



4.3.2 Title Services, Acquisition & Disposal (T)

4.3.2.1 Title Services, Acquisition & Disposal Summary Process Description

The overall process starts with: Receive request for Title maintenance or information, Trust acquisition, conveyance or disposal, rights of way or mortgages
It ends with: Issue Title information.
Update to LTRO/TSO and Agency/Tribal title records.

Title Services, Acquisition and Disposal includes all activities required to record and report on the status of title as well as those activities associated with acquiring, conveying and disposing of interests in Trust, Restricted or allotted lands. In addition, Title services include all management efforts associated with Rights of Way (ROWs), easements, service line agreements, mineral access agreements and/or condemnation agreements.

Title Services, Acquisition and Disposal processes include:

- a) Acquire Trust Lands - the transfer of lands held in Fee to Trust or Restricted status;
- b) Trust to Trust Transactions- the conveyance of a Trust interest between beneficiaries;
- c) Dispose of Trust Lands - the transfer (or sale) of Trust or allotted lands to Fee status;
- d) Rights of Way and Easements - the process of granting and administering ROWs, easements, Service Line Agreements and Mineral Access Agreements;
- e) Mortgages and Assignments - the process of administering beneficiary requests to use Trust interests or income to obtain financing;
- f) Maintain Title - all Agency/Tribal and LTRO/TSO activities required to maintain a complete and accurate record of Title;
- g) Produce TSR - the activities required to produce Title Status Reports; and
- h) Produce Estate Inventory - the activities required to produce a Certified Estate Inventory (BIAINV) or an Individual Indian/Tribal Trust Interest Report (ITI).

Title recordation is an administrative function and is responsible for maintaining a complete, current and accurate inventory of trust assets, ownership and monetary interest in those assets and asset utilization. Title Status Reports and Estate Inventories provide beneficiaries and DOI staff with current and accurate information upon which to base Trust business decisions.

ROWs, mortgages, leases and other forms of encumbrances represent obligations that, once the conveyance is approved, must be satisfied before any conflicting activities can be undertaken that affect the encumbered parcel. ROWs, easements and mineral access agreements are typically granted in return for monetary or other valuable consideration and represent a significant income source for beneficiaries.

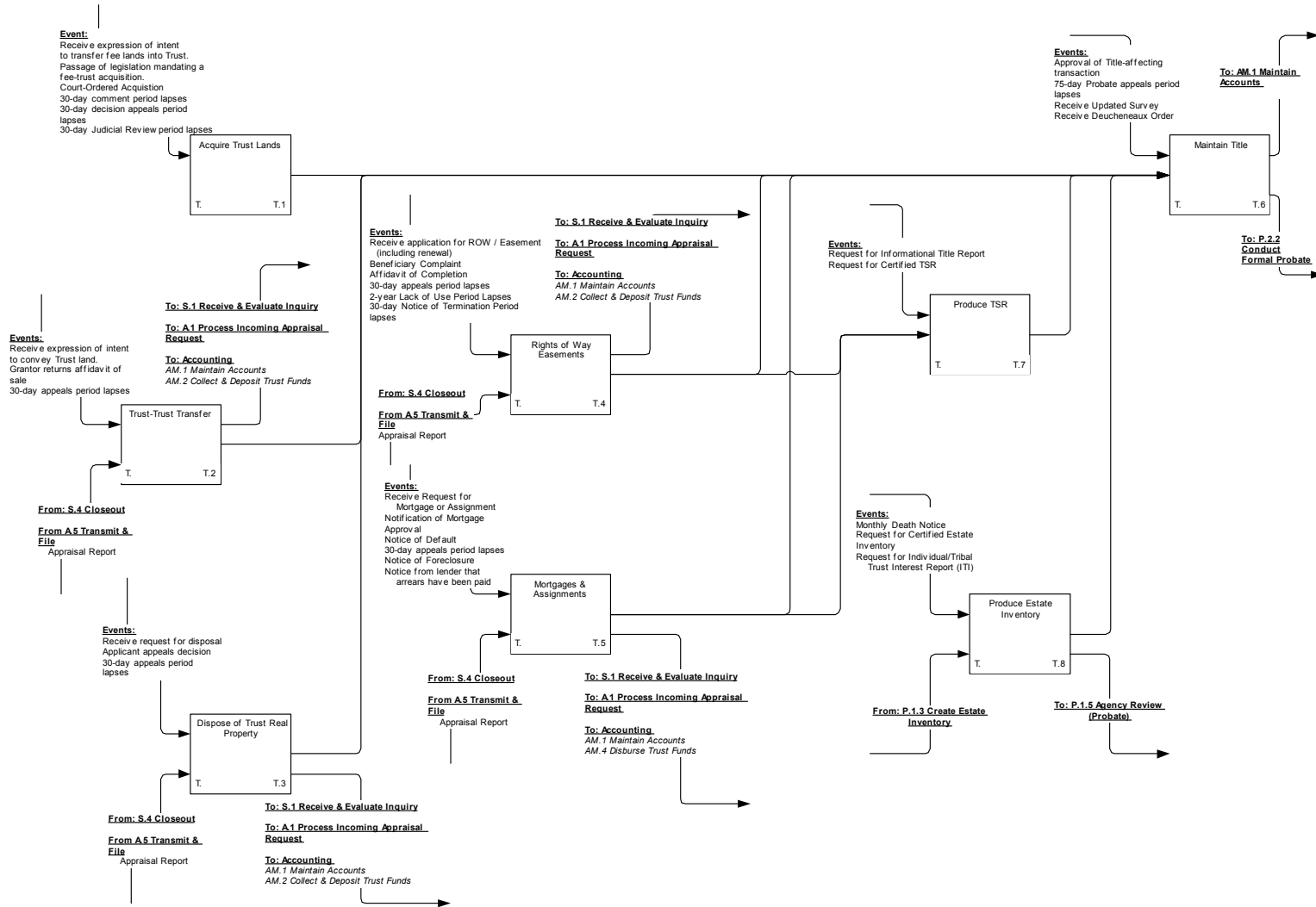


Figure 4.3.2- 1 Title Services, Acquisition & Disposal High-Level Diagram



Title Services, Acquisition & Disposal Objectives

These processes are performed to ensure that the Department keeps a complete, current and accurate record of Trust lands (including Tribal, allotted and Restricted Fee lands), the use of those lands and the ownership and monetary interests that beneficiaries hold in those lands.

As noted in Chapter 1, the specific Trust Strategic Goals and Objectives that relate to Title Services, Acquisition & Disposal are as follows:

a) Strategic Goal 1 - Beneficiary Services

Enhance and maintain a beneficiary focus of providing service to and maintaining communications with beneficiaries.

b) Strategic Goal 2 - Ownership Information

Verify, track, and maintain the land, natural resource, and fund asset ownership information required to manage assets effectively and to provide beneficiary services.

Objective 2.3 Title, Realty and Administrative Information

Develop, maintain, and make readily available accurate and current asset ownership and administrative information that is managed to professional fiduciary standards.

c) Strategic Goal 4 – Trust Fund Assets

Manage Trust fund assets consistently with legal and fiduciary responsibilities, ensuring timely and productive use of the assets.

Objective 4.2 Collection, Disbursement, and Accounting of Funds

Collect, disburse, and account for funds associated with Trust assets accurately and on a timely basis.

c) Strategic Goal 6 - Administrative Services

Develop, maintain, and coordinate administrative services to support the effective and efficient fulfillment of DOI Trust management responsibilities.

Objective 6.2 Accounting

Develop and maintain accounting activities that are integrated, provide necessary functionality, and contain appropriate interfaces to support effective and efficient Trust management.

Objective 6.6 Business Practices

Develop and maintain business processes and practices that are based on professional standards that are complete, consistent, and reliable.

Objective 6.7 Performance Measures

Develop, maintain, and use clear performance measures to manage Trust operations and to assess performance.



4.3.2.2 Acquire Trust Lands (Fee-Trust) (T.1)

- Starts with: Receive request for Fee-Trust acquisition or
Receive notice that acquisition legislation has been passed or
Receive court order mandating Fee-Trust acquisition.
- Ends with: Transfer title from Fee to Trust or
Issue notice of deficiencies or denial.

Upon receipt of an application to transfer a tract of fee land, or an undivided fee interest in Trust land into Trust or Restricted status, BIA first evaluates the authority under which the application was made. Applications can be based upon the Department's discretionary authority, or they can be mandated by court orders or federal legislation. An environmental assessment and an analysis of current encumbrances will be performed for acquisitions subject to the Department's discretionary authority. The results of this assessment are then forwarded to state and local governments with a standard notice offering taxing authorities and other interested parties an opportunity to comment on the proposed acquisition. After obtaining a preliminary opinion on the quality of the title claim, BIA will address any issues identified in the opinion or in the comments from state and local governments and make a determination regarding the application. In the event that a Departmental decision is reached to accept fee land, or an undivided fee interest in land into trust status, a public notice will be published, offering all interested parties an opportunity to comment on the intended acquisition. Only after all comments have been addressed a final title opinion will be issued and the land will be transferred into Trust and removed from local tax rolls.

All discretionary applications involving gaming or gaming-related considerations must be approved by the Assistant Secretary for Indian Affairs. Other discretionary applications involving off-reservation acquisitions are typically approved by the Regional Director after a review by the Assistant Secretary's office.

No environmental assessment is performed for applications mandated by federal court orders or federal statutes, nor is there any solicitation of comments from state and local governments. Instead, mandatory acquisitions are finalized after a review of the title opinion and any comments provided as a result of the general public notice.

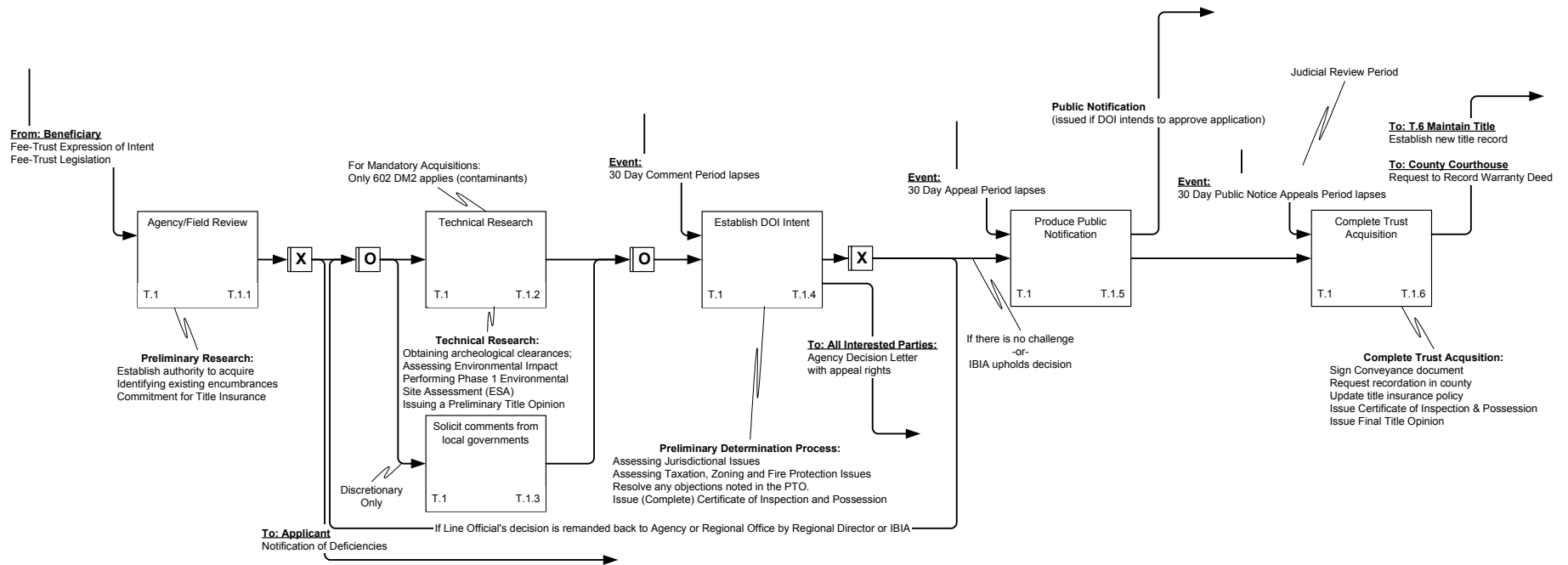


Figure 4.3.2- 2 Acquire Trust Lands (Fee-Trust) IDEF(3)



Beneficiary Involvement for Acquire Trust Lands (Fee-Trust)

Individual beneficiaries are required to obtain a Commitment for Title Insurance. All beneficiaries (individual and Tribal) are required to purchase the title insurance before a new deed is issued. All beneficiaries are also responsible for perfecting title (including liens, clouded title, etc.) for a tract before that tract will be brought into Trust. In the event there are significant adverse comments from state & local governments, the beneficiary is provided an opportunity to provide a rebuttal and further justification. Beneficiaries also provide survey and appraised value of the parcel.

Beneficiaries are responsible for recording deed with State/Local/County Recorders Office and forwarding the title insurance policy, indicating title is held by the U.S. government, to BIA.

Acquire Trust Lands (Fee-Trust) Significant Notes

- a) Coordinating with state and local authorities is labor intensive and time consuming. A Memorandum of Understanding has been developed with the State of Nevada under which the State created a clearinghouse for Fee-Trust requests. This clearinghouse coordinates the responses from all state & local offices and ensures that they are returned in a timely manner.
- b) The current process takes an extended period of time, increasing the economic burden to the beneficiary. There are several sequential public review and appeal periods, which provide state and local governments multiple opportunities to comment on the proposed acquisition.
- c) There is a shortage of trained realty staff in the Agencies and Field Offices. There is no formal Realty training program established for entry, intermediate and advanced training needs.



Acquire Trust Lands (Fee-Trust) Detail Description

Agency Review (T.1.1)

Starts with: Receive application for Fee-Trust acquisition from a beneficiary or
Receive notice of legislation authorizing Trust acquisition or
Receive court order mandating Trust acquisition.

Ends with: Review of application package.
Issue Notice of Deficiencies to Beneficiary

During the Agency Review, the application, Tribal Resolution or other written form of applicant's expression to convert fee land, or an undivided fee interest in land into trust or restricted status, BIA evaluates the authority under which the proposed acquisition can be accomplished and reviews the Commitment for Title Insurance for any issues which may prevent the Department from assuming responsibility for the property.

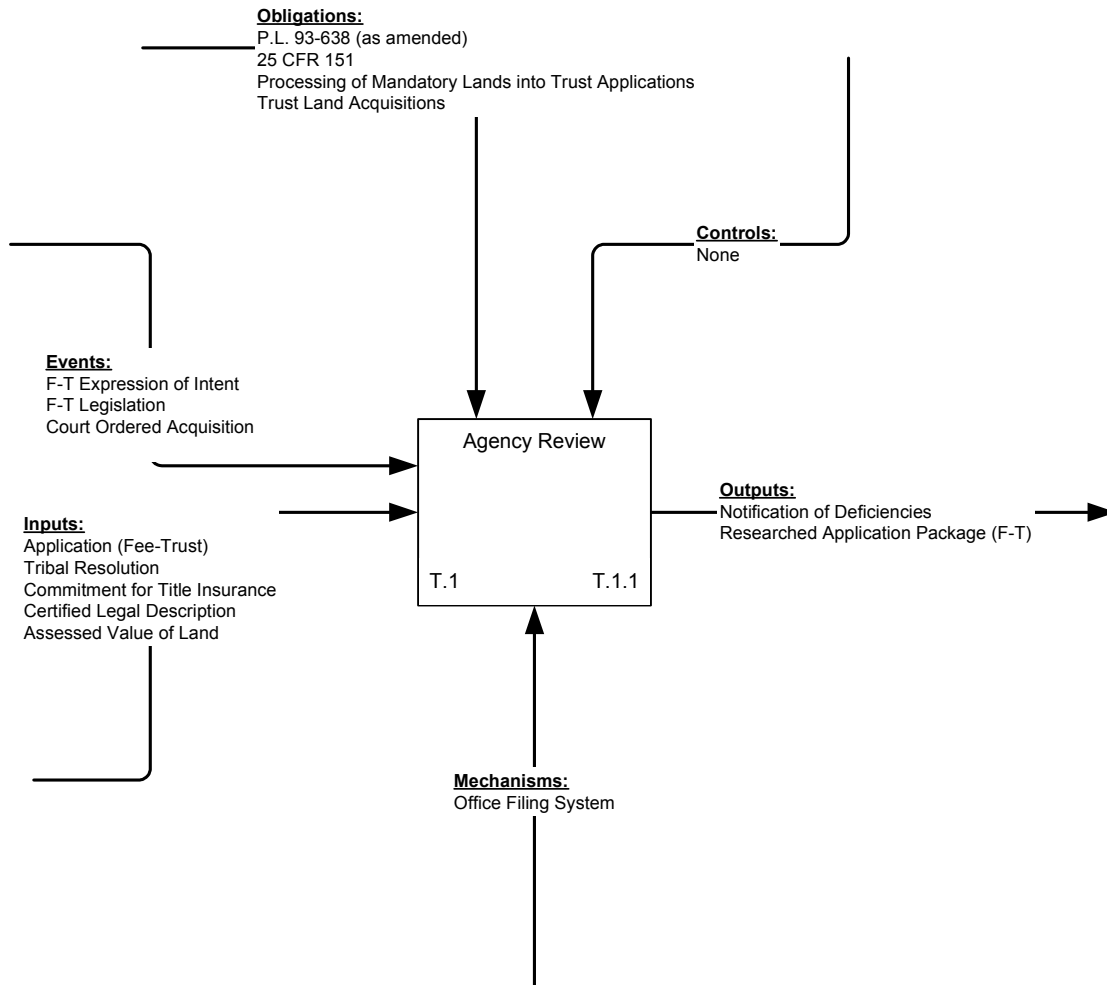


Figure 4.3.2- 3 Agency Review IDEF(0)



Technical Research (F-T) (T.1.2)

Starts with: Receive reviewed application package.

Ends with: Issue agency recommendation regarding Trust acquisition to the beneficiary
or
Issue Notice of Deficiencies to the beneficiary.

Technical Research includes a review of archeological and environmental issues that impact the parcel. While the environmental assessments are being performed, the application is forwarded to the Solicitor's Office for a Preliminary Title Opinion (PTO). This opinion addresses the quality of the beneficiary's claim to the property and assesses the impact of title-related issues.

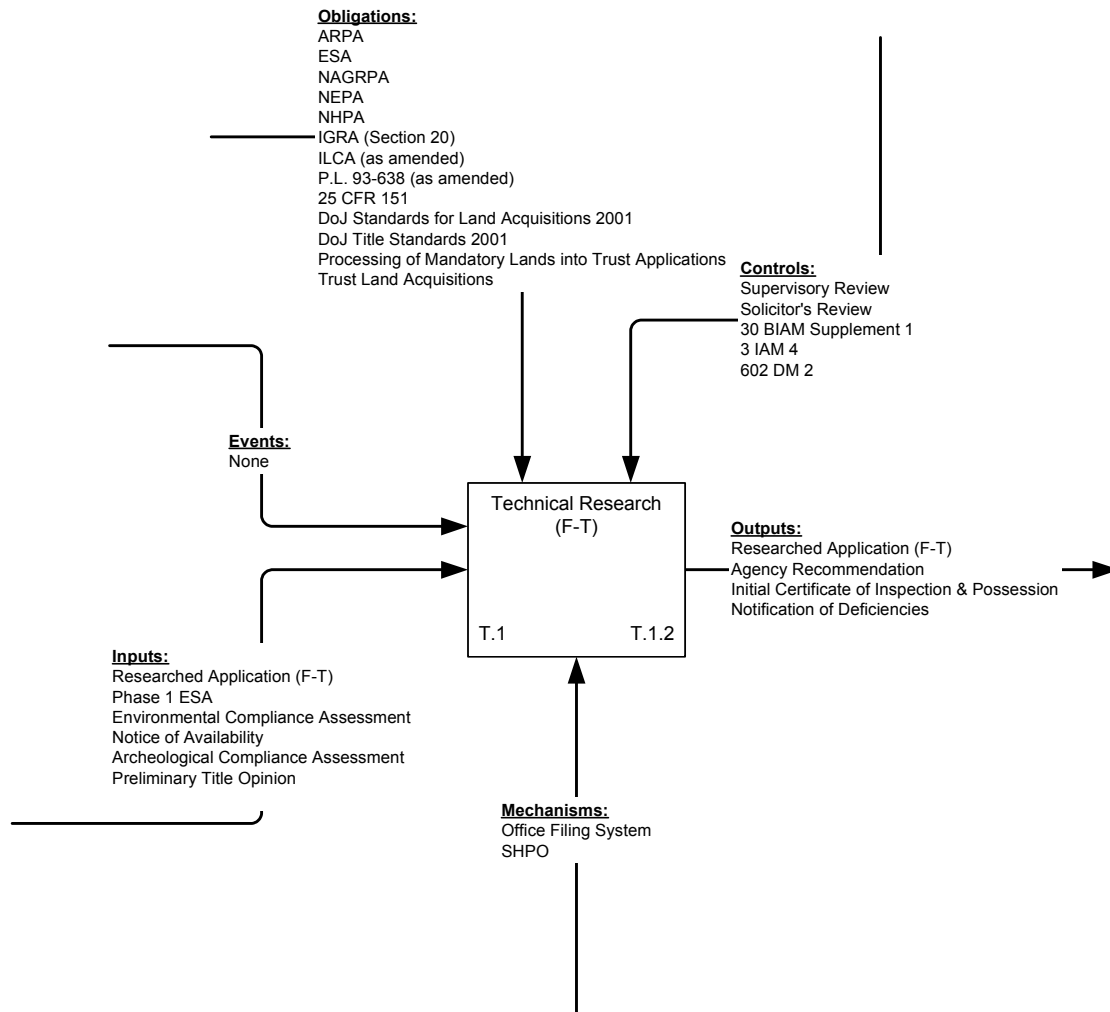


Figure 4.3.2- 4 Technical Research (F-T) IDEF(0)



Solicit Comments (T.1.3)

Starts with: Receive agency recommendation.

Ends with: Issue solicitation of comments to state and local governments.

A notification is sent to state and local governments indicating that an application for a Fee-Trust transaction has been received from a beneficiary. The notification requests a statement of prior year's taxes, zoning classifications and a description of the basic government services that are being provided. The notice also provides state and local governments and other interested parties with an opportunity to comment on, or object to, the proposed acquisition.

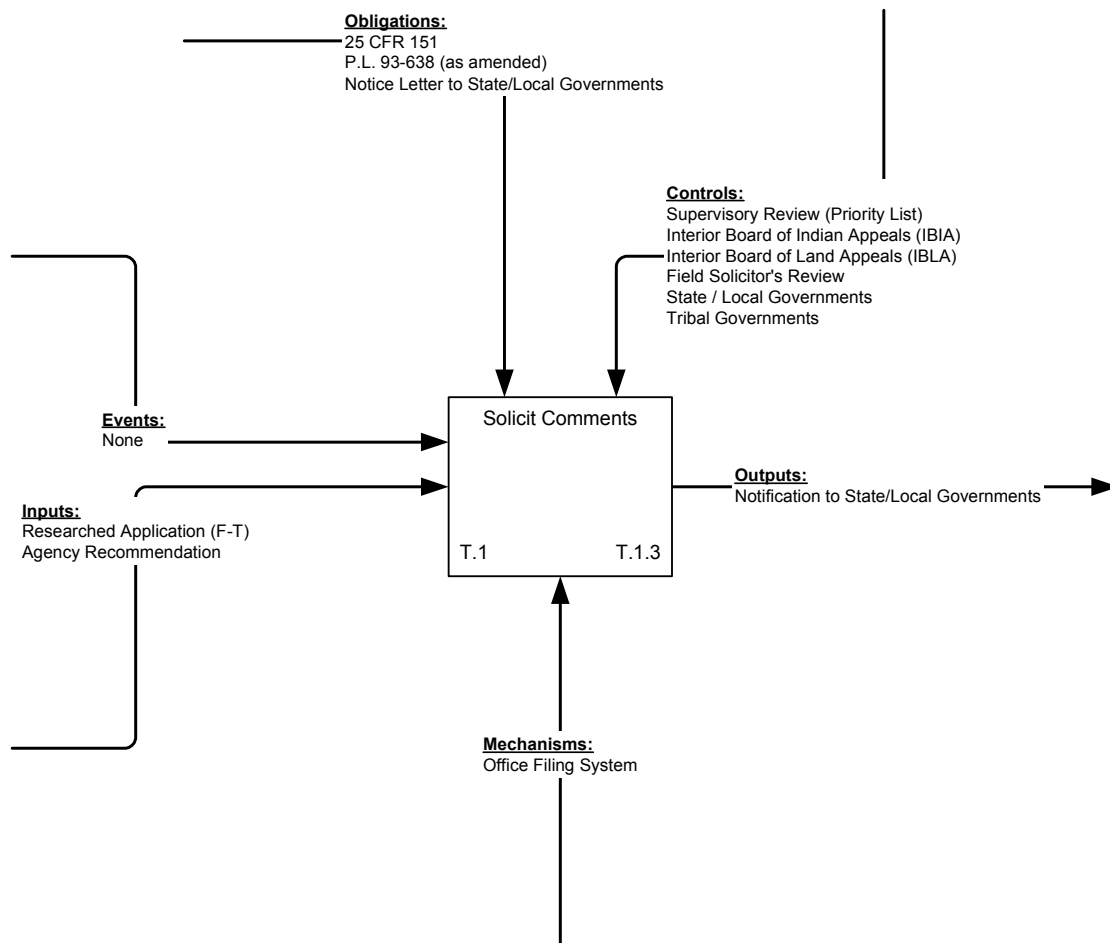


Figure 4.3.2- 5 Solicit Comments IDEF(0)



Establish DOI Intent (T.1.4)

Starts with: Expiration of 30-day comments period or
 Receive comments from state and local governments.
 Ends with: Issue decision letter regarding Trust acquisition to all interested parties.

Based upon the review of the application a recommendation is made as to whether the acquisition should be approved. The recommendation is based on the merits of the application and its compliance with 25 CFR 151, including environmental assessment, the preliminary title opinion and any comments from state and local governments. The BIA Line Official reviews the recommendation and issues a decision letter indicating the Department's intent regarding the application.

