual Indians
- (4) Expand waiver authority for transactions involving competitive bids



Recommendations to Address Substantive Appraisal Issues

- (1) Make sales data of Indian trust property publicly available through a searchable online database
 - Create market for Indian trust land
- (2) Make appraisal data and workfiles available to tribes and beneficiaries
- (3) Establish written policy on reopening or correcting appraisals
- (4) Develop handbooks or written materials on appraisals for tribes and beneficiaries



Recommendations to Address Broader Policy Issues

- Tribes and beneficiaries raised a host of issues that are beyond the scope of the report –
 - Whether the BIA, OST, or some other entity should have responsibility for all appraisal functions
 - Whether DOI should focus its resources for appraisals on “high risk” transactions
- Establish “Appraisal and Valuations Advisory Committee”
 - Include tribes, individual Indians, tribal organizations
 - OST, BIA, DOJ, and other federal representatives
 - Appraisal Foundation
 - Private sector trust representatives



For More Information or Follow-up Questions

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