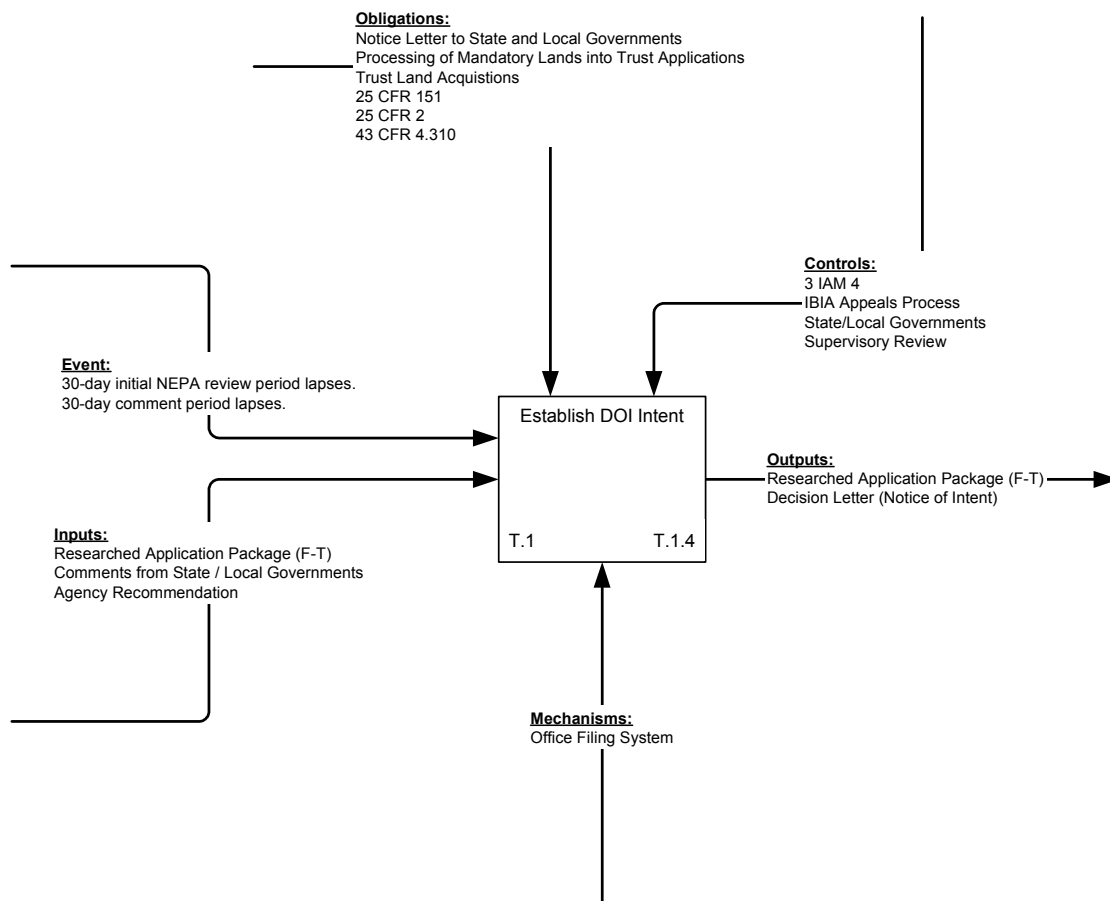


Figure 4.3.2- 6 Establish DOI Intent (F-T) IDEF(0)



Produce Public Notification (T.1.5)

Starts with: Line Official decision to proceed with acquisition or
Receive IBIA order to proceed with acquisition.
Ends with: Issue public notice.

If the Department issues a decision letter and intends, or is ordered, to take a Fee parcel or interest into Trust, it publishes that intent in the federal register or in newspaper(s) of local circulation. This publication provides the general public with 30 days during which they can comment on, or object to, the proposed acquisition.

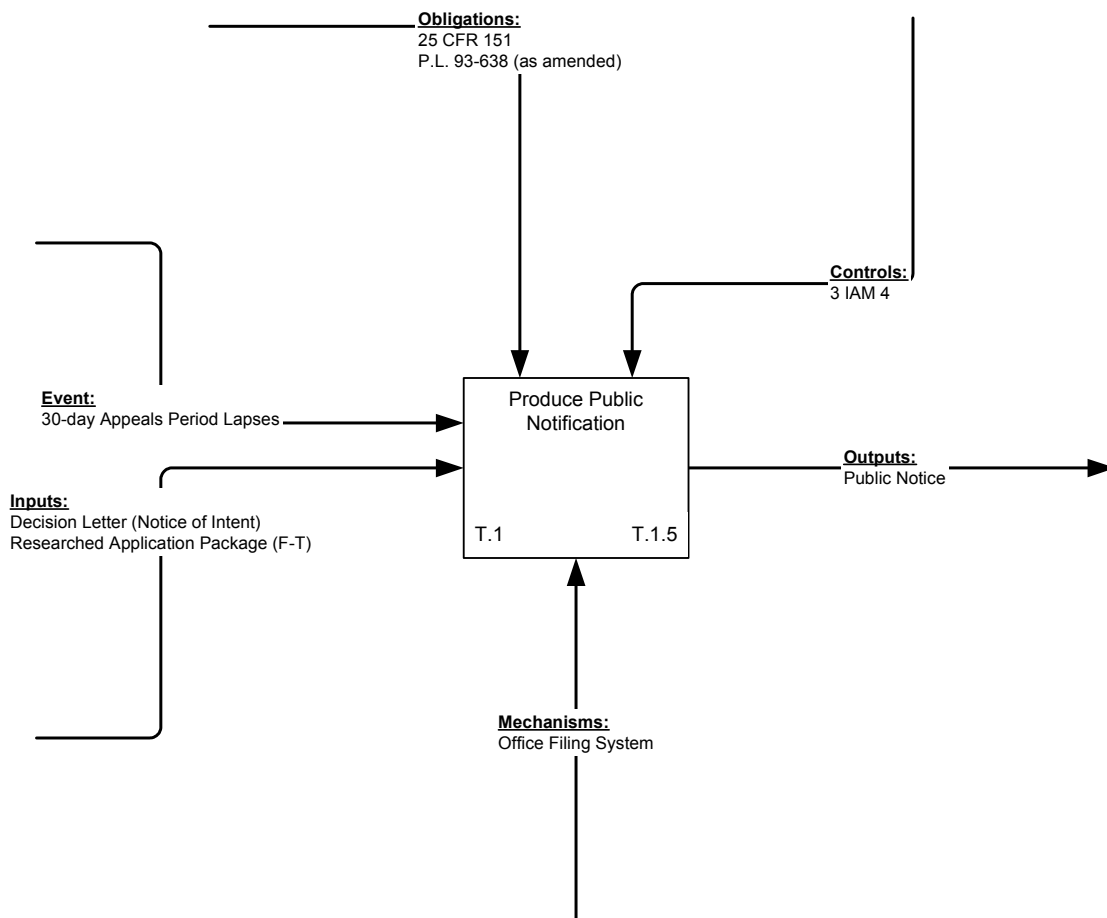


Figure 4.3.2- 7 Produce Public Notification IDEF(0)



Complete Trust Acquisition (T.1.6)

Starts with: Expiration of 30-day judicial review period.
Ends with: Approval of conveyance document.

The final step of the acquisition process where the conveyance document is signed, the Title Insurance Policy is updated, a Final Title Opinion is issued and the Final Certificate of Inspection and Possession is issued. A complete application package is forwarded to the LTRO/TSO for the establishment of a new Trust record.

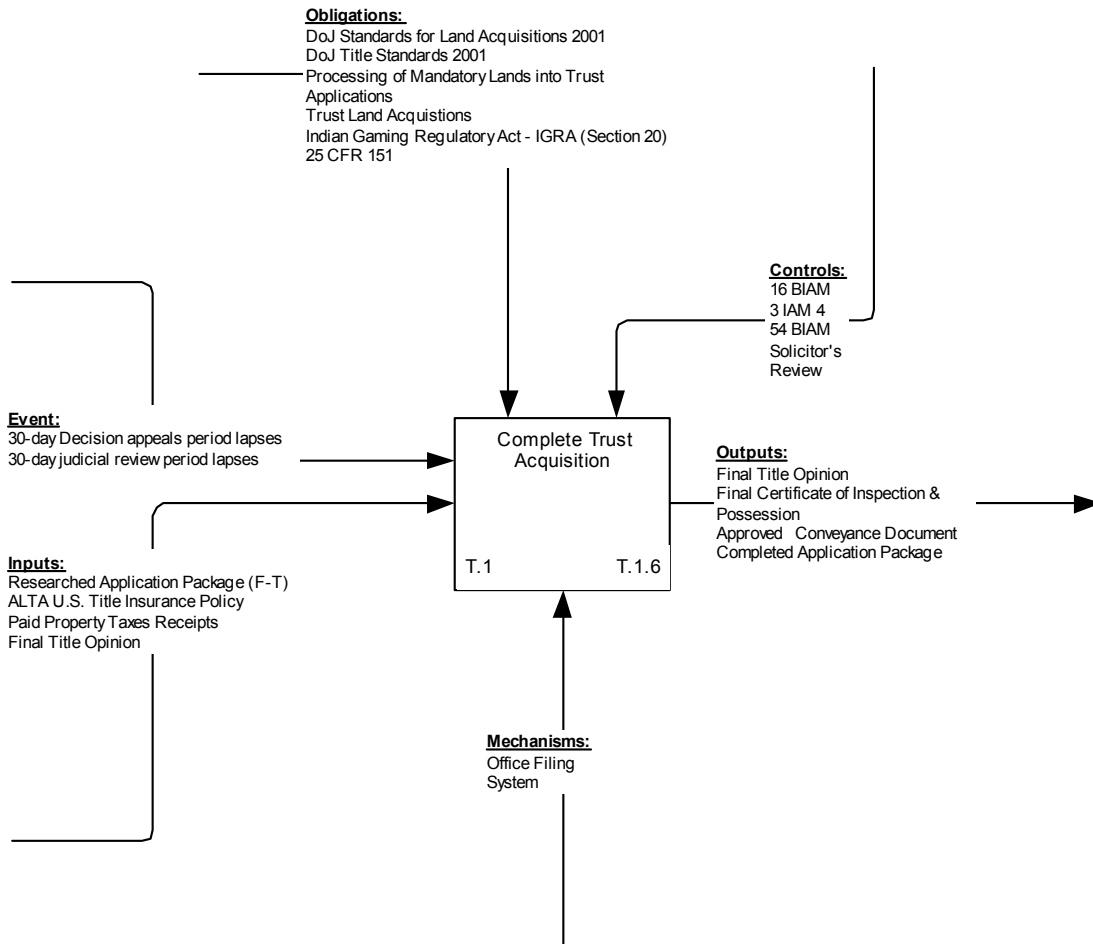


Figure 4.3.2- 8 Complete Trust Acquisition IDEF(0)



4.3.2.3 Trust-Trust (T-T) Transaction (T.2)

Starts with: Receive request for Trust to Trust transfer.

Ends with: Approve conveyance document or
Issue Notice of Deficiencies or Denial to the beneficiary.

Trust to Trust transactions convey interests in Trust or Restricted land, in Trust or Restricted status, to another beneficiary. Trust to Trust applications are only processed if they are received from the grantor. Title Status Reports (TSRs) are reviewed for each affected parcel to identify encumbrances that represent financial obligations. A list of these obligations is provided to both parties. At the same time, BIA counsels the applicant on the anticipated economic impacts of the transaction and makes a recommendation as to whether the transaction is in the beneficiary's best interest. Trust to Trust transactions can also be processed where is no monetary compensation involved, such as gift deeds.

The grantor and grantee negotiate the terms and conditions of the conveyance and provide the BIA with a statement of intent regarding the proposed transaction. In the event the beneficiaries choose to proceed, BIA makes a formal determination as to whether the transaction appears to be clearly justified in the light of the long range best interests of the owner or owners. This determination is based on the intended use of the land, any monies offered in consideration for the Trust interest, and the beneficiaries' ability to meet ongoing obligations in the event that the transaction is approved.

In the event that the Department intends, or is ordered, to approve the application, monies offered in consideration are collected and deposited by BIA into the FFS system and subsequently transferred to the grantor's IIM accounts and a document conveying ownership interest to the grantee is signed and forwarded to the servicing LTRO/TSO for recordation.

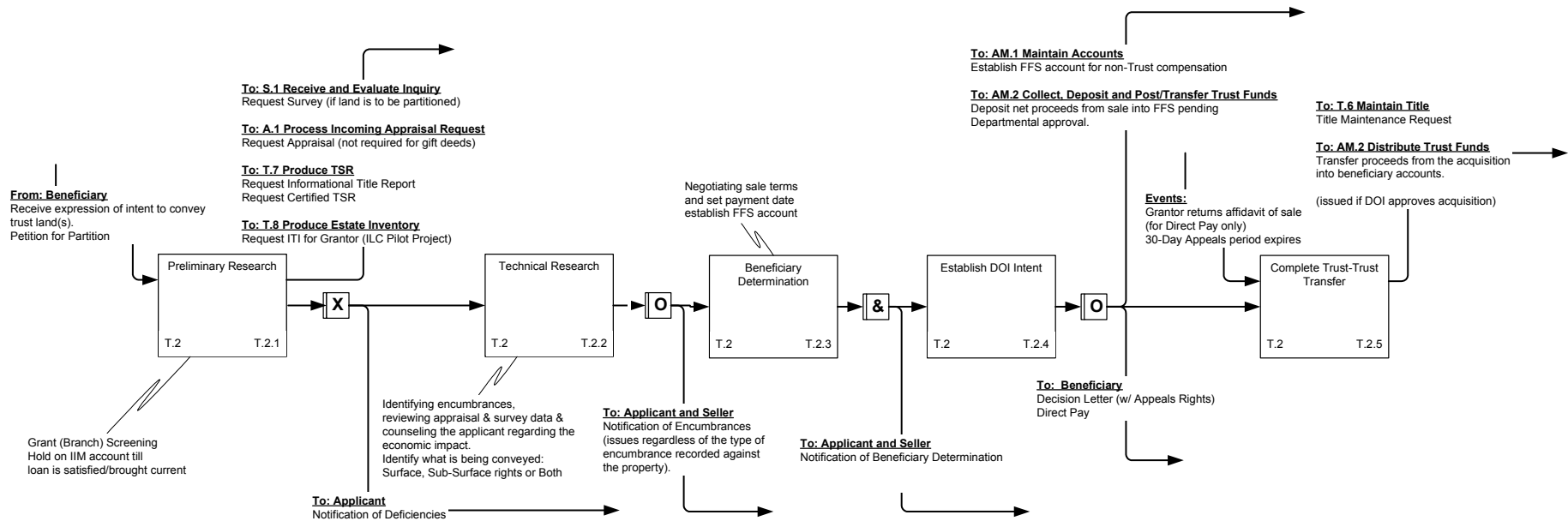


Figure 4.3.2- 9 Trust-Trust Transaction IDEF(3)



Beneficiary Involvement for Trust-Trust Transaction

The grantor must initiate the transaction. After counseling regarding the economic impacts of the transaction, beneficiaries negotiate, with advice from BIA or the Tribe, the terms of the transaction (Tribes are not permitted to counsel the beneficiary if the Tribe is a party of interest to the transaction). The grantee is responsible for providing any required consideration for the transaction. In the event that the parties agree to exchange funds directly, the grantor is responsible for providing Affidavit of Sale to BIA. The grantee may also be required to provide proof of Tribal membership or eligibility.

Trust - Trust (T-T) Transaction Significant Notes

- a) Interests in Trust lands are becoming heavily fractionated, increasing the complexity of administering those lands and reducing their utilization. In order to address this issue, Congress passed the Indian Land Consolidation Act of 1983, amended in 1991 and 2000. This act encourages Trust to Trust transfers that consolidate ownership in Trust lands and reduce fractionation.
- b) Using authority established under ILCA, Land Consolidation pilot projects are in place in a few BIA Agencies. These projects are purchasing small, undivided interests in heavily fractionated allotments. These interests are then conveyed, in Trust, to the Tribes.
- c) Surveys are being performed when Trust to Trust transfers involve a petition for partition. These surveys are not generally performed by BLM and questions have been raised as to the sufficiency of the results.



Trust-Trust Transaction Detail Description

Preliminary Research (T-T) (T.2.1)

Starts with: Receive application for Trust to Trust transfer from the grantor.

Ends with: Review Trust to Trust application or
Issue Notice of Deficiencies to the grantor.

During Preliminary Research, an application for a Trust to Trust transaction is assigned to a realty specialist and reviewed for completeness and accuracy. After obtaining an Uncertified Title Status Report, an initial review is performed to identify any financial obligations that may need to be satisfied before the interest can be conveyed to another party. A request for a Certified Title Status Report is also requested at this time from the LTRO/TSO.

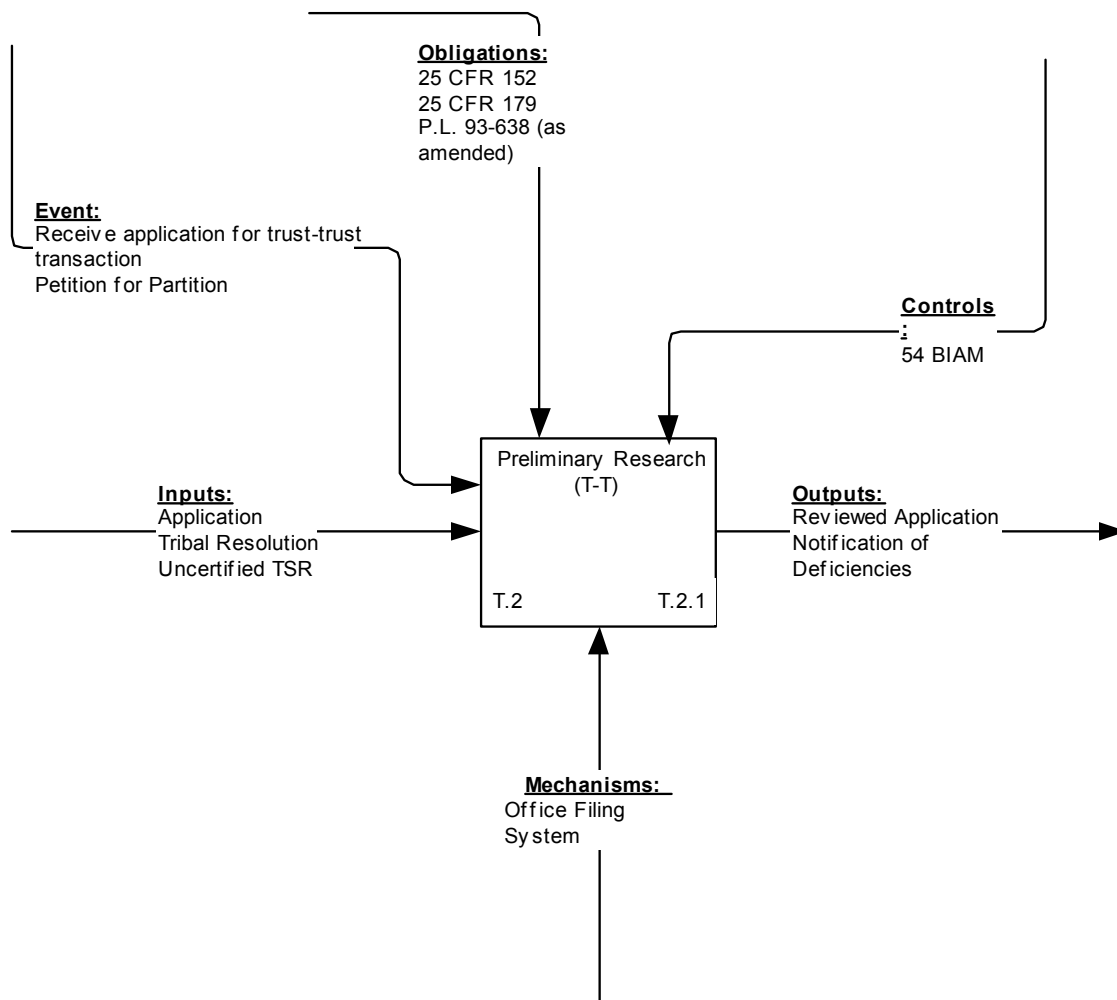


Figure 4.3.2- 10 Preliminary Research (T-T) IDEF(0)



Technical Research (T-T) (T.2.2)

Starts with: Receive reviewed application.

Ends with: Counsel applicant on financial and environmental impacts of transaction.

Technical research confirms ownership, identifies any encumbrances upon the land, establishes the economic value of the land and identifies any environmental impacts associated with significant changes in the use of the land. Using this information, Realty staff will counsel the parties on the anticipated economic impacts of the transfer and provide guidance relative to the transaction.

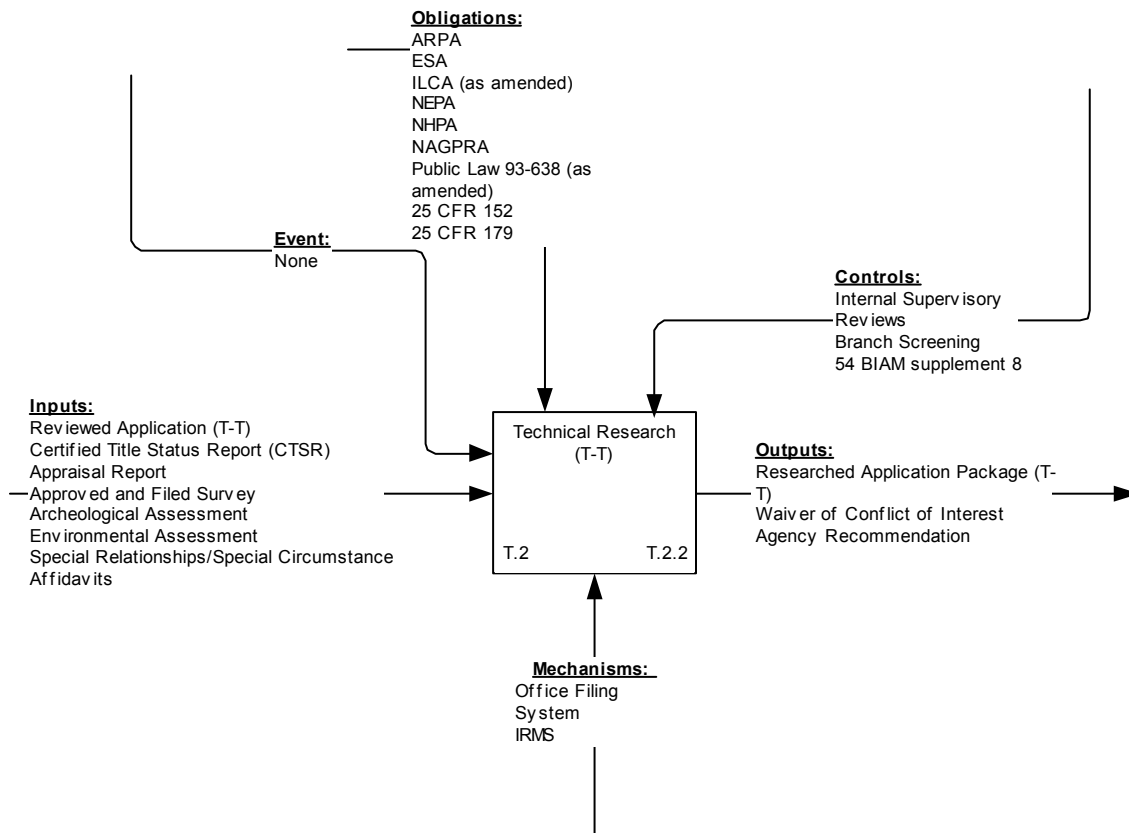


Figure 4.3.2- 11 Technical Research (T-T) IDEF(0)



Beneficiary Determination (T-T) (T.2.3)

Starts with: Receive Agency recommendation.

Ends with: Issue notice of intent regarding transaction to BIA.

The grantor and the grantee negotiate the terms and conditions of the transaction, including any consideration to be provided in exchange for the grantor's Trust interest and the form and schedule of payments. Both parties must then provide BIA with a notice of intent, together with any relevant terms and conditions, regarding the transaction.

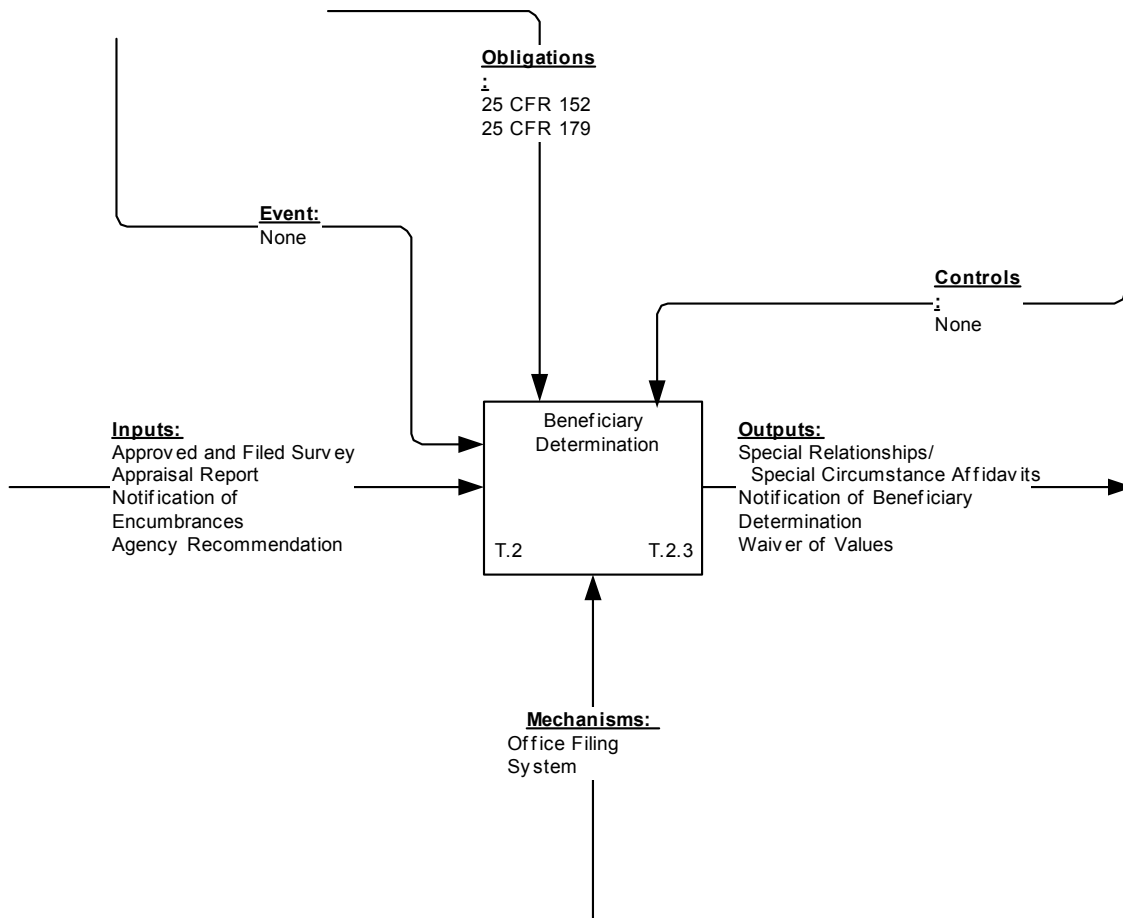


Figure 4.3.2- 12 Beneficiary Determination (T-T) IDEF(0)



Establish DOI Intent (T-T) (T.2.4)

Starts with: Receive beneficiaries' notices of intent regarding transaction.

Ends with: Issue BIA decision letter regarding transaction to the interested parties.

Upon receiving the beneficiary determination, BIA, acting in the best interest of the beneficiaries, reviews the terms and conditions of the transaction and makes a determination as to whether the transaction will be approved.

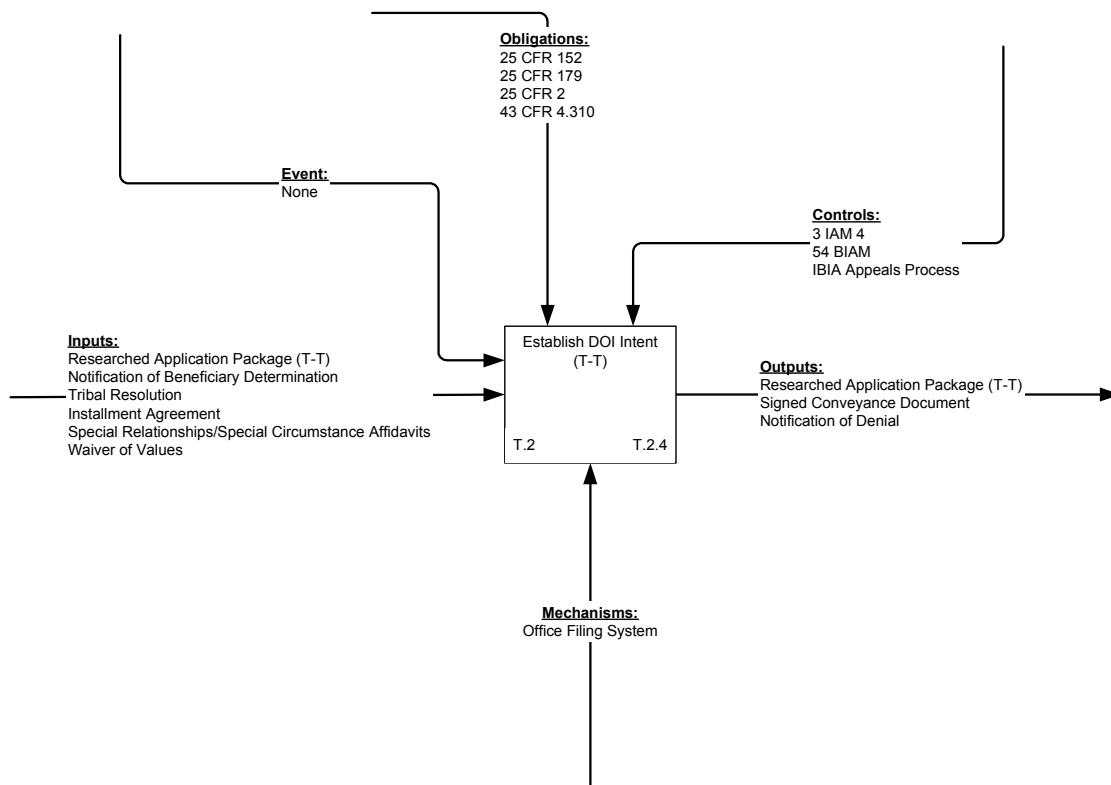


Figure 4.3.2- 13 Establish DOI Intent (T-T) IDEF(0)



Complete Trust-Trust Transfer (T.2.5)

Starts with: Issue determination to proceed with conveyance or
Receive IBIA order to proceed with conveyance.
Ends with: Request title updates.

In the event that the Department decides, or receives an order from IBIA to approve the transaction, the net proceeds of any monies offered in consideration for the grantor's interest are collected and deposited into the beneficiary's Trust account and the conveyance document is signed by the BIA Line Official and forwarded to the title plant for recordation, encoding and update of the Title record.

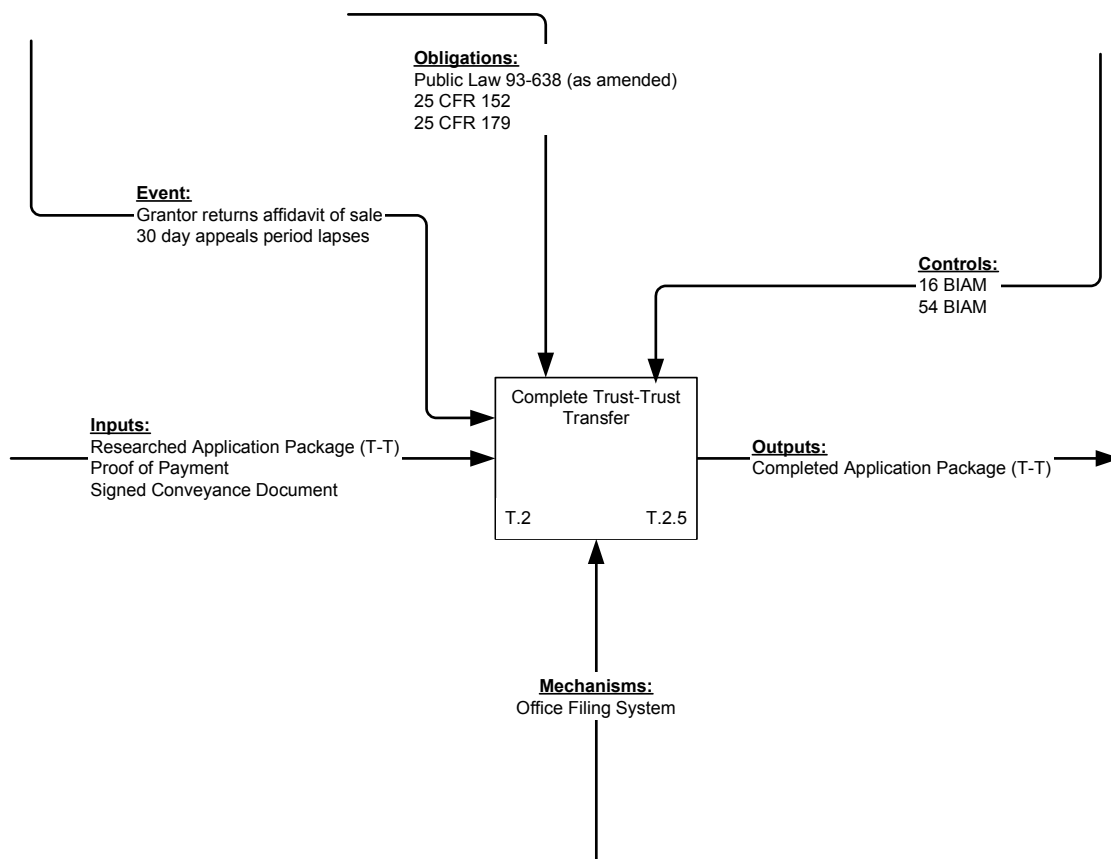


Figure 4.3.2- 14 Complete Trust-Trust Transfer IDEF(0)



4.3.2.4 *Dispose of Trust Assets (T.3)*

Starts with: Receive request for Disposal or Removal of Restrictions from a beneficiary or
Receive court condemnation order.

Ends with: Issue Fee patent or Conveyance in Fee document to the grantee.

A Disposal results in an Order for Removal of Restrictions from a restricted Fee parcel or the issuance of a Fee Patent on a Trust parcel or a Trust interest in a parcel of land. These activities begin when an application, or expression of intent, is received from the grantor. BIA first reviews and counsels the applicant regarding the anticipated economic impacts of the transaction. BIA also informs the applicant that he/she will assume all tax liabilities and responsibilities associated with managing/administering the land. For interests to be disposed of through a negotiated or advertised sale, BIA reviews the terms and conditions of the agreement with the beneficiary.

Using this information, BIA will make a formal determination as to whether the final terms and conditions of the transaction are in the best interests of the beneficiary. In the event that the Department intends, or is ordered, to approve the transaction, any monies offered in consideration for the Trust or Restricted Fee interest are collected and deposited into the beneficiary's Trust accounts. The appropriate conveyance documents, such as the fee patent secured from BLM or conveyance by deed, are signed, approved and forwarded to the grantee and recorded in the LTRO/TSO.

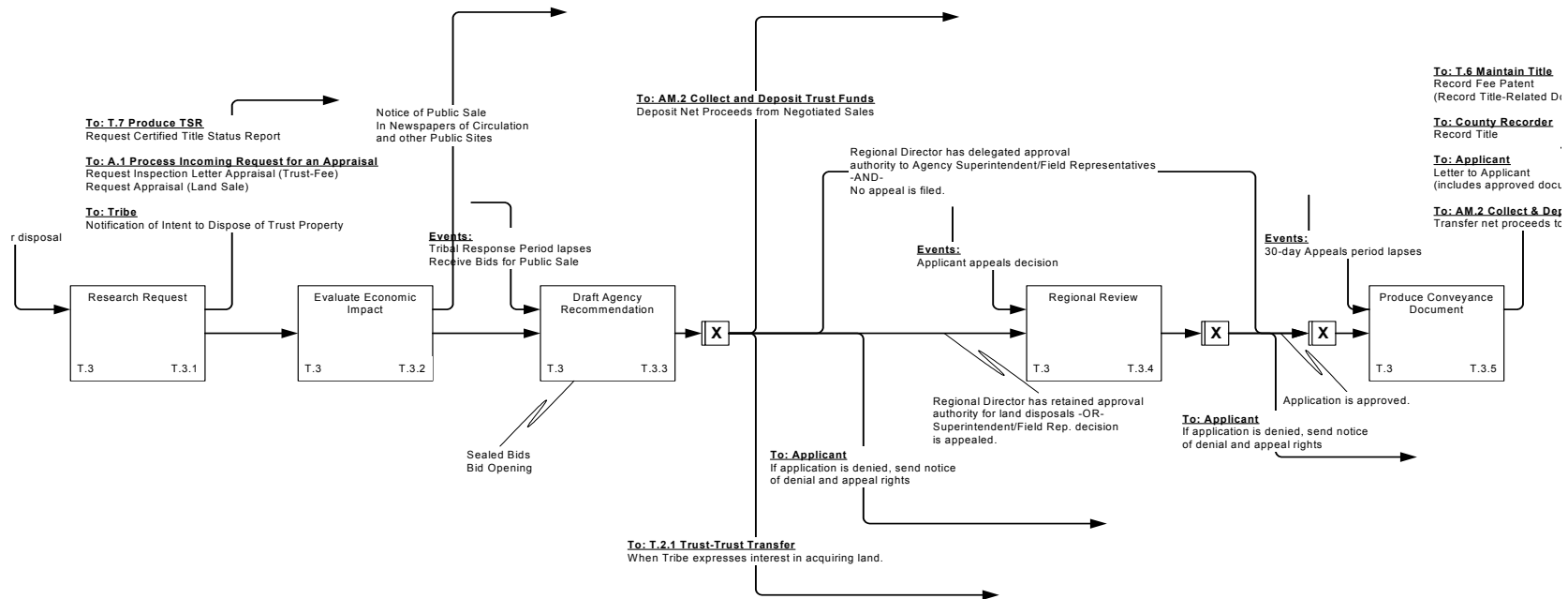


Figure 4.3.2- 15 Dispose of Trust Assets IDEF(3)



Beneficiary Involvement for Dispose of Trust Assets

In the event that beneficiaries are pursuing a negotiated sale in Fee, the beneficiary is responsible for negotiating, with input from BIA regarding the value of the tract and the terms of the sale. The beneficiary provides documentation relative to the terms and conditions of the sale. For public (advertised) sales, the beneficiary has the right to accept/not accept bid price. Tribes are notified of the pending Disposal request and indicate whether they intend to preserve Trust lands by acquiring the tract in question. If so, a Trust to Trust conveyance is performed rather than a Disposal with beneficiary client concurrence. Beneficiary is responsible to record Fee-Patent/conveyance document with State/Local/County Recorder. Beneficiaries authorize the sale of land subject to departmental approval. Beneficiaries are responsible for the management of their property once it is converted to fee simple status.

Dispose of Trust Assets Significant Notes

- a) ILCA places restrictions on beneficiaries' ability to dispose of Trust lands. Trust interests inherited under ILCA cannot be conveyed in Fee for five years. After this period expires, Trust interests cannot be conveyed in Fee without first providing the Tribe with the right of first offer and ensuring that the beneficiary will receive consideration.
- b) ILCA restrictions limit a beneficiary's right to bequeath Trust interests to heirs and devisees. Under ILCA, beneficiaries that wish a spouse or child to benefit from a Trust interest will have to dispose of their Trust interests prior to death. As a result, a significant increase in disposals is expected once the ILCA amendments of 2000 are fully implemented
- c) Some Trust-Fee transfers are executed as part of a land exchange used to acquire and consolidate lands to be placed into Trust which are advantageous to the beneficiary.



Dispose of Trust Assets Detail Description

Research Request (T-F) (T.3.1)

Starts with: Receive request for Trust land disposal from a beneficiary.

Ends with: Confirm application information and Trust interests.

BIA performs an initial review to ensure that the application is substantially complete and accurate and that the applicant has a conveyable interest in the Trust or Restricted properties to be transferred into Fee simple status.

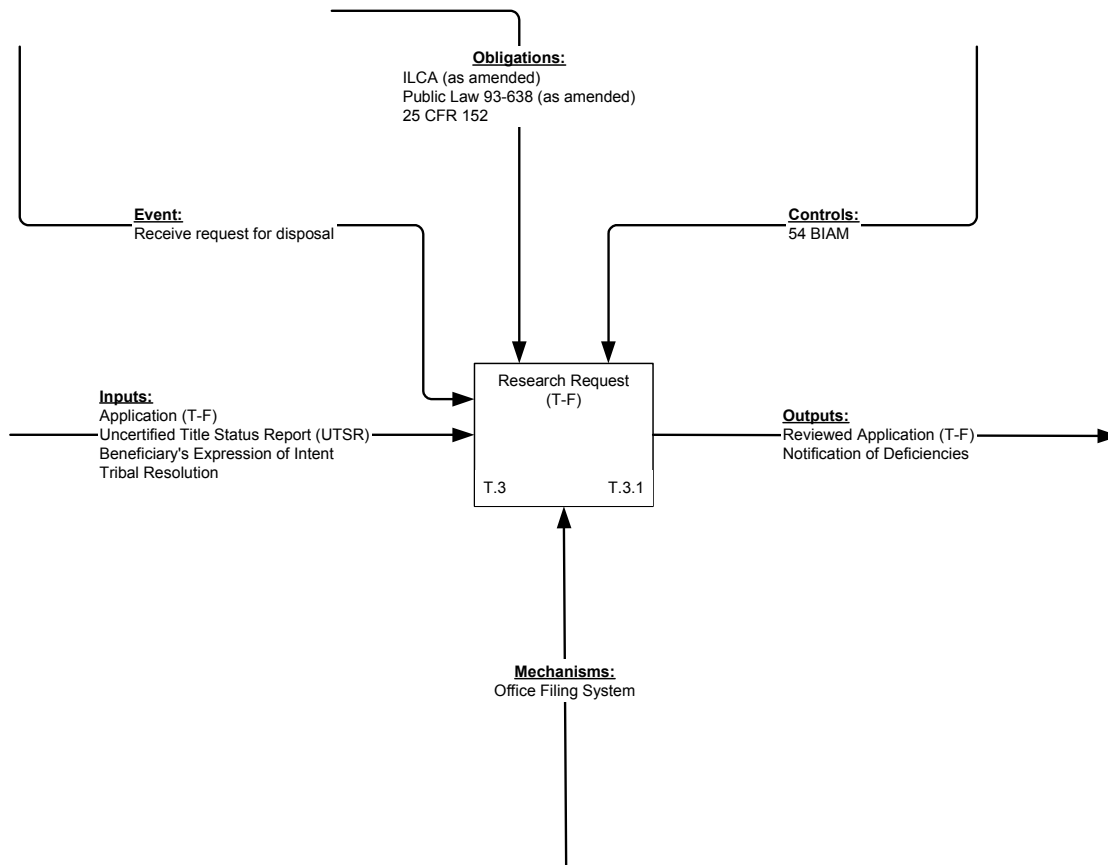


Figure 4.3.2- 16 Research Request (T-F) IDEF(0)



Evaluate Economic Impact (T-F) (T.3.2)

Starts with: Receive reviewed Trust-Fee application.

Ends with: Counsel the beneficiary on anticipated economic impacts.

Using survey and appraisal information, together with information regarding current or potential leasing, permitting and other encumbrances, BIA establishes and counsels the applicant on the anticipated economic impact of the transfer. An assessment of the archeological and environmental impacts of the transaction is also conducted to ensure that the full ramifications of the subsequent use of the land are understood.

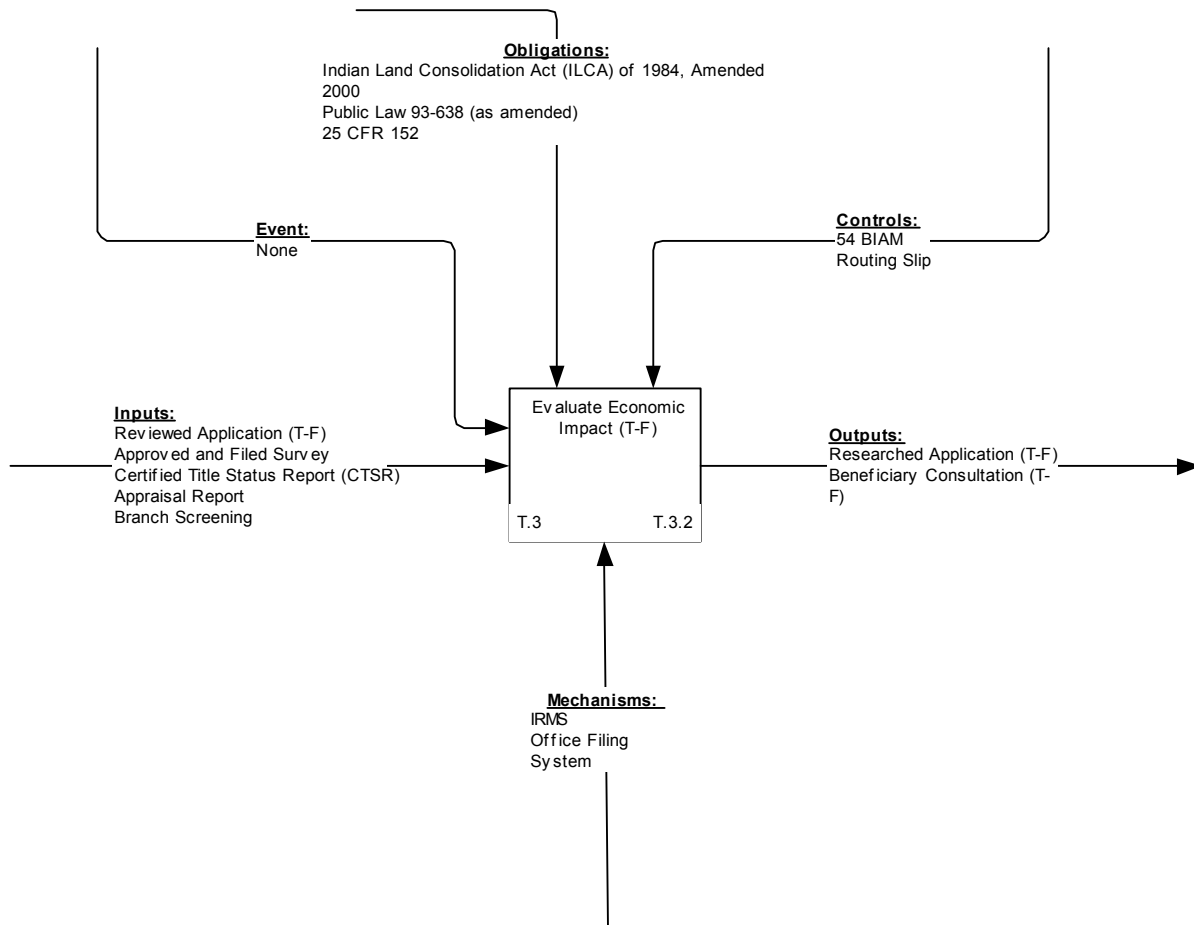


Figure 4.3.2- 17 Evaluate Economic Impact (T-F) IDEF(0)



Draft Agency Recommendation (T-F) (T.3.3)

Starts with: Receive researched application.

Ends with: Issue agency recommendation regarding the disposal to the beneficiary.

Agency staff reviews the terms and conditions of the transaction, the Tribe's intent regarding retaining the land in Trust and the results of any appropriate archeological and environmental assessments to prepare a recommendation as to whether the transaction should proceed.

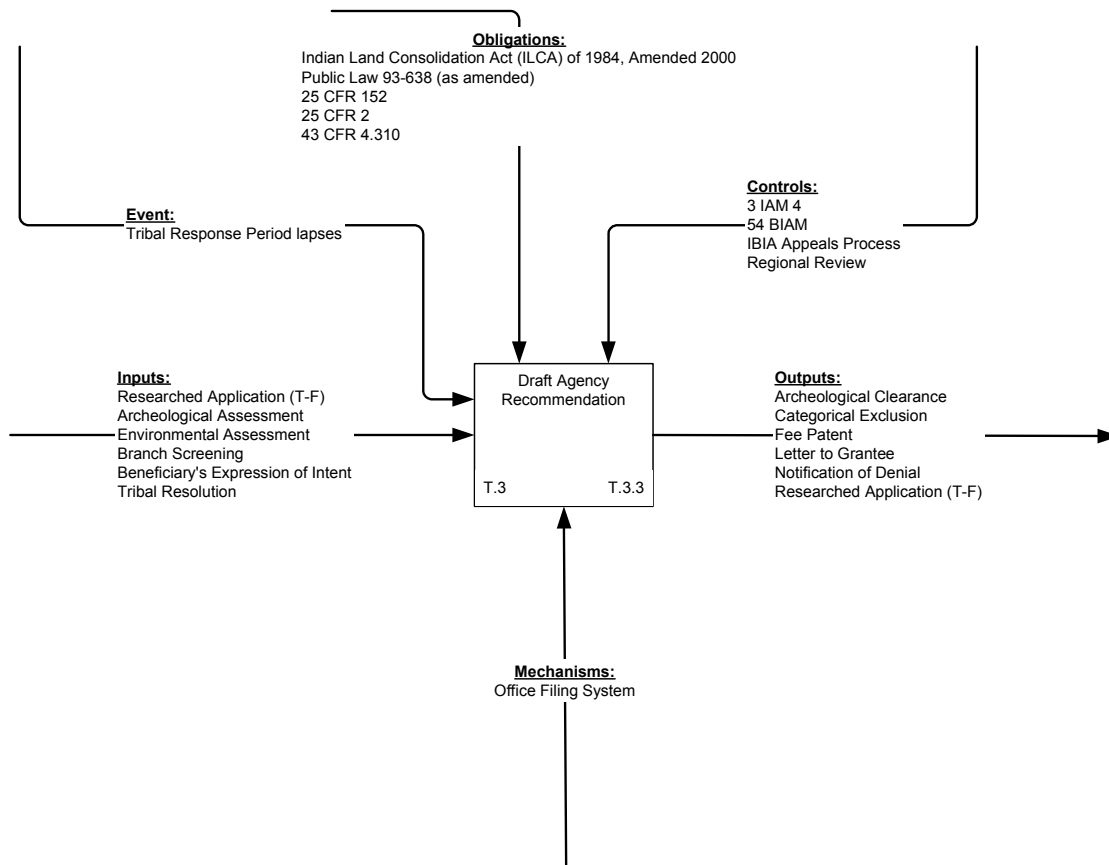


Figure 4.3.2- 18 Draft Agency Recommendation (T-F) IDEF(0)



Regional Review (T.3.4)

Starts with: Receive recommendation from the Agency or Field Office.

Ends with: Issue BIA decision regarding the disposal to the Line Official and beneficiary.

The Regional Director reviews the Line Official's recommendation when:

- a) The region has retained the approval authority for disposals, or
- b) The Line Official's decision is challenged by the applicant.

Upon review, the Regional Director makes a determination as to whether the disposal should proceed.

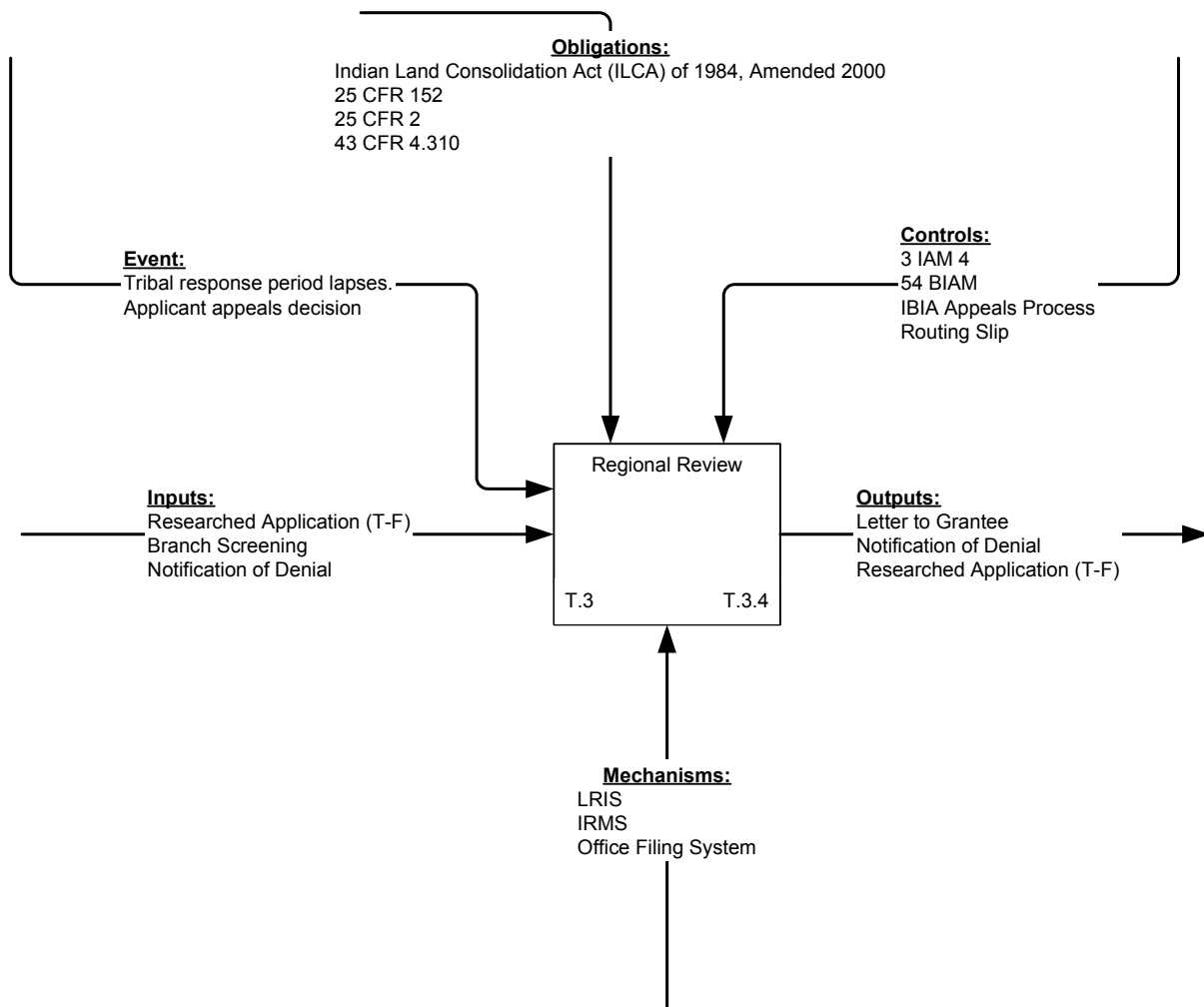


Figure 4.3.2- 19 Regional Review IDEF(0)



Produce Fee Patent (T.3.5)

Starts with: Receive BIA approval to proceed with disposal or
Receive OHA order to proceed with disposal.

Ends with: Issue Fee patent or conveyance in Fee document to the grantee.

When BIA intends, or is ordered, to approve the disposal, it collects and deposits any monies offered in consideration for the Trust interests and requests a Fee Patent (for a Trust-Fee transfer) or a deed (for a Negotiated Sale in Fee). The signed conveyance document, indicating that Trust restrictions have been removed from the parcel, is then forwarded to the grantee and the LTRO/TSO for recordation.

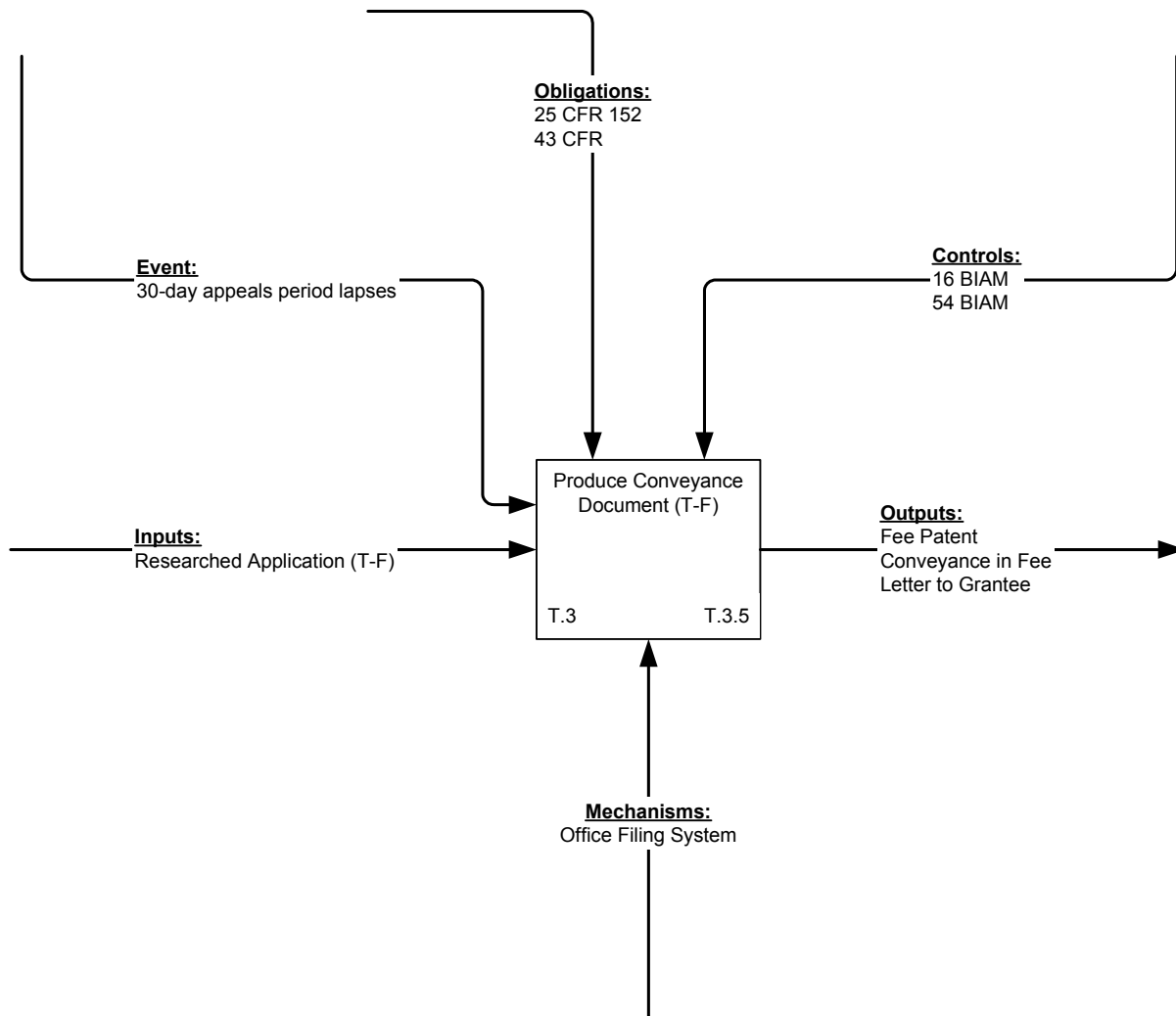


Figure 4.3.2- 20 Produce Conveyance Document (T-F) IDEF(0)



4.3.2.5 Rights of Way (ROW) and Easements (T.4)

Starts with: Receive request for ROW or easement or
Expiration of ROW agreement.

Ends with: Approve ROW or easement and Assess ROW compliance or
Deny ROW application.

Rights of Way (ROWs), Service Line Agreements (SLAs), Mineral Access Agreements and easements provide applicants with specific rights to use Trust and Restricted lands. ROWs grant the applicant the right to use Trust lands in a manner that may impact or completely preclude the future use of those lands. Mineral Access Agreements are specialized ROWs that impact both surface and subsurface lands and are used to extract or transport oil and gas deposits. Easements provide applicants with the right to use Trust lands in a manner that will not affect the subsequent use of those lands. SLAs convey the right to construct a utility easement on a single beneficiary's land for the sole purpose of providing service to a single-family dwelling.

An application for a ROW, SLA, Mineral Access Agreement and easement (hereafter referred to in total as ROW) that impacts Tribal Trust lands must be accompanied by a Tribal Resolution conferring the right to survey impacted lands. Consent from a majority of individual interest holders for boundary and location survey must also be acquired for allotted lands. BIA will then issue an authorization to survey any allotted or restricted lands that may also be impacted by the ROW.

Upon receipt of a boundary and location survey of the ROW and the affected lands, BIA produces a certified schedule of landowners (certified TSR) and forwards that schedule to the applicant. At the same time, BIA evaluates the environmental, archeological and economic impacts of the ROW and provides affected beneficiaries with a recommendation as to whether the ROW should be approved and any damages or compensation that should be required in return for their consent. Beneficiaries then negotiate the specific terms and conditions of the ROW with the applicant and forward their individual determinations to BIA.

If a majority of the interest holders consent to the ROW, BIA then makes a formal determination regarding the ROW, with the Line Official signing for minority interests. If the Department intends, or is ordered, to proceed a Grant of Easement is produced and a Notice to Proceed is sent to the applicant.

Upon receipt of an affidavit of completion, or in the event of a beneficiary complaint, BIA performs a compliance assessment that determines the extent to which construction activities and subsequent use comply with the terms and conditions of the agreement. In the event that construction is found to be non-compliant, the Department withholds the monies required to achieve compliance from any performance monies collected at the outset. These monies are either used to correct non-compliant actions or deposited into beneficiary Trust accounts. Any remaining performance monies are returned to the applicant.

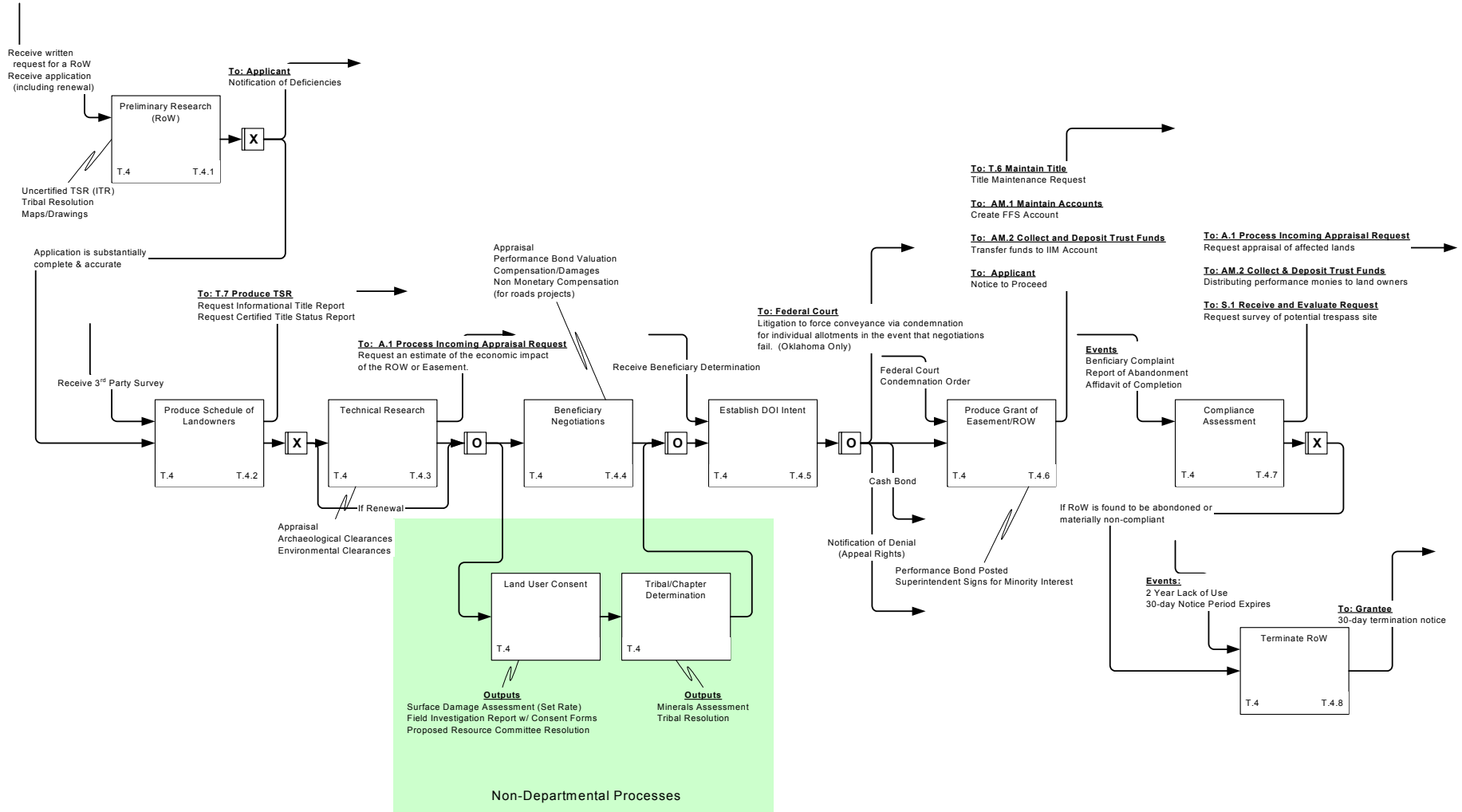


Figure 4.3.2- 21 Rights of Way and Easements IDEF(3)



Beneficiary Involvement for Rights of Way and Easements

Tribes and individual Indians must provide consent for the survey; a majority of individual interest holders must provide, or withhold, consent to the ROW, easement, service line agreement or mineral assessment agreement. The consent determination is made after beneficiaries negotiate the terms of the transaction, including any compensation or damages required in return for their consent.

During the negotiations, assistance may be requested from BIA or from the Tribe. If consent is collectively withheld, and the applicant pursues condemnation proceedings, beneficiaries may petition the Department to represent them in subsequent legal proceedings.

During construction, and after construction activities are complete, beneficiaries may lodge complaints associated with 3rd party performance or the ongoing use of the ROW.

Tribes are entering into MOAs with oil and gas companies. Also, Tribes enter into MOAs with IHS/BIA/Tribe for water and sewer lines.

Rights of Way and Easements Significant Notes

- a) Many BIA, State and County roads have been constructed on reservations and across Trust lands without approved ROW applications and compensation to affected land owners.
- b) ROW applications are often processed without providing applicants with permission to use adjacent lands for the purposes of construction and maintenance.
- c) ROWs are not consistently recorded in the servicing LTRO/TSO. This is especially true when Tribal monies are used to fund Tribal projects; in those cases, Departmental processes are often avoided entirely.
- d) Beneficiaries are not being consistently consulted on, or compensated for, the secondary use ROWs and easements.



Rights of Way and Easements Detail Description

Preliminary Research (ROW) (T.4.1)

Starts with: Receive application for ROW or easement from an applicant or
 Receive initial Tribal resolution regarding ROW or easement.

Ends with: Issue authorization to survey to the applicant or
 Issue notice of deficiencies or denial to the applicant.

The application is reviewed to ensure it is largely complete and accurate and that any required Tribal consent is provided. If a Tribal consent does not accompany the application, BIA sends a notice to the Tribe requesting a resolution indicating their initial intent and providing consent to survey. If the consent is provided, or no Tribal lands are impacted by the ROW, BIA issues an authorization to survey Trust lands.

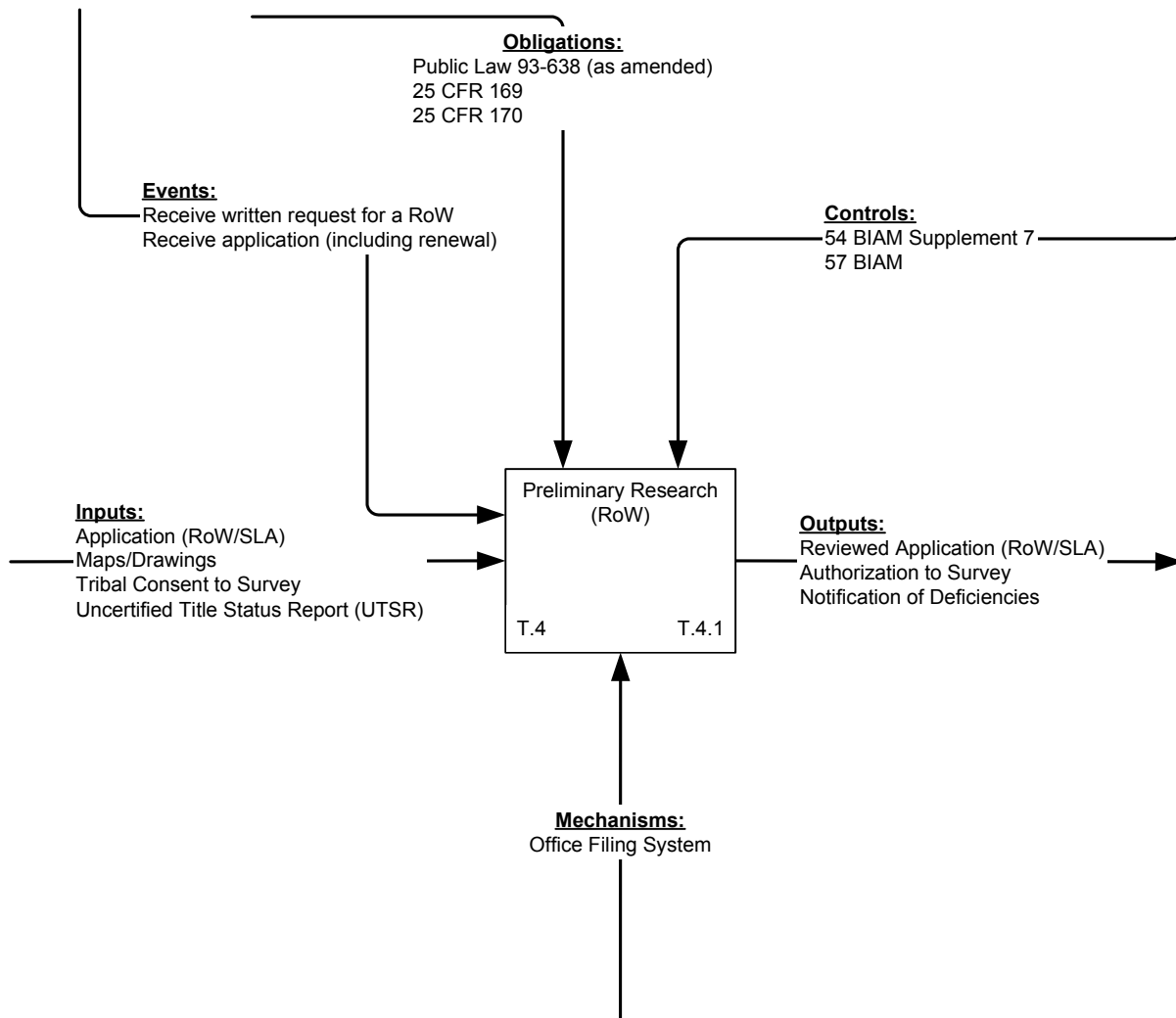


Figure 4.3.2- 22 Preliminary Research (RoW) IDEF(0)



Produce Schedule of Land Owners (T.4.2)

Starts with: Receive survey from applicant.
Ends with: Issue Schedule of Landowners to applicant.

Upon receiving a survey of the Trust lands impacted by a ROW, the Agency obtains and consolidates individual TSRs for each impacted parcel to obtain a certified schedule of all land owners with an interest in properties affected by a ROW or easement.

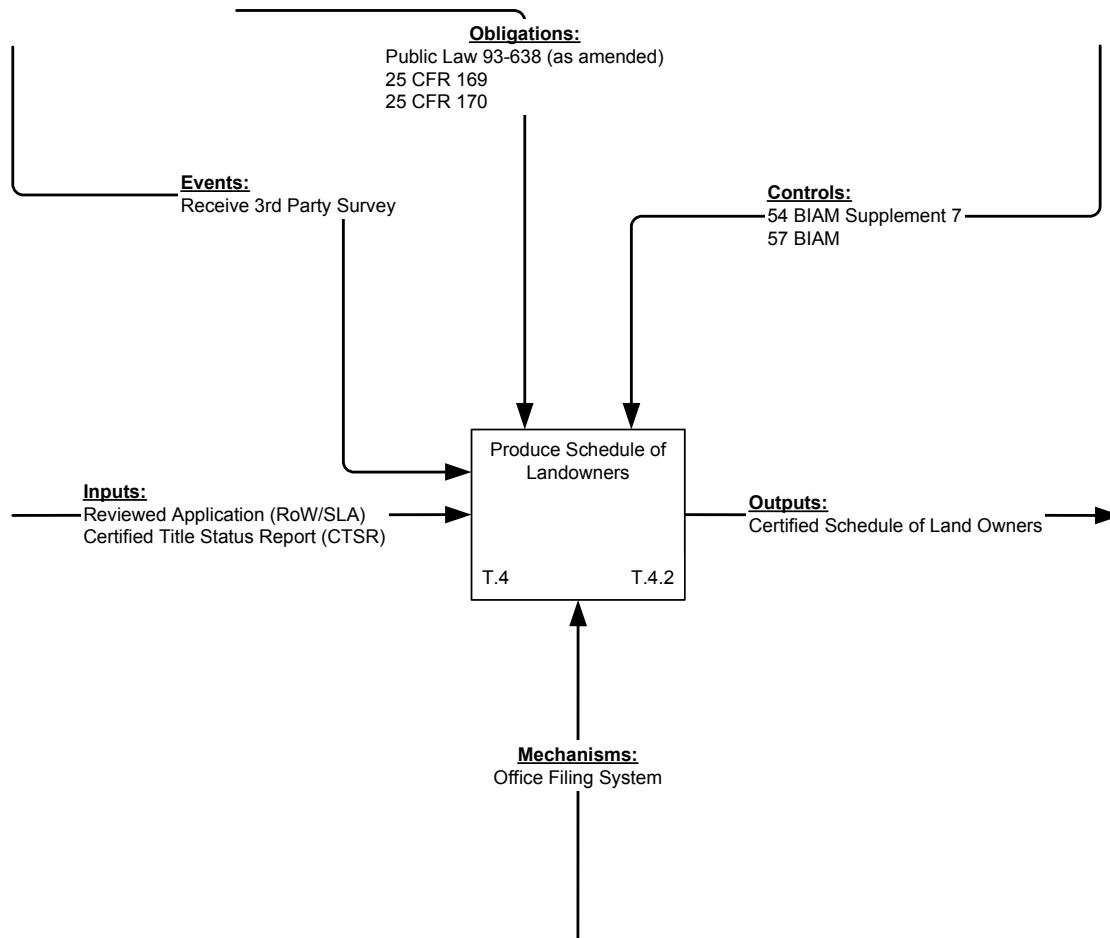


Figure 4.3.2- 23 Produce Schedule of Land Owners IDEF(0)



Technical Research (ROW) (T.4.3)

Starts with: Receive certified title information from LTRO/TSO.
Ends with: Issue Agency recommendation regarding ROW.

Technical research establishes the economic and environmental impact of the proposed ROW or easement. This research includes environmental and archeological assessments and a review of the income producing potential of all impacted parcels. Using this information, the Agency prepares a recommendation as to whether the ROW should be approved. The recommendation includes an assessment of the consideration that should be required in return for beneficiary consent. This recommendation is then forwarded to the beneficiaries for use in subsequent negotiations.

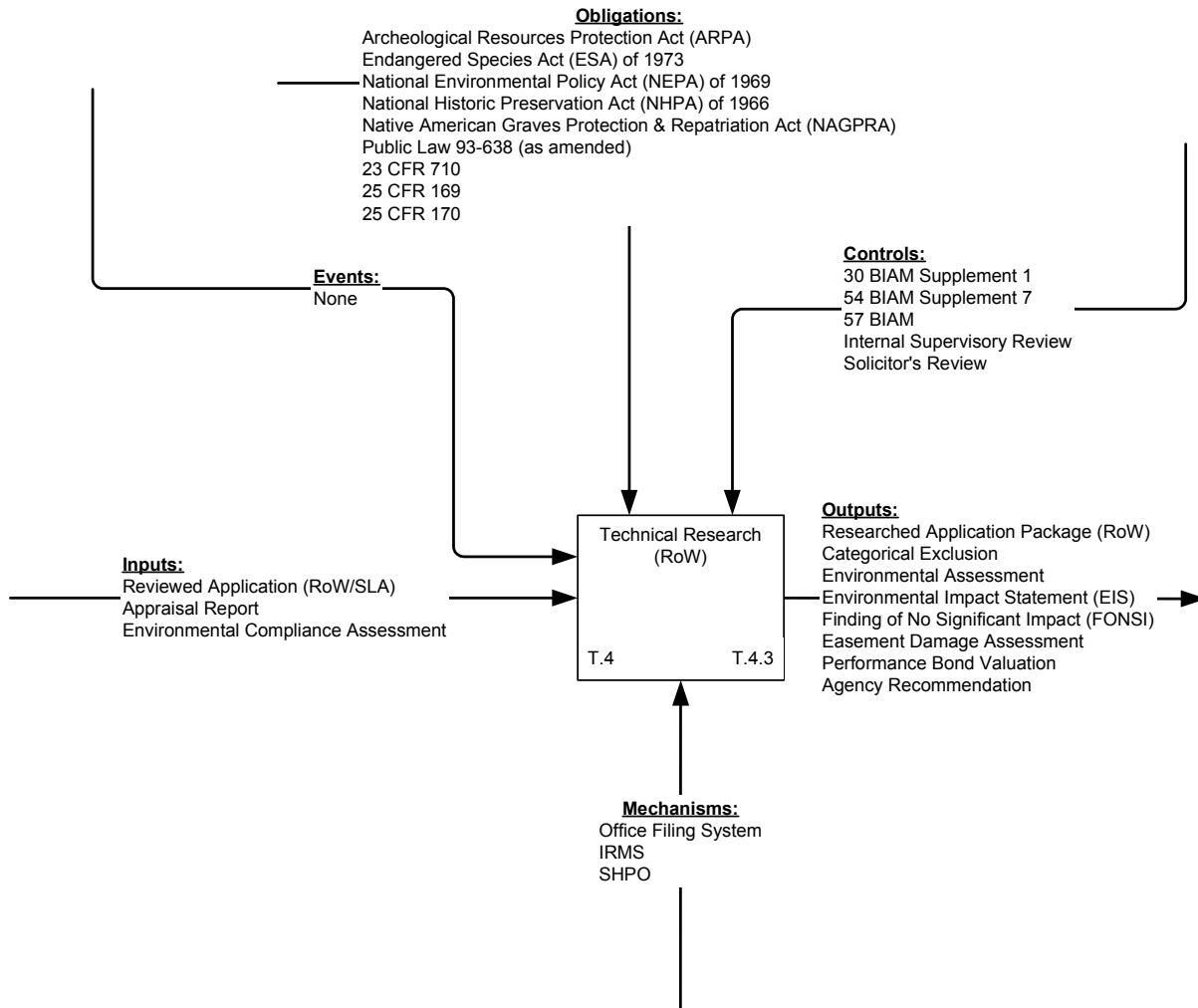


Figure 4.3.2- 24 Technical Research (ROW) IDEF(0)



Beneficiary Negotiations (ROW) (T.4.4)

Starts with: Receive Agency recommendation regarding ROW or easement.

Ends with: Issue beneficiaries' notices of intent regarding ROW or easement.

During beneficiary negotiations, landowners establish the terms and conditions under which the proposed ROW will be approved. Beneficiaries then send a notice to BIA indicating whether they consent to the ROW. This consent must be accompanied by a statement of all relevant terms and conditions.

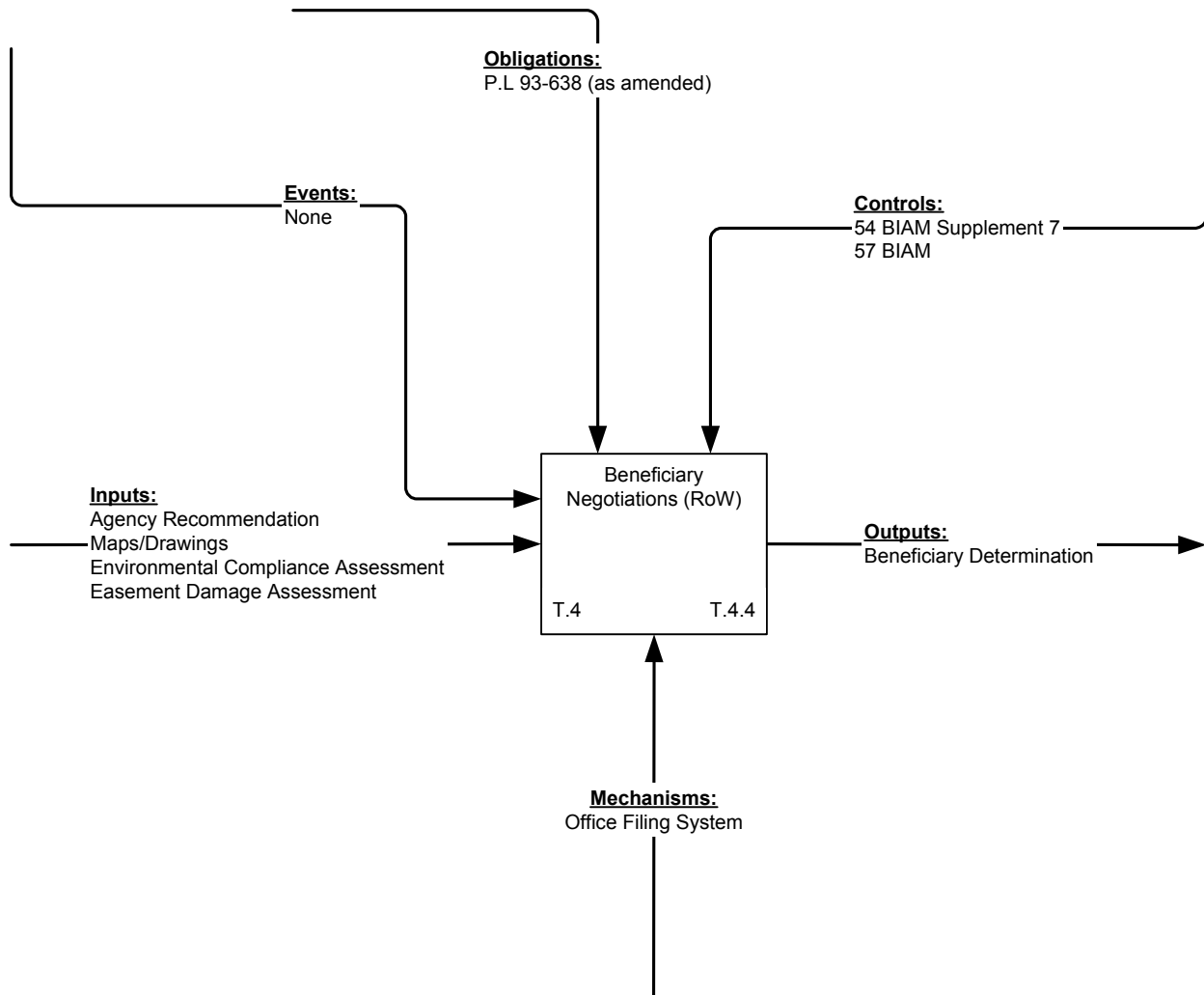


Figure 4.3.2- 25 Beneficiary Negotiations (ROW) IDEF(0)



Establish DOI Intent (ROW) (T.4.5)

Starts with: Receive beneficiaries' notices of intent regarding ROW or easement.
Ends with: Issue BIA determination regarding transaction to the applicant.

Upon receiving notice of the beneficiaries' intent regarding the ROW, and assuming the intent is to proceed, BIA makes a determination whether the agreed terms and conditions are in the best interest of the beneficiaries. In doing so, the Line Official acts on behalf of the minority interest. If a majority of the interest holders withhold their consent, or if the Line Official determines that the ROW, or the terms and conditions under which the ROW was applied for, are not in the best interests of the beneficiaries, a notice of denial is sent to the applicant.

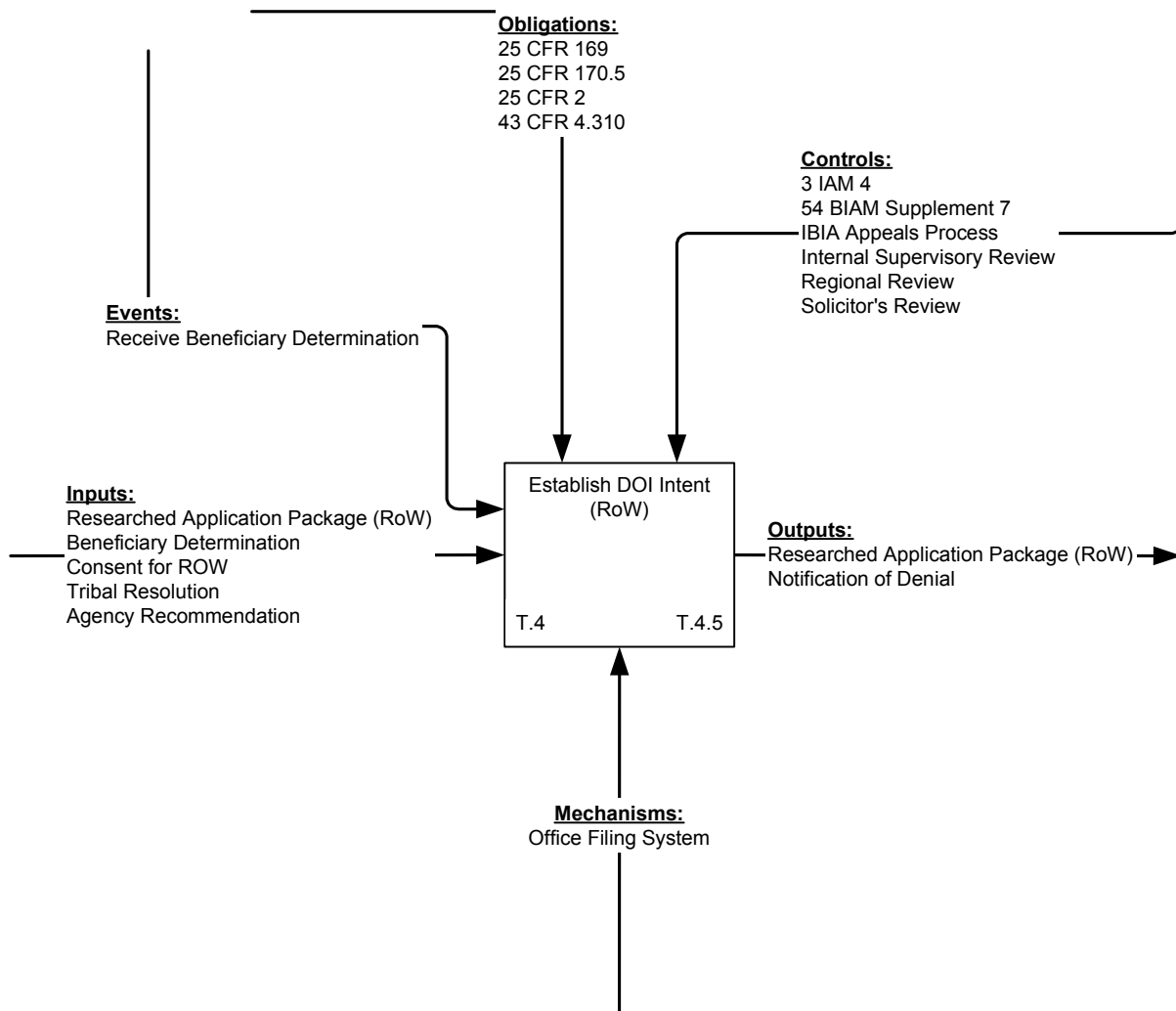


Figure 4.3.2- 26 Establish DOI Intent (ROW) IDEF(0)



Produce Grant of Easement (T.4.6)

Starts with: Issue BIA intent to proceed with ROW or easement or
Receive IBIA order to proceed with ROW or easement.

Ends with: Issue notice to proceed to the applicant and request recordation of the ROW.

In the event that the Department approves, or is ordered to approve, the ROW, a Grant of Easement is signed and BIA issues a notice to proceed to the applicant. Any monies required in consideration for the ROW are collected and deposited in the beneficiaries' Trust accounts.

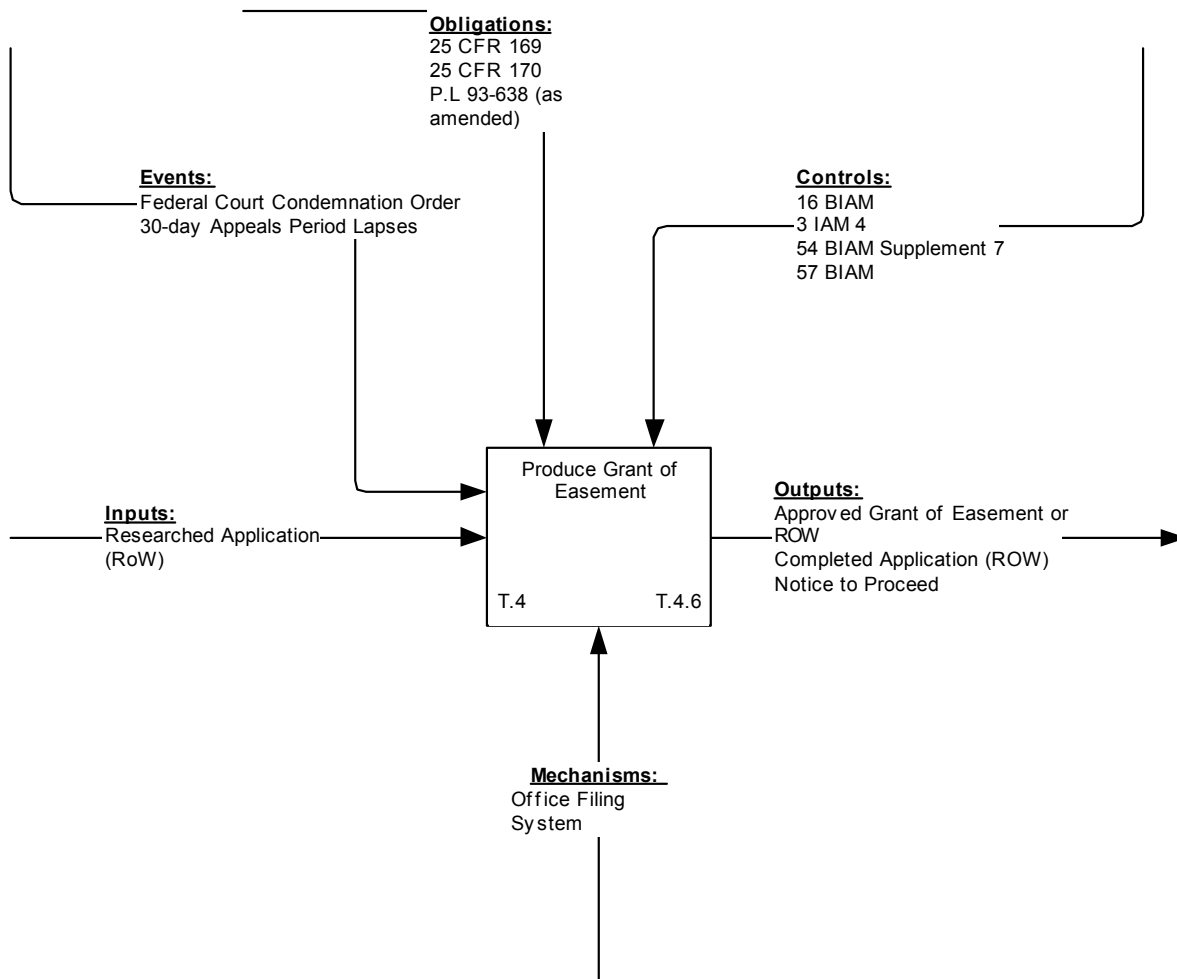


Figure 4.3.2- 27 Produce Grant of Easement IDEF(0)



Compliance Assessment (ROW) (T.4.7)

- Starts with: Receive affidavit of completion from applicant or
Receive beneficiary complaint.
- Ends with: Issue assessment report to the interested parties or
Issue notice of termination to the applicant.

Compliance assessments are performed periodically during the course of construction, upon the receipt of an affidavit of completion from the applicant or upon receipt of a complaint from a beneficiary. Assessments are performed to determine the extent to which construction and maintenance activities, and ongoing use, comply with the terms and conditions of the agreement or to determine whether a trespass may have been committed during construction. The compliance assessment is complete when an assessment report is issued.

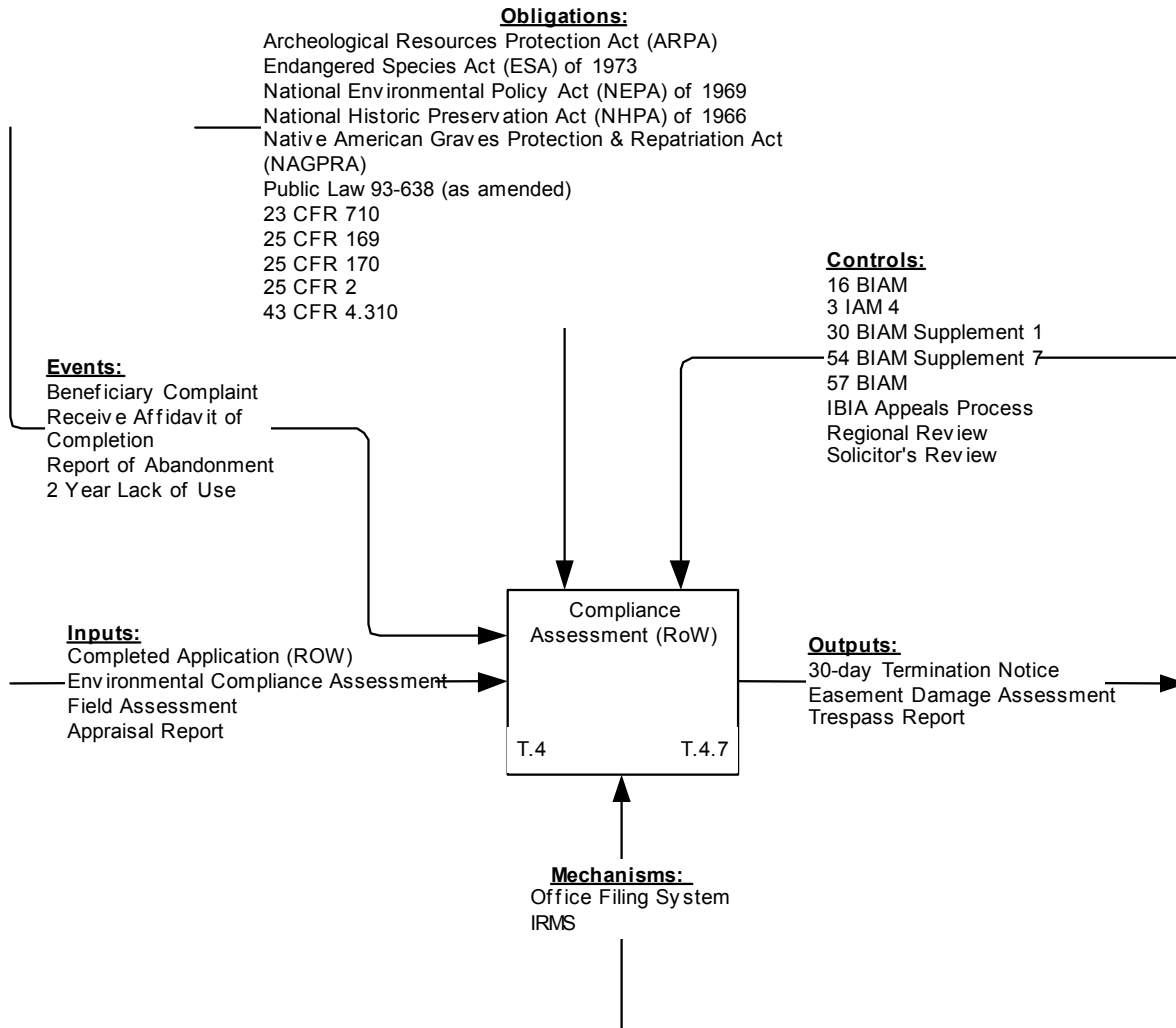


Figure 4.3.2- 28 Compliance Assessment (ROW) IDEF(0)

Terminate (ROW) (T.4.8)

Starts with: Expiration of 30-day notice of termination.
 Ends with: Request to remove ROW encumbrance.

Upon the expiration of a ROW or the expiration of a 30-day show cause notice, BIA will take the steps to terminate a ROW agreement. This process is complete when the documents required to terminate the ROW (and remove the encumbrance) are forwarded to the LTRO/TSO for recordation and encoding.

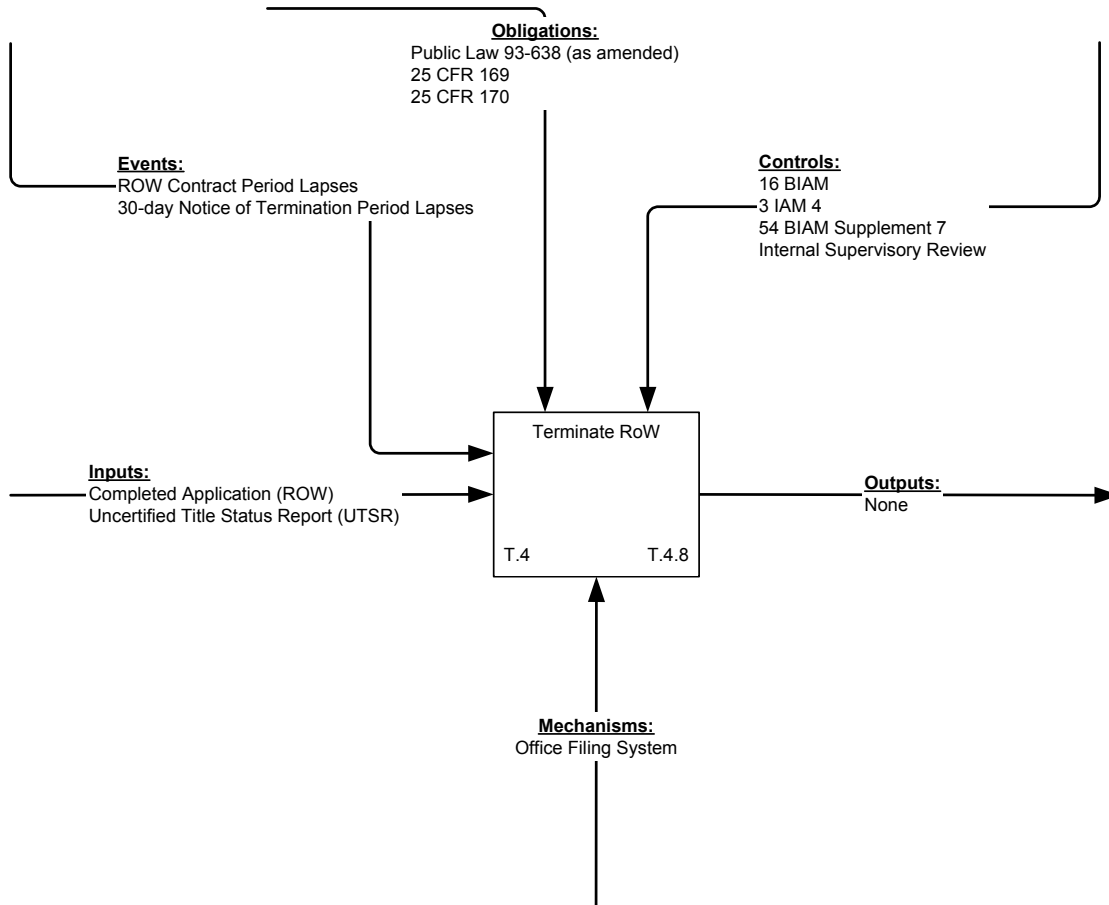


Figure 4.3.2- 29 Terminate ROW IDEF(0)



4.3.2.6 Mortgages and Assignments (T.5)

Starts with: Receive request for a mortgage or assignment from a beneficiary or
Receive notice of loan satisfaction from the lending institution or
Receive notice of default or foreclosure from the lending institution.
Ends with: Approve changes to title encumbrances.

Beneficiaries mortgage Trust lands, or assign income associated with Trust lands, in order to obtain financing for residential or commercial projects. Upon receipt of an initial request for a mortgage or assignment, a certified TSR is obtained for the affected parcel. This TSR is reviewed to verify the beneficiary's Trust interests and to identify encumbrances that would preclude the beneficiary from using the Trust interest as collateral for a loan. During this time, BIA makes an assessment of the beneficiary's ability to meet loan obligations and issues a statement indicating whether they will be able to honor a mortgage or assignment should it be approved by the lending institution. In the event that the Department intends, or is ordered, to honor the lien, a copy of the Certified TSR, together with the commitment of mortgage, is forwarded to the lending institution.

If the lending institution approves the mortgage, BIA reviews the terms and conditions of the lien and makes a formal determination indicating whether the lien will be honored. In the event that Department approves, or is ordered to honor, the lien, mortgage documents are forwarded to the LTRO/TSO for recordation and a new Certified TSR, documenting the lien, is issued and sent to the lending institution. When the lien is satisfied, a third Certified TSR is produced documenting the removal of the lien.

Should the lending institution issue a notice of default, BIA verifies the extent of the default (not to exceed the original obligation) and issues a Kennerly notice documenting the findings. Unless otherwise ordered, BIA then authorizes OST/OTFM to redirect any Trust income used as collateral to the lending institution until the default has been remedied. At that point, collateralized income is once again deposited in the beneficiary's Trust accounts and the beneficiary assumes responsibility for the lien.

Upon receiving notice of a foreclosure, BIA first attempts to identify a beneficiary that can assume the lien in exchange for the Trust interest. If an eligible candidate can be found, a Trust to Trust transaction will be initiated and the lien will be transferred to the new interest holder. In the event that no eligible candidate can be found, the foreclosure is processed and title to the Trust lands is assigned to the lending institution.

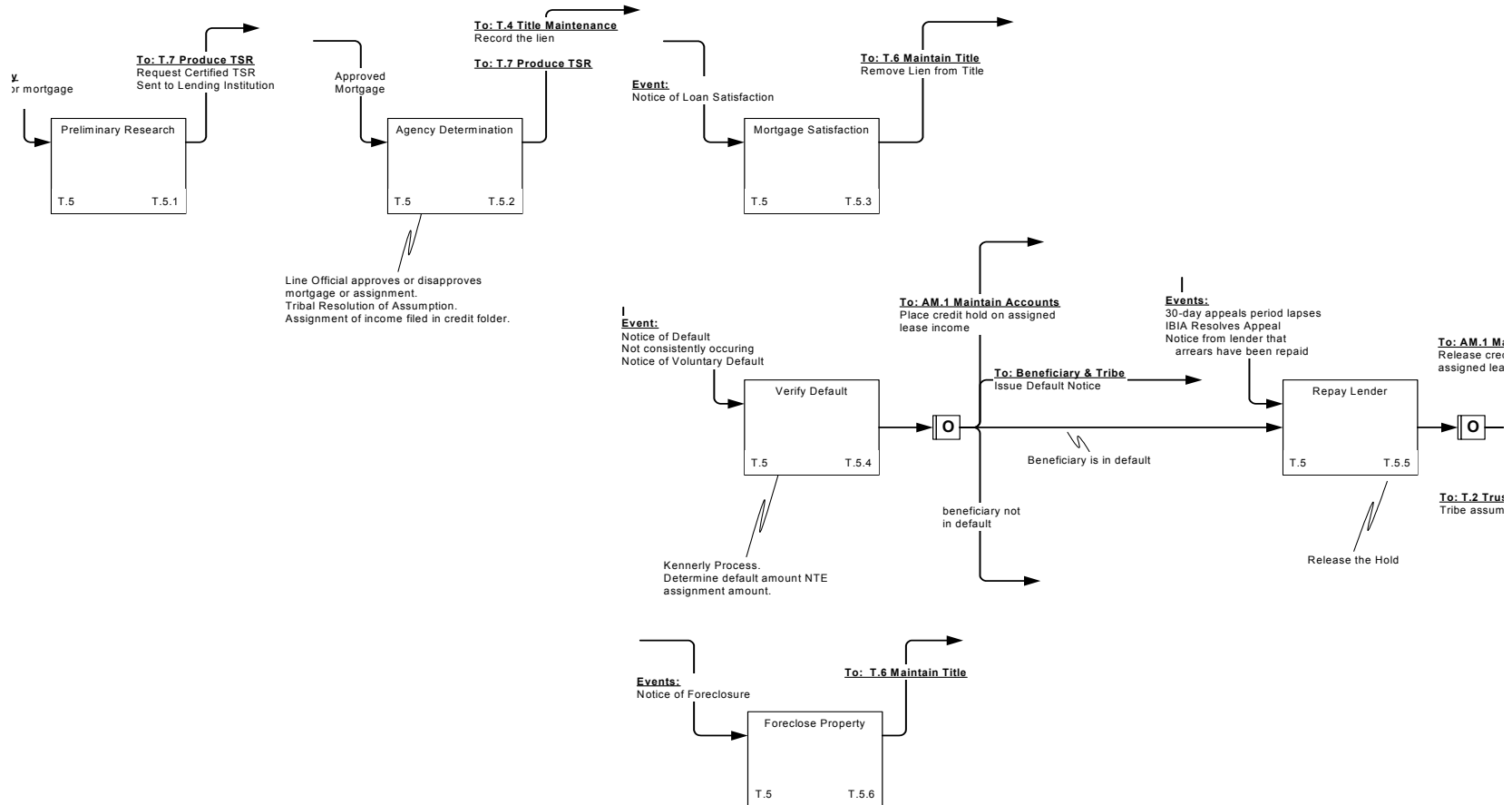


Figure 4.3.2- 30 Mortgages and Assignments IDEF(3)



Beneficiary Involvement for Mortgages and Assignments

Beneficiaries apply for loans and negotiate financing with lending institutions. Beneficiaries are responsible for the terms of mortgage or assignment. In the event of a default or foreclosure, Tribal governments may negotiate a settlement with both the individual beneficiary and the lending institution to preserve Trust lands.

Mortgages and Assignments Significant Notes

- a) Lending institutions often fail to notify the Department when a beneficiary becomes in arrears on a lien.
- b) The December 5, 2001 Temporary Restraining Order and the subsequent Consent Order have created an extensive backlog of requests for Certified TSRs. The inability to obtain TSRs on a timely basis delays closings and impedes beneficiaries' ability to obtain credit.
- c) Many Tribes include standard language in the mortgage document stating that the Tribe will assume a tribal member's mortgage in the event of default or foreclosure.



Mortgages and Assignments Detail Description

Preliminary Research (M&A) (T.5.1)

Starts with: Receive request for mortgage or assignment from a beneficiary.

Ends with: Issue commitment of mortgage to the lending institution or
Issue notice of denial to the beneficiary.

During preliminary research, BIA determines whether there is an encumberable interest in the properties, income or leasehold being used as collateral and evaluates the application for completeness and accuracy. BIA then performs the screening required to determine whether the individual has the ability to assume the responsibilities of the lien, counsels the applicant on the economic implications of the lien and issues a statement to the lending institution indicating whether the Department will honor a mortgage if approved.

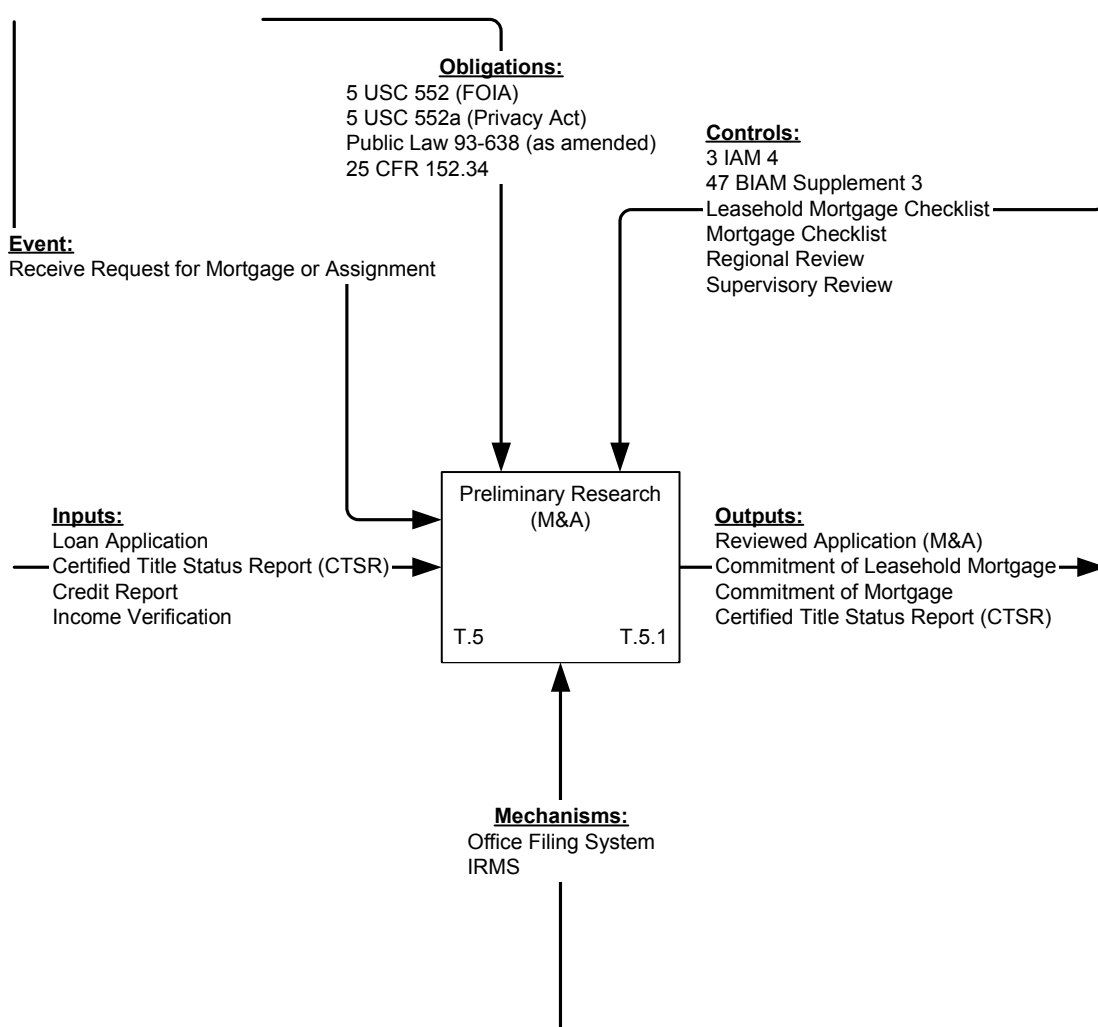


Figure 4.3.2- 31 Preliminary Research (M&A) IDEF(0)



Agency Determination (M&A) (T.5.2)

Starts with: Receive approved lien from lending institution.

Ends with: Issue Certified TSR identifying lien as an encumbrance to the lending institution or Issue notice of denial to the interested parties.

The Agency reviews the terms and conditions of the mortgage to ensure they are consistent with initial expectations prior to formally approving the lien.

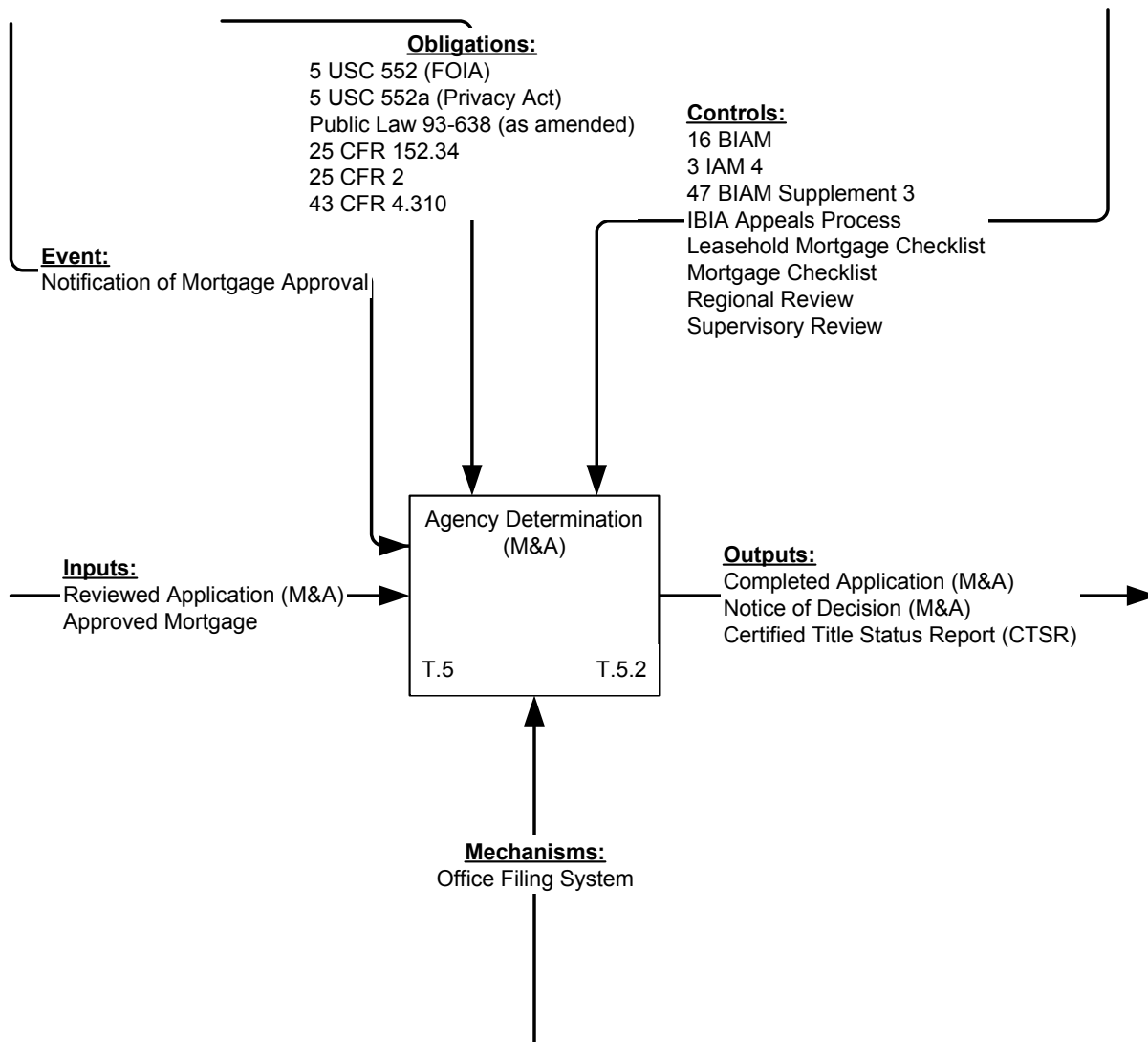


Figure 4.3.2- 32 Agency Determination (M&A) IDEF(0)



Mortgage Satisfaction (T.5.3)

Starts with: Receive notice of satisfaction from the lending institution.

Ends with: Issue Certified TSR documenting removal of lien to the beneficiary.

Upon receiving notice of loan satisfaction from the lending institution, BIA takes steps to remove the lien and sends a Certified TSR to the beneficiary indicating that the encumbrance has been removed.

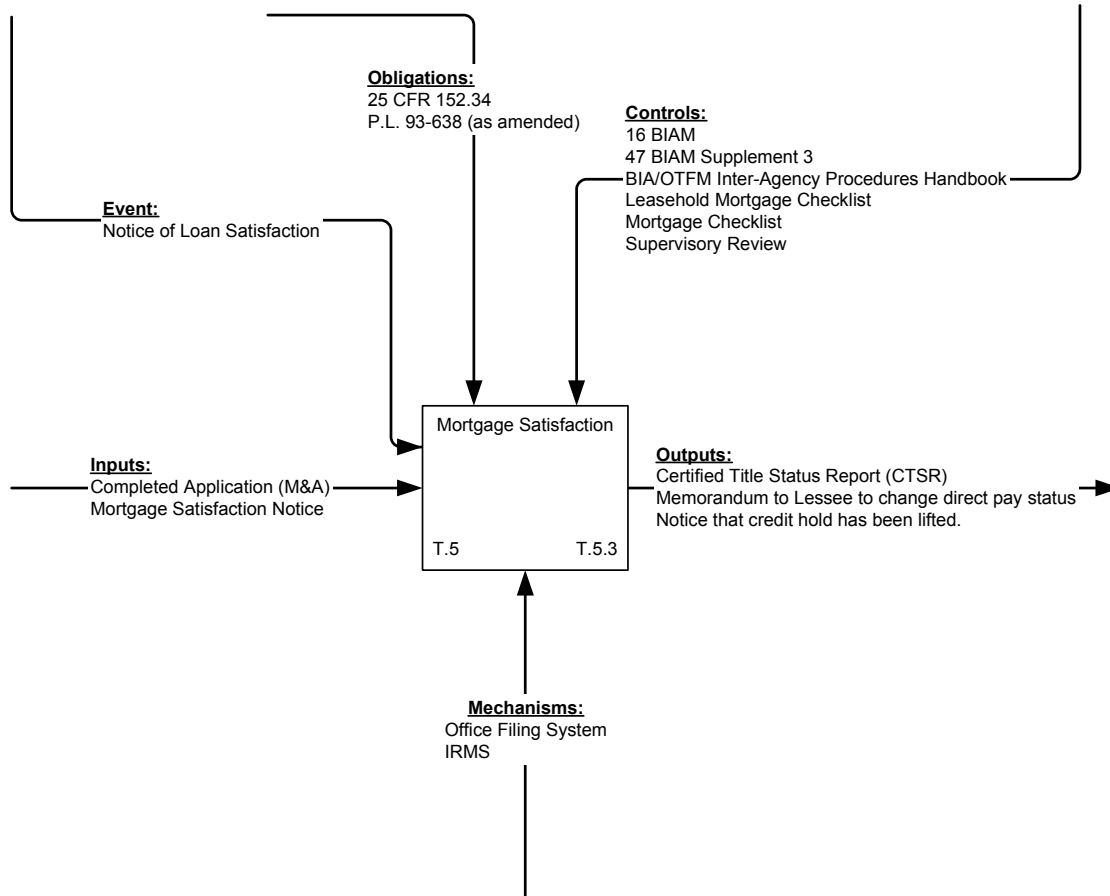


Figure 4.3.2- 33 Mortgage Satisfaction IDEF(0)

Verify Default (T.5.4)

Starts with: Receive notice of default from the lending institution.
 Ends with: Issue Kennerly memorandum to the beneficiary.

Upon the receipt of a notice of default from a lending institution, BIA takes the steps required to verify the nature and extent of the default (not to exceed the original obligation of the loan) and, if appropriate, issues a Kennerly notice (due process) to the beneficiary indicating the extent of the default and the steps to be taken to satisfy the arrear.

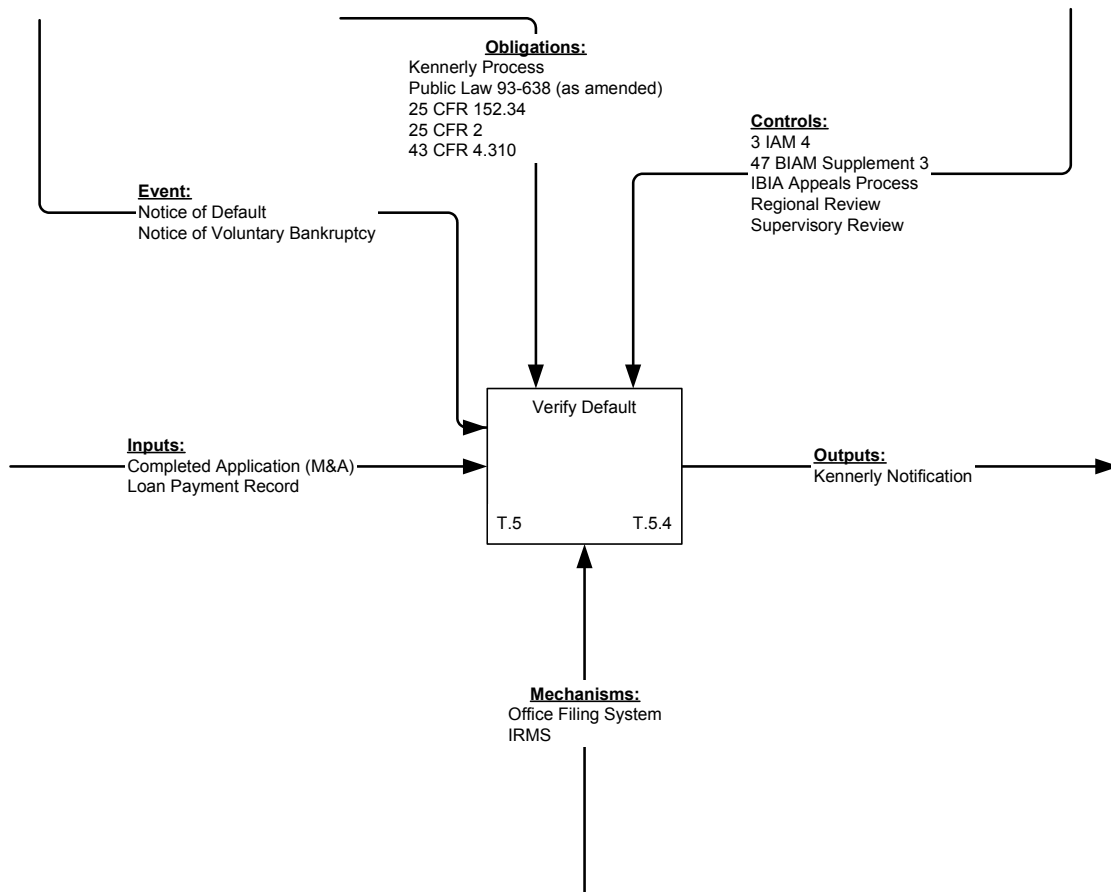


Figure 4.3.2- 34 Verify Default IDEF(0)



Repay Lender (T.5.5)

Starts with: Expiration of 30-day appeals period.

Ends with: Submit authorization to place credit hold on affected accounts and
Submit authorization to disburse Trust income to lending institution.

In the event of a default on a loan for which Trust income was used as collateral, BIA takes the steps required to place a credit hold on the beneficiary's Trust accounts and arranges for the associated Trust income to be paid to the lending institution until such time as the arrears have been satisfied. At that point, the credit hold is lifted and the beneficiary is once again responsible for satisfying the loan.

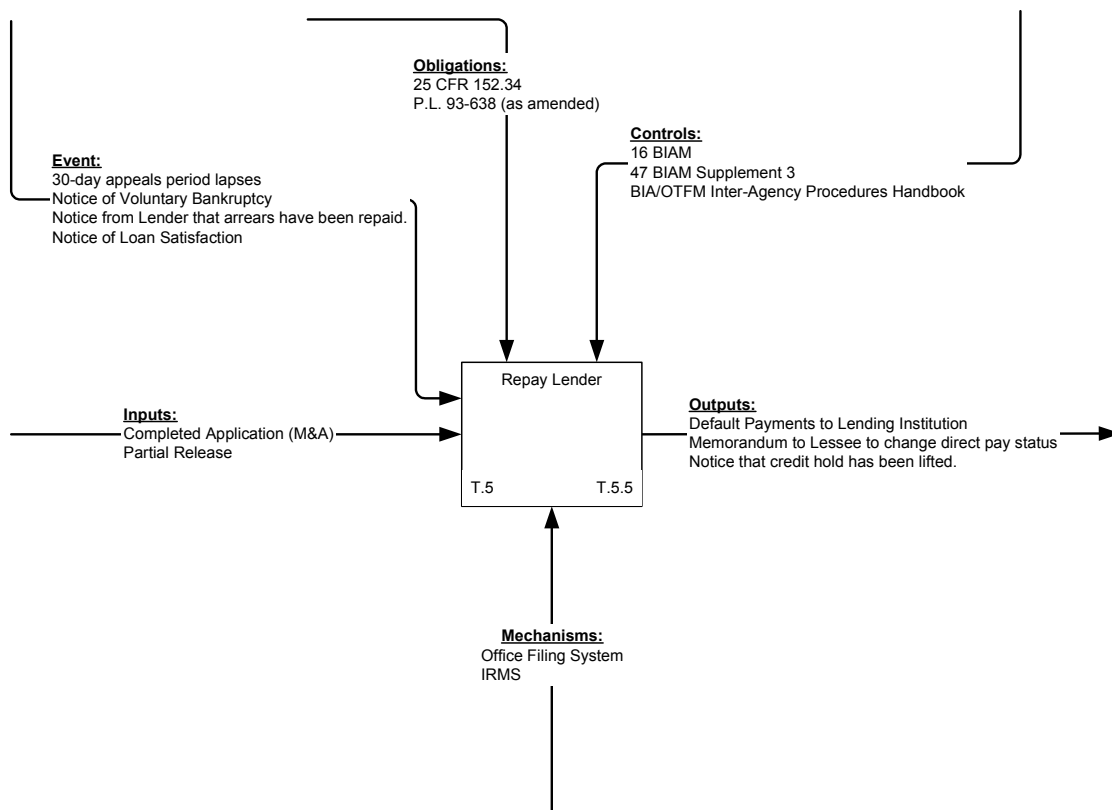


Figure 4.3.2- 35 Repay Lender IDEF(0)



Foreclose Property (T.5.6)

Starts with: Receive notice of foreclosure from the lending institution.

Ends with: Issue conveyance document and certified TSR documenting removal of Trust restrictions to the lending institution.

In the event of a notice of foreclosure, BIA notifies the Tribe and attempts to find a co-owner willing to assume responsibility for the lien in return for the Trust interest that was used as collateral. If successful, a Trust to Trust transfer is initiated and the new owner (individual or Tribal) assumes the lien. Otherwise, BIA takes the steps required to transfer title to the property to the lending institution.

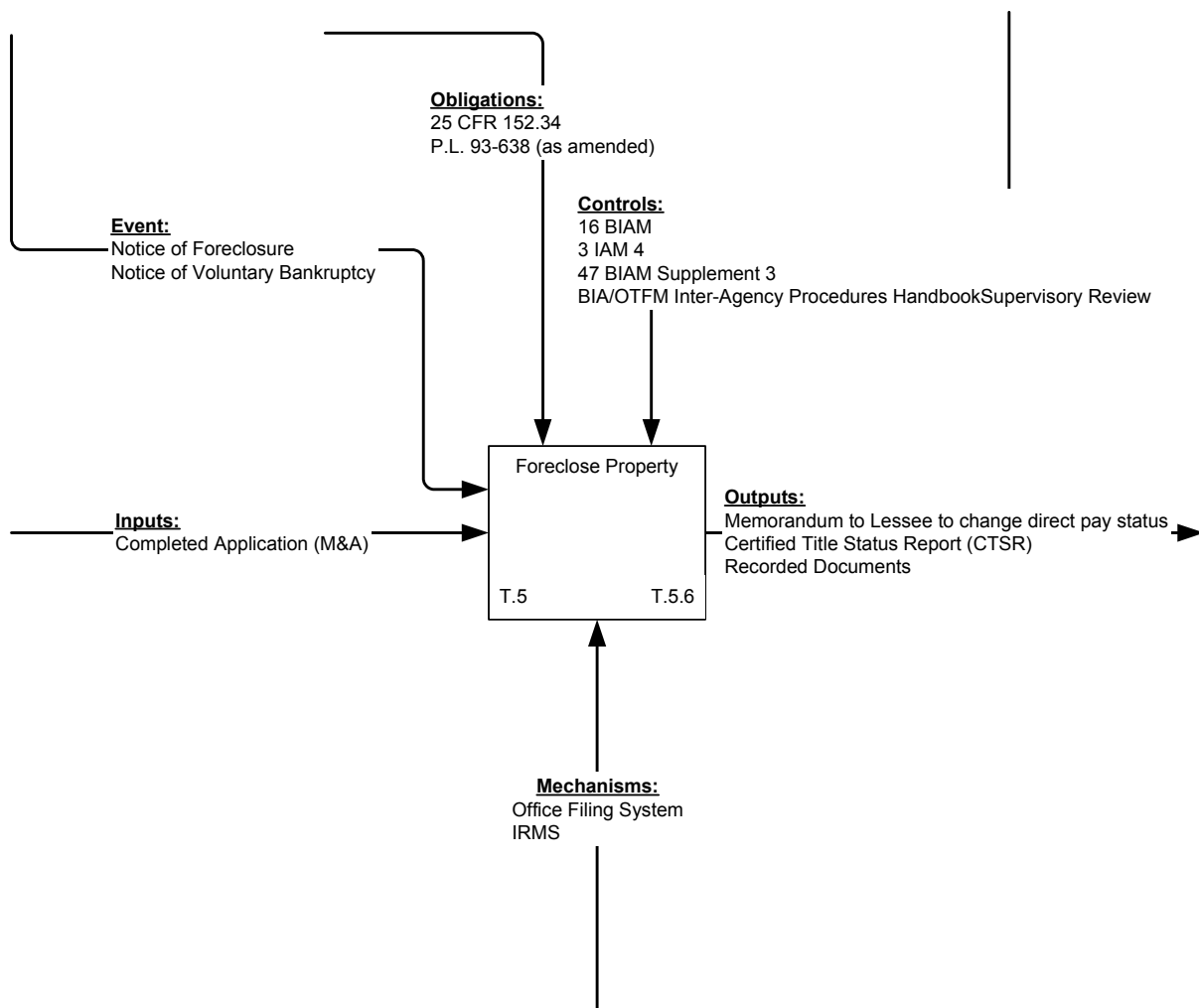


Figure 4.3.2- 36 Foreclose Property IDEF(0)



4.3.2.7 Maintain Title (T.6)

Starts with: Receive package for an approved, title-affecting transaction or
Receive updated survey information from BLM or
Receive Ducheneaux order from OHA.

Ends with: Update LTRO/TSO and Agency/Tribal systems of record.

Title maintenance includes the processes associated with reviewing, recording, imaging/microfilming, posting and encoding title-related documents. Maintain title begins when a title-related transaction is approved by the DOI. The transaction package is reviewed to identify all documents that must be forwarded to the servicing LTRO/TSO for recordation and encoding. Unless new tract identifiers are required, Agency staff will update local ownership, realty and monetary interest records once the documents have been forwarded to LTRO/TSO.

Upon receiving the documents, the LTRO/TSO logs and verifies the accuracy of each document. Minor issues are addressed administratively. If significant errors are found, the documents are returned to the originating office for corrections.

Reviewed documents are recorded, indexed and imaged/microfilmed for safekeeping. The majority of these documents are being stored on microfilm and the LTRO/TSOs are currently exploring digital imaging options. After recording, non-probate originals are returned to the originating office. Working copies of all documents are used for subsequent maintenance activities. These activities include updates to the physical land index and to the electronic system(s) of record.

LTRO/TSO maintenance activities were heavily curtailed after the Temporary Restraining Order, and the subsequent Stop Order, issued on December 5, 2001. As a result, LTRO/TSOs have significant workload queues and do not expect to be current with Title maintenance until late in 2003.

Ducheneaux orders result from challenges to an individual's certified record of ownership. These challenges typically arise as a result of probate proceedings (although they can be instituted at any time) and are addressed by OHA. In the event that the record is found to be in error, the Administrative Law Judge orders a correction to the record of ownership. This correction must be completed, and a new certified record produced, before the original activity can proceed.

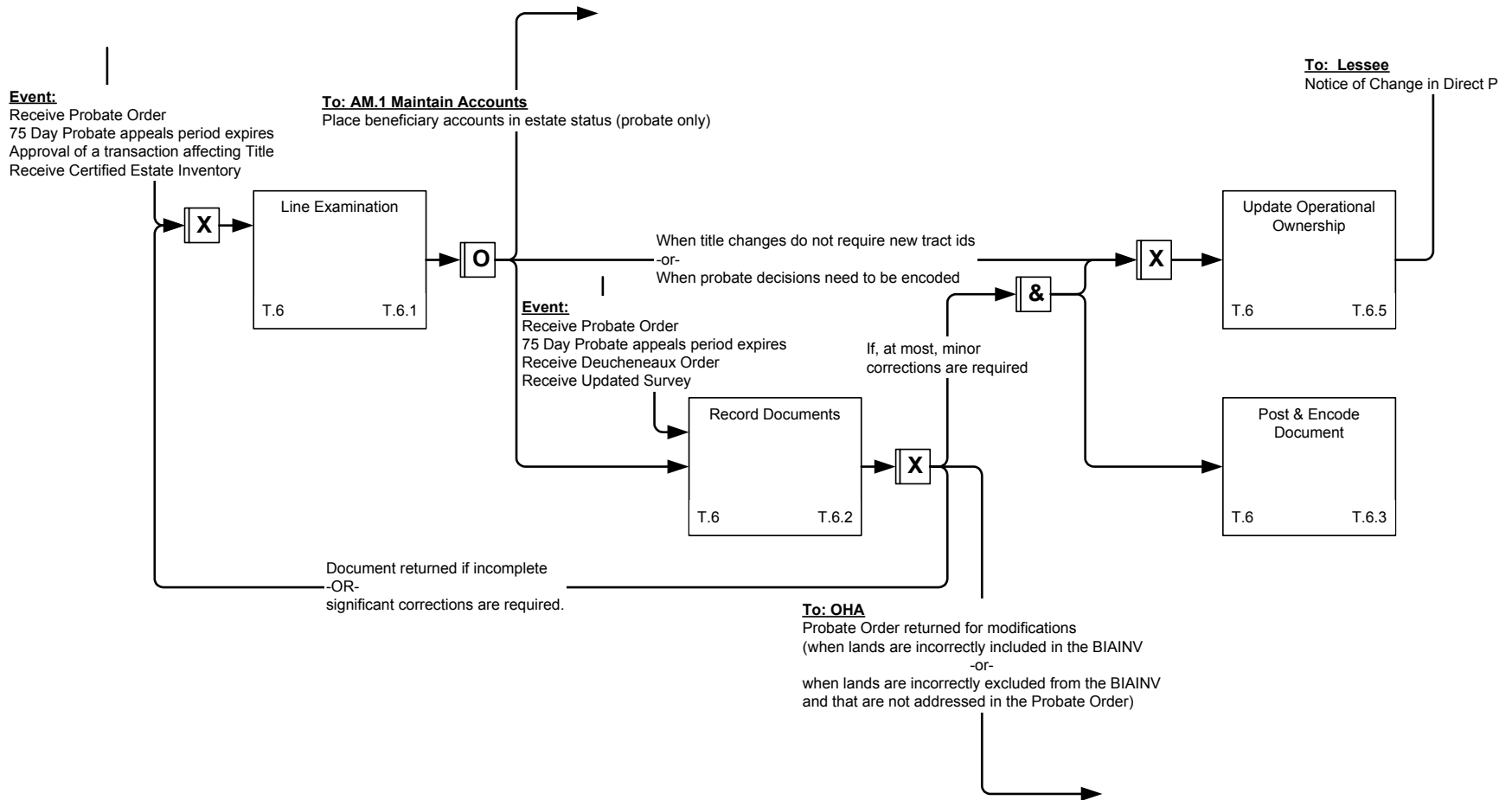


Figure 4.3.2- 37 Maintain Title IDEF(3)



Beneficiary Involvement for Maintain Title

None.

Maintain Title Significant Notes

- a) LTRO/TSOs have implemented stand-alone systems to track the status recordation, posting and encoding activities.
- b) The Department currently uses more than 10 information systems to maintain title-related information. These mechanisms often contain overlapping and inconsistent information. In addition, many Agencies still rely on manual title records and have limited means of determining when title-related changes might affect other Agencies and Regions.
- c) There are no consistent criteria for identifying the set of documents that need to be recorded in an LTRO/TSO.
- d) LTRO/TSO Managers are currently identifying opportunities to standardize policies and procedures.
- e) Title maintenance is being performed at several levels. LTRO/TSOs maintain certified title. Agencies and Tribes maintain operational title records. Certified title maintenance often lags behind operational updates. There are no mechanisms or controls in place to ensure that title changes are consistently implemented.



Maintain Title Detail Description

Agency Examination (T.6.1)

Starts with: Receive approved, title-affecting transaction.

Ends with: Forward recording package to LTRO/TSO.

Agency realty personnel review the approved title-related application to identify the documents that need to be forwarded to the servicing LTRO/TSO for recordation and encoding.

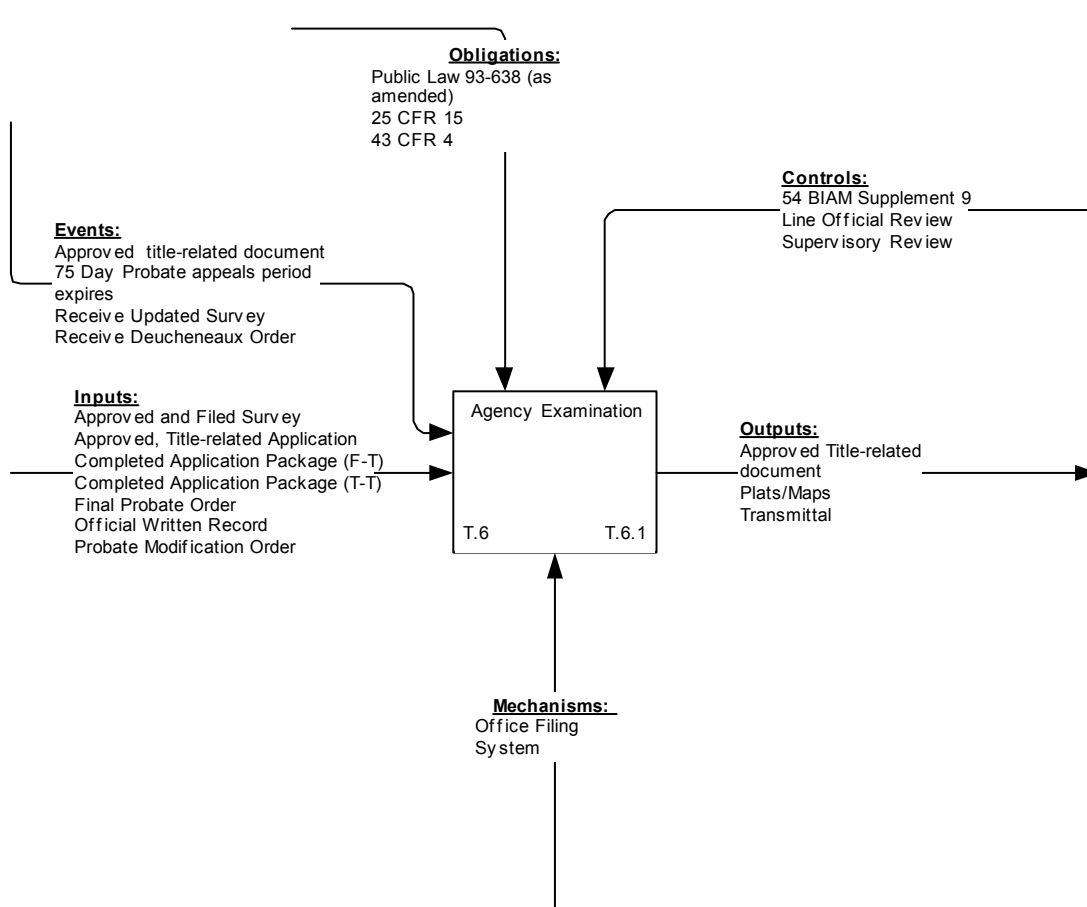


Figure 4.3.2- 38 Agency Examination IDEF(0)



Record Documents (T.6.2)

Starts with: Receive documents to be recorded from BIA Agency/Field Office.
Ends with: Image or microfilm documents for safekeeping.

Upon receipt of documents to be recorded, the servicing LTRO/TSO reviews the documents for errors, records the documents, verifies owner identification numbers and microfilms the document.

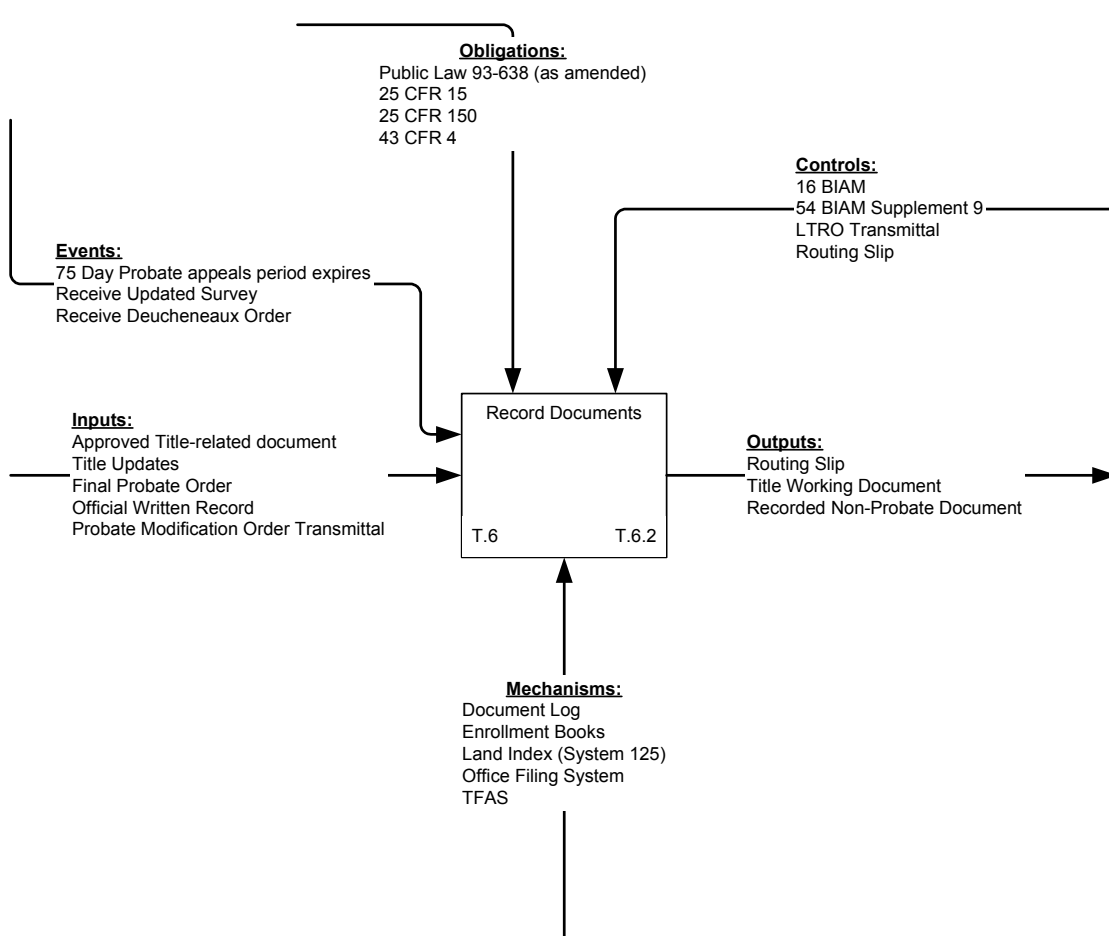


Figure 4.3.2- 39 Record Documents IDEF(0)



Post & Encode Documents (T.6.3)

Starts with: Receive working copy of document to be encoded.

Ends with: Encode title changes into LTRO/TSO system of record.

After title-related documents are recorded, the land index and the electronic systems of record are updated for all affected Trust parcels.

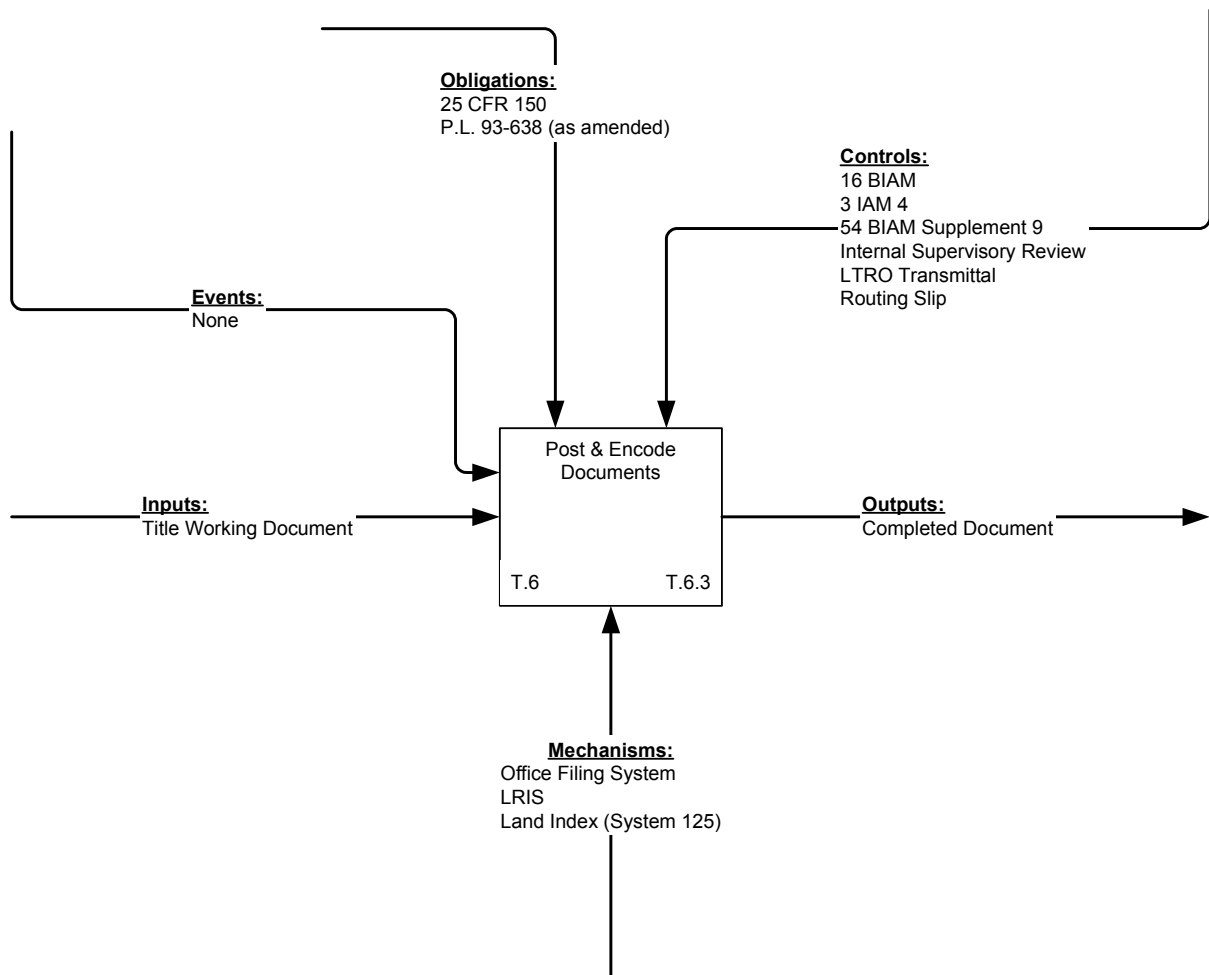


Figure 4.3.2- 40 Post & Encode Documents IDEF(0)



Update Operational Ownership (T.6.4)

Starts with: Receive documents to be encoded in BIA Agency/Field Office.
Ends with: Encode documents in Agency systems of record.

If the certified title maintenance does not require new tract identifiers, Agency and/or Tribal records are immediately updated to reflect the approved transaction. In the event that new tract IDs are required, Agency and Tribal updates are deferred until the certified maintenance is complete.

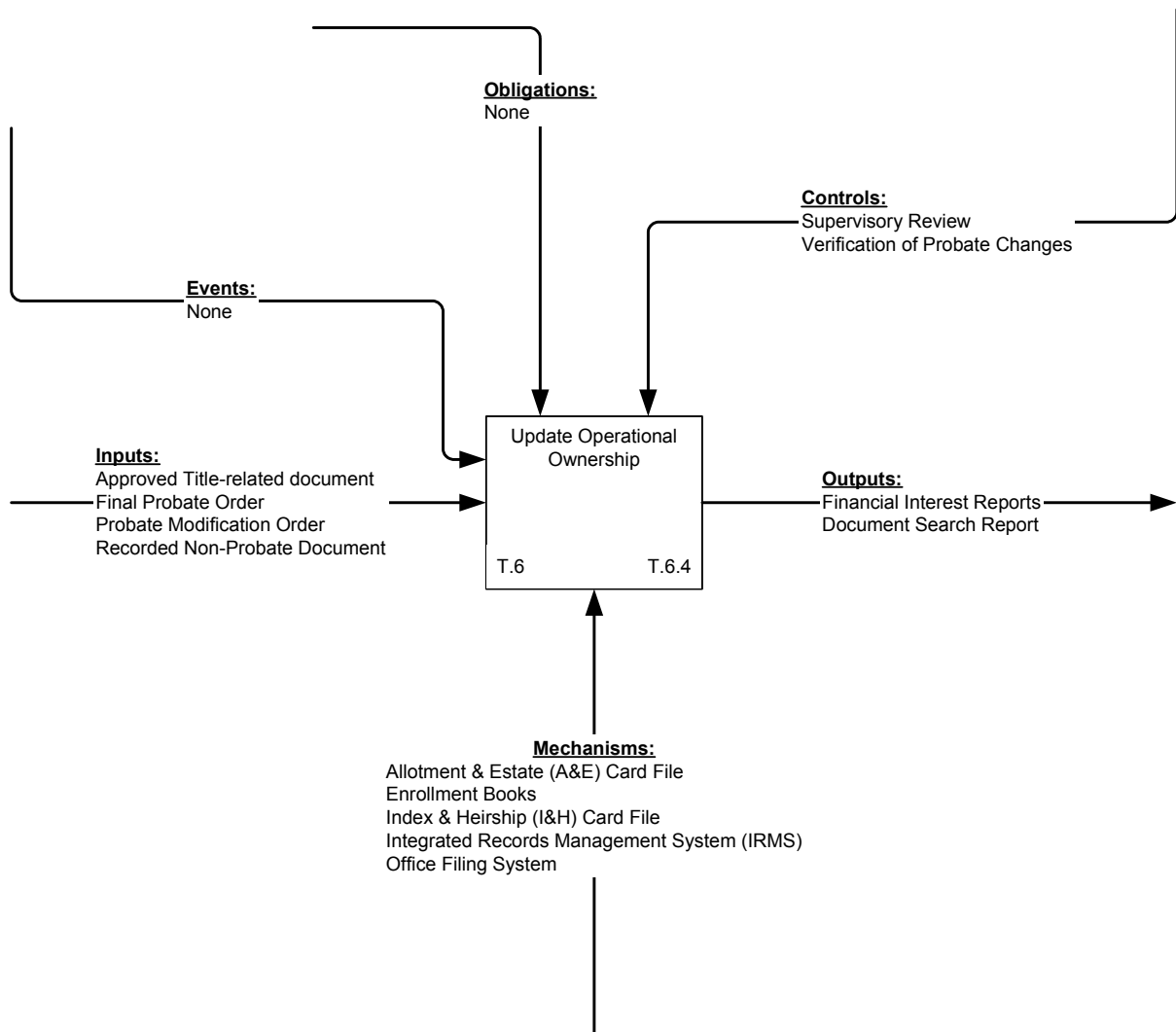


Figure 4.3.2- 41 Update Operational Ownership IDEF(0)



4.3.2.8 Produce Title Status Report (TSR) (T.7)

Starts with: Receive request for an uncertified or certified TSR from an interested party.
Ends with: Issue Title Status Report to the requestor or
Issue notice of denial to the requestor.

Review existing title records and, when a certified TSR is ordered, request any changes reflecting current ownership, encumbrances and conveyances associated with Trust/Restricted or allotted Real Property. Produce TSR begins when a request for either a certified or an uncertified TSR is received and is complete when either the requested document is returned to the originating office or, in the event that the requestor is not an interest holder in the property or otherwise authorized to obtain the report, a notification of denial has been issued.

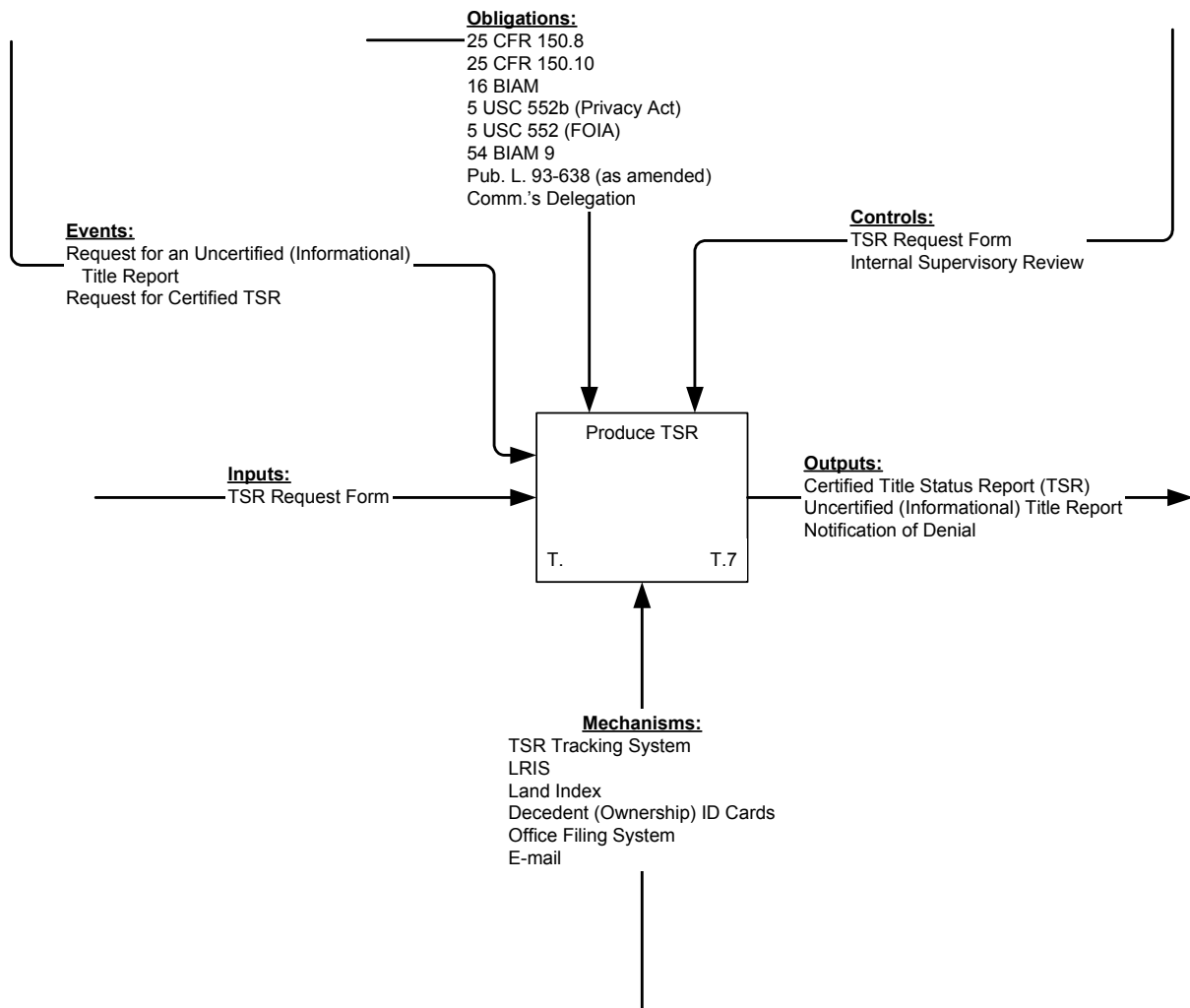


Figure 4.3.2- 42 Produce TSR IDEF(0)



Beneficiary Involvement for Produce TSR

Beneficiaries (individuals or Tribes) may request TSRs to support leasing / permitting activities, etc. Beneficiaries provide supplemental information as necessary to comply with their request for TSR.

Produce TSR Significant Notes

- a) In 1997, the formula used to establish the value of lands purchased by Tribes upon the death of a beneficiary was challenged and ultimately upheld by the U.S. Supreme Court (*Babbitt, Secretary of the Interior v. Youpee*, 519 US 234). In the *Youpee* decision, the Supreme Court held that ILCA was unconstitutional based on its assessment that the value of a parcel of land was limited to the income generated by that parcel. The Court held that, while the income is one consideration in the value of a parcel, the parcel has inherent value that cannot be discounted when lands are to be purchased by a Tribe.

Since that time, the Department's policy relative to *Youpee* has been to return escheated or purchased interests to the heirs and devisees until an acceptable appraisal formula can be developed. The full impact of *Youpee* on Probate and Title has not been quantified. Thousands of properties are affected, creating a significant demand for TSRs (and estate inventories) as lands are returned and probates are modified.

- b) There is a large backlog of TSR requests (certified and uncertified) as a result of the December 5, 2001 Temporary Restraining Order and subsequent Stop Order. LTRO/TSOs anticipate that it may be as late as 3Q 2003 before the backlog can be eliminated. This has severely impacted the LTRO/TSO's ability to produce Certified TSRs.
- c) Continuous data calls interrupt daily work activities and reduce available staff.



4.3.2.9 Produce Estate Inventory (T.8)

Starts with: Receive request for Individual Indian//Tribal Trust Interest Report or Certified Estate Inventory from an interested party.

Ends with: Issue requested report to the requestor or Issue notice of denial to the requestor.

Individual Indian/Tribal Trust Interest Reports (ITI) and Certified Estate Inventories (BIAINV) identify individual interests in Trust and Restricted property and any life estates that encumber that property. Agency staffs typically produce and review ITIs to identify corrections that must be made in order to certify the estate inventory. These corrections are requested and an updated estate inventory is produced. This inventory is then reviewed by the LTRO/TSO manager and by the Agency or Tribal staff. The LTRO/TSO manager certifies the accuracy of the asset inventory and the Agency staff certifies the valuation of those lands.

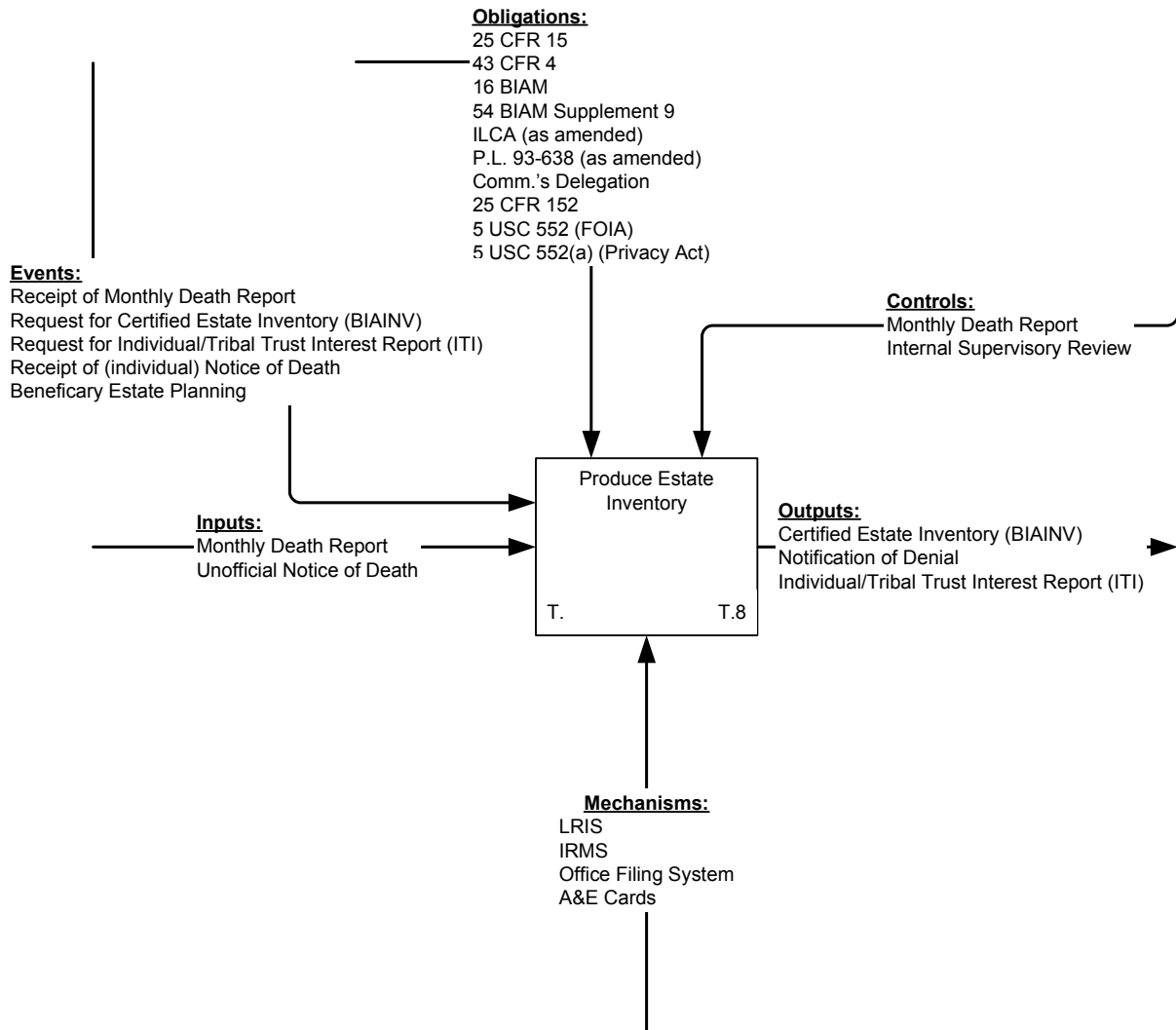


Figure 4.3.2- 43 Produce Estate Inventory IDEF(0)



Beneficiary Involvement for Produce Estate Inventory

Beneficiaries request their own ITI directly, and verify information and provide updates relative to the information contained in the document. Beneficiaries request tract history (chain of title).

Produce Estate Inventory Significant Notes

- a) LTRO/TSOs have consistently implemented stand-alone systems to track requests for estate inventories. These systems are typically distinct from the mechanisms used to monitor other LTRO/TSO activities.
- b) It is difficult to identify owner interests in properties managed by foreign agencies (agencies outside the region) or where those interests are managed by a separate system of record.



4.3.2.10 Title Services, Acquisition & Disposal Variance Tables by Region

The following variances are based upon the information provided by the participants at the work sessions. In many cases, participants did not represent all functional areas of the Indian Trust. Therefore, the variances are not necessarily all-inclusive and may represent the participants' perception of the functions being performed.

Table 4.3.2- 1 Great Plains Region Title Services, Acquisition & Disposal Variances

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Great Plains Region	Output Mechanism	MAD System is readily available with updated information inputs and reports from both the Agencies and Regional office.	Local Policy	MAD is only used in the Great Plains and Midwest Regions. Region- and Agency-specific systems of record increase the complexity and investment associated with information support.	Medium	Medium
Great Plains Region	Mechanism	DMP - Document Management Program	Local Policy	Region- and Agency-specific computer systems decrease the effort required to complete local Trust activities. These systems also, however, increase the complexity of, and investment in, information support as compared to common mechanisms.	Medium	Medium
Great Plains Region	Inter-process Relationship	Individual (Short Term) assignments are not recorded.	Procedural	While these assignments are typically for a year or	High	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				less, by not recording all liens, restrictions on title we are not maintaining a complete and accurate title record.		
Great Plains Region	Mechanism	GIS (ArcView)	Procedural	The Department benefits from the use of GIS technology for all Trust processes. However, there is no consistent application of GIS to date.	Medium	Medium
Great Plains Region	Control	Some Tribes send requests directly to LTRO/TSO. Done where there is a high level of Tribal contracting and compacting of Trust processes.	Procedural	Minimal	Low	Minor
Rosebud Sioux Tribe	Obligation	Isolated Tracts Act - Allows the Tribe to acquire additional Fee parcels using interest income generated from Trust revenues.	Statutory	Minimal	Low	Major



Table 4.3.2- 2 Midwest Region Title Services, Acquisition & Disposal Variances

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Midwest Region Great Lakes Agency Michigan Field Office Bois Forte Band of Ojibwe Mille Lacs Band of Ojibwe	Mechanism	Location-specific Transaction and maintenance logs are used to monitor Trust activities.	Local Policy	Region- and Agency-specific computer systems decrease the effort required to complete local Trust activities. These systems also, however, increase the complexity of, and investment in, information support as compared to common mechanisms.	Medium	Medium
Great Lakes Agency	Input	MOU between Lender and Tribe (Default)	Procedural	In the event of an individual beneficiary's default, the MOU states that the Tribe will assume the mortgage.	Medium	Medium
Mille Lacs Band of Ojibwe	Obligation	Mortgage Statute Establishes the Tribe's authority to approve mortgages on Trust lands.	Statute	The lack of Departmental approval brings into question the legality of the encumbrance (approving encumbrances on Trust lands is an inherently federal function).	High	Medium
Midwest	Obligations Beneficiary Involvement	Menominee Restoration Act	Statutory	Allows the Tribe to move forward with Fee-Trust Acquisitions without	Low	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				clearing title. Tribe may satisfy liens or encumbrances prior to formal acceptance of trust title in order to avoid foreclosure.		
Minnesota Agency - White Earth Band Ojibwe	Obligation	White Earth Land Settlement Act (WELSA) - contains specific language for mandatory acquisition authority.	Statutory	Minimal	Low	Major
Mille Lacs Band of Ojibwe	Obligation	Commissioner of Natural Resources Order relative to Environmental Assessments	Tribal Ordinance	Sets forth the requirement to comply with environmental statutes relative to transactions on Trust and Tribally owned lands.	Low	Major
Mille Lacs Band of Ojibwe Bois Forte Band of Ojibwe	Control Output Mechanism	A GIS system is used to identify the location of the ROW/Easement	Tribal Procedures	The Department would benefit from the use of GIS technology for all Trust processes. However, there is no consistent application of GIS to date.	High	Minor
Mille Lacs Band of Ojibwe	Obligation	Commissioners Order	Tribal Procedures	Identifies when operation title maintenance must occur.	Low	Major
Mille Lacs Band of Ojibwe	Organization	Tribal Courts - Makes Decision relative to Defaults and	Tribal Statute	Tribal Court involvement due to Tribe approving	High	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		Foreclosures proceedings.		mortgages on Trust lands. Non-departmental approval brings into question the legality of the encumbrance and puts Trust lands at risk.		

Table 4.3.2- 3 Eastern Region Title Services, Acquisition & Disposal Variances

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Eastern Region	Mechanism	Regional Title maintenance - Access Database updated for Judgment accounts only.	Local Policy	Region- and Agency-specific computer systems decrease the effort required to complete local Trust activities. These systems also, however, increase the complexity of, and investment in, information support as compared to common mechanisms.	Medium	Medium
Eastern Region	Process	Eastern Region doesn't process Trust to Trust. No allotments, all Trust lands in Eastern Region are under Tribal ownership.	No Individual Allotments	Minimal	Low	Major
Eastern Region	Process	No disposal activity in Eastern	No Individual	Minimal	Low	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		Region - No allotments, all Trust lands are Tribally owned.	Allotments			
Eastern Region	Mechanism	Survey Logs Updated as each Fee-Trust acquisition is reviewed.	Procedural	Skilled Realty Specialist can interpret various survey reports; less trained staff, however, may not be able to. Lands may need to be resurveyed by BLM to bring all documents current with same survey technique (resulting in re-work).	High	Medium
Eastern Region	Input	The Eastern Region has developed Conservation Plans for Tribal lands. These plans define the planned use of Tribal lands are used when evaluating the impact of ROWs on Tribal land.	Procedural	Conservation plans are used to ensure ROW plans and activities comply with Tribal objectives and existing leases.	Low	Medium

Table 4.3.2- 4 Alaska Region Title Services, Acquisition & Disposal Variances

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Alaska Region	Mechanism	TAAMS was chosen as the system of record into which Alaska paper-based records are	Departmental Policy	Region- and Agency-specific computer systems decrease the effort required	High	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		being entered.		to complete local Trust activities. These systems also, however, increase the complexity of, and investment in, information support as compared to common mechanisms.		
Alaska Region	Organization Office Obligation Event	As established by the Native Allotment Act of 1906, the Native Townsite Act of 1926 and the Vietnam Veteran Act of 1988, BLM issues a Conveyance of Public Domain Lands as opposed to Trust patents. The BIA assumes responsibility for managing these lands once the conveyance is received from the BLM.	Federal Statute	The BLM uses an entirely separate organizational infrastructure and separate processes and tools to convey Alaskan interests.	High	Major
Alaska Region	Obligation	25 USC 409.A - Conveyance of Restricted lands to Disposal, which allows reinvestments.	Federal Statute	Minimal	Low	Major
Alaska Region	Mechanism	Region specific logs and databases (ex: Report of Investigation Database) are used to prioritize and monitor Title- and A&D-related requests.	Local Policy	Region- and Agency-specific computer systems decrease the effort required to complete local Trust activities. These systems also, however, increase the	High	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				complexity of, and investment in, information support as compared to common mechanisms.		
Alaska Region	Role	Kennerly notification not applicable to Alaska. This region considers the agreement, and any subsequent issues, to be between the applicant and the lender.	Local Policy	No notification of default is provided until foreclosure notice is received. As a result, there is a significantly higher risk of diminishing Trust lands.	High	Minor
Alaska Region	Control	Regional ROW Handbook Alaska Regional Procedures Handbook Alaska Regional Mortgage Handbook	Procedural	Region- and Agency-specific handbooks maintain consistency of local processes but increase the complexity of administering Department-wide programs.	Medium	Minor
Alaska Region	Input	Title Insurance Policy - Provided by Lending Institution	Procedural	Minimal	Low	Major
Alaska Region	Input	The last three years tax returns are required as input when reviewing applications for mortgages and assignments.	Procedural.	Minimal	Low	Major
Alaska Region	Obligation	BLM is not bound by 25 CFR or by Deputy Commissioner's	Regulatory	If BLM is not making their decision analysis available,	Medium	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		Memoranda, including that of February 5 2002	43 CFR	interested parties will not have access to the information on which Departmental decisions are based.		
Alaska Region	Output	BLM is governed by separate regulations and, as a result, Public Notices are not issued in this Region.	Regulatory 43 CFR 25 CFR 151	Without public notice BLM may not learn of superior claims before transferring land.	Medium	Major
Alaska Region	Mechanism	Alaska State Recording System - All title related transactions in Alaska must be recorded with the State.	State Statute	Minimal	Low	Medium
Alaska Region	Beneficiary Involvement	Due to the low volume of requests for Restricted Fee conveyances Alaska BIA pays for Title Insurance.	Workload	Reduces resources available for other programs.	Low	Minor

Table 4.3.2- 5 Northwest Region Title Services, Acquisition & Disposal Variances

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Confederated Salish and Kootenai	Office	Fee-Trust title Documents Recorded at Flathead Title Plant.	Compacted Responsibility	The use of inconsistent mechanisms and tools for the management of title-	Medium	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				related information increases the complexity of maintaining a complete, accurate record of Trust interests for beneficiaries.		
Colville Business Council	Office	Fee-Trust title Documents Recorded at Colville Title Plant.	Contracted Responsibility	The use of inconsistent mechanisms and tools for the management of title-related information increases the complexity of maintaining a complete, accurate record of Trust interests for beneficiaries.	Medium	Major
Northwest Region Yakima Agency Northern Idaho Agency Siletz Tribal Council Colville Business Council Confederated Salish and Kootenai	Mechanism	Agency and Tribal specific Fee to Trust transaction Log. Other Systems of Record vary within this Region. Of the 43 Tribes in the NW Region, 20 operate Realty Program either under contract or compact agreements. Agencies also create their own access database	Local Policy	Region- and Agency-specific computer systems decrease the effort required to complete local Trust activities. These systems also, however, increase the complexity of, and investment in, information support as compared to common mechanisms.	Medium	Medium
Northwest	Role	Memorandum of Understanding - Archeology Environmental	Procedural	Regional Archeologist and Environmental Specialist develop arch. & environmental compliance	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				agreements for Rights-of Ways between the applicant and BIA/Tribe.		
Northwest Region	Organization	Farm Services Bureau	Procedural	In the event of a default, land is put in escrow until arrears are paid.	Medium	Medium
Northwest Region	Control	Fee-Trust handbook - Procedural Manual	Procedural	The handbook is used to maintain consistency within the Northwest Region.	Medium	Minor
Northwest Region	Input Output	BLM reviews legal descriptions for Fee parcels.	Procedural	Since the DOI is no longer surveying Fee lands prior to accepting them in Trust, this review assures the Department that there is a reasonable description of the lands being brought into Trust.	Medium	Minor
Northwest Region	Inter-process Relationship	Due to the length of time for processing Fee to Trust acquisitions and the limited life of an ESA, Phase 1 ESAs are done as close as possible to the deed acceptance date.	Procedural	This ensures the region has updated information on the ESA, however, also increases the time to complete an acquisition.	Medium	Minor
Yakima Agency	Role	An inter-disciplinary team consist of Natural Resource and Realty staff from the Agency and the	Procedural	Having BIA and Tribal personnel review Fee-T rust applications together	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		Tribe review Fee-Trust acquisitions.		reduces the time required to complete acquisitions.		
Northern Idaho Agency	Organization	In the event of default, land is not lost. - Borrowing from Nez Perce Tribal credit program. Assigning Trust income to satisfy the debt. (Tribal short term loan program)	Procedural	Rather than going through foreclosure, land is put in escrow until assignment of Trust income satisfies the amount in arrears.	Low	Medium
Siletz Tribal Council	Control	Fee-Trust handbook - Procedural Manual - specific to Siletz Tribe	Tribal Procedures	The handbook is used to maintain consistent procedures for the Tribe.	Medium	Major
Siletz Tribal Council	Role	Cultural Committee - Siletz Tribal Council.	Tribal Procedures	Cultural Committee convenes on an as needed basis to review cultural issues and the impact of the ROW.	Medium	Minor

Table 4.3.2- 6 Eastern Oklahoma Region Title Services, Acquisition & Disposal Variances

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Eastern Oklahoma Region	Input	The TRO created a substantial backlog of TSR requests, forcing Agencies to use local records until the backlog can be eliminated. As a result, Certified	Court Order	The inability to obtain a certified record of title decreases the reliability of the records (identifying owner interests and	High	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		TSRs are not consistently used in this location.		encumbrances) upon which beneficiary and Departmental decisions are based.		
Eastern Oklahoma Region Osage Nation of Oklahoma Five Civilized Tribes	Role	District Court Judge - Judge will issue (approve) conveyance documents for the five Tribes as well as condemnation	Federal Statute	Maintaining certified title records in the County Courthouse increases the complexity associated with developing complete land inventories for individuals with interests in multiple locations.	High	Major
5 Civilized Tribes	Organization	Restricted Fee lands held by the Five Civilized Tribes are sold via processes administered by the federal judicial system (county courts) as opposed to the BIA.	Federal Statute	Aside from the impact of inconsistent business procedures, this requirement has a minimal effect on the Trust processes.	Medium	Major
Quapaw Tribe of Oklahoma Miami Tribe of Oklahoma	Process Description	The Quapaw and Miami Tribes hold Restricted Fee land that is subject to local taxation.	Federal Statute	If the beneficiary becomes delinquent on property taxes, the county can place a tax lien on the property and, unless the lien is satisfied, foreclose and conduct a public land sale.	Medium	Major
Eastern Oklahoma Region	Organization	Trust records are maintained in the county records office rather	Federal	The use of non-Departmental and Agency-	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
	Role Obligation Input Output Mechanism	than in LRIS. Operational ownership is maintained using agency-specific manual records.	Statute State Statute Local Policy	or Region-specific mechanisms increases the complexity and investment in information support and the effort required to manage Trust data.		
Eastern Oklahoma Region	Obligation	Checklist for Non-Gaming Trust Acquisition - Identifies the document required to issue a preliminary Title Opinion.	Local Policy	Where Agency- or Region-specific checklists are created, the likelihood that Trust processes will be inconsistent increases.	High	Minor
Eastern Oklahoma Region	Mechanism	Region-specific logs, and other mechanisms, are used to monitor Trust transactions and produce monthly reports.	Local Policy	Region- and Agency-specific computer systems decrease the effort required to complete local Trust activities. These systems also, however, increase the complexity of, and investment in, information support as compared to common mechanisms.	Medium	Medium
Eastern Oklahoma Region Miami Field Office	Mechanism	Region- and Agency-specific computer systems and manual records are used to manage enrollment, owner interests, allotment and realty information.	Local Policy	Region- and Agency-specific computer systems decrease the effort required to complete local Trust activities. These systems	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				also, however, increase the complexity of, and investment in, information support as compared to common mechanisms.		
Eastern Oklahoma Region	Output	The BIA and Lending Institutions enter into MOUs that describe the roles and responsibilities of each organization in the event of defaults and foreclosures and loan satisfaction.	Local Policy	The MOUs significantly reduced the number of foreclosures stemming from beneficiary defaults.	Medium	Minor
Eastern Oklahoma Region	Input	The DOI requires applicants to provide a 'No Lien Affidavit' for Fee-Trust applications. These affidavits are obtained in lieu of updated title insurance policies.	Procedural	The affidavits provide assurance that there are no outstanding liabilities that the DOI will have to clear after accepting lands into Trust.	High	Minor
Eastern Oklahoma Agency	Input Inter-process Relationship	The Preliminary Title Opinion is issued after the BIA solicits comments from state and local Governments.	Procedural	Waiting on comments from state and local governments increases the time required to complete the Fee-Trust acquisition (and the economic burden to the beneficiary). Solicitors do, however, need to participate in the BIA's review of these comments.	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Eastern Oklahoma Region	Input	Eastern Oklahoma requires applicants to provide a statement that mineral development won't interfere with the intended use of the property.	Procedural	These statements ensure that the impacts of O&G activities are known prior to approval.	Medium	Minor
Eastern Oklahoma Region	Input	Required documents identified in the solicitors office memorandum	Procedural	Where the memorandum is used as a guideline, consistent information is available for the evaluation of a proposed acquisition.	Medium	Minor
Eastern Oklahoma Region	Output	The Initial Certificate of Inspection & Possession is not applicable in these regions	Procedural	Without an initial CIP, the identification of possession claims that will affect the DOI's decision may be delayed.	Medium	Minor
Eastern Oklahoma Region	Successor	AM.2 Beneficiary accounts are not put on hold while title-affecting transactions are recorded.	Procedural	If Trust income is distributed in the timeframe between approval and encoding, those distributions may be in error.	High	Minor
Eastern Oklahoma Region Miami Field Office	Output	The list of documents that are recorded for Trust transactions is inconsistent within the region.	Procedural	LTRO/TSOs are receiving and recording inconsistent sets of documents for Trust transactions, increasing the likelihood that relevant	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				information may not be recorded and imaged for safe-keeping.		
Eastern Oklahoma Region	Output	Recorded Non-Probate Document - Excluding ROW	Procedural	Minimal	Low	Minor
Eastern Oklahoma Region	Office	The Five Civilized Tribes serve notice of sale or disposal of lands through the district court. 40 counties are affected	State Statute Federal Statute	Aside from the impact of inconsistent business procedures, this requirement has a minimal effect on the Trust processes.	Medium	Major
Eastern Oklahoma Region	Role	Field Solicitor - Represents 5 Tribes in district court.	Tribal Obligation	Minimal	Low	Major
Miami Field Office	Beneficiary Involvement	Tribes draft the 'Solicitation for Comments' that will be forwarded to the local government. Tribe also helps in the preparation of environmental report	Tribal Policy	Minimal	Low	Medium

Table 4.3.2- 7 Southern Plains Region Title Services, Acquisition & Disposal Variances

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Southern Plains Region	Input	The TRO created a substantial	Court Order	The inability to obtain a	High	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		backlog of TSR requests, forcing Agencies to use local records until the backlog can be eliminated. As a result, Certified TSR are not consistently used in this location.		certified record of title decreases the reliability of the records (identifying owner interests and encumbrances) upon which beneficiary and Departmental decisions are based.		
Southern Plains Region	Obligation	Checklist for Non-Gaming Trust Acquisition - Identifies the documents required to issue a preliminary Title Opinion	Departmental Policy	Where agency- or region-specific checklists are created, the likelihood that Trust processes will be inconsistent increases.	High	Minor
Southern Plains Region	Input	The DOI requires applicants to provide a 'No Lien Affidavit' for Fee-Trust applications in lieu of obtaining updated title insurance policies.	Local Policy	The affidavits provide assurance that there are no outstanding liabilities that the DOI will have to clear after accepting lands into Trust.	High	Minor
Southern Plains Region	Mechanism	TAAMS is used rather than LRIS. Manual records are used instead of IRMS.	Local Policy	Region- and agency-specific computer systems decrease the effort required to complete local Trust activities. These systems also, however, increase the complexity of, and investment in, information	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				support as compared to common mechanisms.		
Southern Plains Region	Output Mechanism	Region-specific logs, and other mechanisms, are used to monitor Trust transactions and produce monthly reports.	Local Policy	Region- and Agency-specific computer systems decrease the effort required to complete local Trust activities. These systems also, however, increase the complexity of, and investment in, information support as compared to common mechanisms.	Medium	Medium
Southern Plains Region	Output	The BIA and Lending Institutions enter into MOUs that describe the roles and responsibilities of each organization in the event of defaults and foreclosures.	Local Policy	The MOUs significantly reduced the number of foreclosures stemming from beneficiary defaults.	Medium	Minor
Southern Plains Region	Output	Recorded Non-Probate Document - Excluding ROW. ROW originals are maintained in the LTRO/TSOs for archival purposes.	Local Policy	Minimal	Low	Minor
Horton Field Office	Office Mechanism	Horton deals with large volumes of mining by-products (chat). As a result, the Field Office certifies chat as Trust personal property	Procedural	Chat is a subject of current litigation; consequently, the full business impact is not yet known.	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		using a local database.				
Southern Plains Region	Control	Land Sale Committee Review - Reviews Trust to Trust transaction requests	Procedural	A combined review reduces the time required to complete Trust transactions.	Medium	Medium
Southern Plains	Input Inter-process Relationship	The Preliminary Title Opinion is issued after the BIA solicits comments from state and local Governments. This enables the solicitor assess any title-related issues that are raised in the comments from state and local governments.	Procedural	Waiting on comments from state and local governments increases the time required to complete the Fee-Trust acquisition (and the economic burden to the beneficiary). Solicitors do, however, need to participate in the BIA's review of these comments.	Medium	Minor
Southern Plains Region	Input	Southern Plains requires applicants to provide a statement that mineral development won't interfere with the intended use of the property.	Procedural	These statements ensure that the impacts of O&G activities are known prior to approval.	Medium	Minor
Southern Plains Region	Input Obligation	Required documents identified in the Solicitors Office memorandum	Procedural	Where the memorandum is used as a guideline, consistent information is available for the evaluation of a proposed acquisition.	Medium	Minor
Southern Plains Region	Inter-process	AM.2 Beneficiary accounts are	Procedural	If Trust income is	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
	Relationship	not put on hold while title-affecting transactions are recorded.		distributed in the timeframe between approval and encoding, those distributions may be in error.		
Southern Plains Region (Except for Anadarko Agency)	Output	The Initial Certificate of Inspection & Possession is not applicable in these regions	Procedural	Without an initial CIP, the identification of possession claims that will affect the DOI's decision may be delayed.	Medium	Minor
Southern Plains Region (Except for Anadarko Agency)	Output	Land Inventory - Is attached with the Conveyance Document and is a beneficiary receipt, if they don't pick it up, they send it certified mail.	Procedural	Minimal	Low	Minor
Southern Plains Region	Input Control Mechanism	Real Estate Module (REM) - Generates ownership reports, consent forms, deeds, etc.	System Availability	Region- and Agency-specific computer systems decrease the effort required to complete local Trust activities. These systems also, however, increase the complexity of, and investment in, information support as compared to common mechanisms.	Medium	Major
Absentee-Shawnee Tribe of	Obligation	Land Consolidation Plan	Tribal Code	Minimal	Low	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Oklahoma						
Southern Plains Region	Role	Field Solicitor - Represents 5 Tribes in district court.	Tribal Obligation	Minimal	Low	Major
Southern Plains Region	Mechanism	Southern Plains deals with significant O&G deposits, making the use of a Royalty Distribution system appropriate. As a result, RDRS is used to track O&G interests.	Workload	RDRS is used to integrate BIA and MMS procedures.	Medium	Medium

Table 4.3.2- 8 Rocky Mountain Region Title Services, Acquisition & Disposal Variances

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Rocky Mountain Region	Mechanism	LRIS is only used to keep track of document IDs and to maintain historical ownership information. TAAMS is used to maintain current Title records.	Departmental Policy	Both TAAMS and LRIS must be referenced when researching TSRs and Estate Inventories, increasing the complexity and effort required to perform those activities.	Medium	Medium
Rocky Mountain Region	Event Obligation	Farm Service Administration (FSA) foreclosures may result in land being transferred to the BIA until the lien has been satisfied	Federal Statute	FSA foreclosures force the BIA to either find a suitable candidate that can assume the lien (in return for the	High	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		via income generated from that parcel. At that point, the land will be transferred, in Trust, to the Tribe with jurisdiction		Trust interest) or to assume responsibility for repaying the lender.		
Rocky Mountain Region	Obligation	FSA Statute - Farm Service Agency statutes governing the disposition of foreclosed properties.	Federal Statute	FSA foreclosures force the BIA to either find a suitable candidate that can assume the lien (in return for the Trust interest) or to assume responsibility for repaying the lender.	Medium	Major
Crow Agency	Organization Role Office Obligation Control	For Fee-Trust acquisitions on Crow Agency, Section 2 of the 1920 Crow Allotment Act must be addressed	Federal Statute Regulation	The impact of the Crow Allotment Act on Trust acquisitions is currently being reviewed.	Not Known	Major
Rocky Mountain Region	Mechanism	Dbase System - Fee-Trust Tracking System.	Local Policy	Region- and Agency-specific computer systems decrease the effort required to complete local Trust activities. These systems also, however, increase the complexity of, and investment in, information support as compared to	High	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				common mechanisms.		
Crow Agency	Mechanism	Competent Lease Database - Used to record competent lease activity.	Local Policy	Region- and Agency-specific computer systems decrease the effort required to complete local Trust activities. These systems also, however, increase the complexity of, and investment in, information support as compared to common mechanisms.	Medium	Medium
Fort Peck Agency	Mechanism	Probate Tracking System - Access-based database that tracks staff activities associated with probates.	Local Policy	Region- and Agency-specific computer systems decrease the effort required to complete local Trust activities. These systems also, however, increase the complexity of, and investment in, information support as compared to common mechanisms.	Medium	Medium
Crow Agency Blackfeet Agency Fort Peck Agency Wind River Agency	Output	Conveyance Document is filed in the County Recorders Office by the agency	Procedural	Minimal	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Rocky Mountain Region	Control	Mortgage Checklist Leasehold Mortgage Checklist	Procedural	The use of Agency- or Region-specific checklists increases the consistency of business processes within the Region.	Medium	Minor
Rocky Mountain Region	Role	Rocky Mountain Region does not perform Archeologist Assessment for Trust acquisitions. These assessments are deferred until significant changes in the use of the land are proposed.	Procedural	Deferring archeological assessments decreases the time required to complete Trust acquisitions. It also, however, increases the risk that beneficiaries may not be able to use the property as intended.	High	Minor
Rocky Mountain Region	Mechanism	TSR Tracking System - Access based system developed locally	Regional Policy	Region- and Agency-specific computer systems decrease the effort required to complete local Trust activities. These systems also, however, increase the complexity of, and investment in, information support as compared to common mechanisms.	Medium	Medium
Rocky Mountain Region	Beneficiary Involvement	Dower holder (or life estate holder) must consent to the	State Statute	Minimal	Low	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		conveyance or extinguish their interest in the property in order for the transaction to proceed.				
Rocky Mountain Region	Beneficiary Involvement	Tribal Land & Resource Committees review transactions, and declare interest in purchasing lands. This information is forwarded to the agency Realty staff.	Tribal Policy	Minimal	Low	Major
Rocky Mountain Region	Input Beneficiary Involvement	Tribal Acquisition, the Tribal attorney provides a title opinion when an abstract is utilized rather than title insurance	Tribal Policy	Minimal	Low	Medium
Rocky Mountain Region	Role	Lead Legal Instruments Examiner - This review is only performed to assure the quality of new / inexperienced employees	Workload Staffing	Un-reviewed updates to the systems of record increase the likelihood that subsequent decisions are based on incorrect information.	Medium	Medium

Table 4.3.2- 9 Navajo Region Title Services, Acquisition & Disposal Variances

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Western Navajo Agency	Office	Agency/Field Office - obtain	Departmental	Consent for ROW required	High	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		consent from Hopi Tribe	Policy	from the Hopi Tribe for ROWs crossing lands under the jurisdiction of Navajo-Hopi Relocation Commission.		
Eastern Navajo Agency	Organization	Bureau of Land Management (BLM)	Departmental Policy	Eastern Navajo Agency coordinates with BLM on ROWs affecting allotments within wilderness areas.	Medium	Major
Eastern Navajo Agency	Organization	National Park Service	Departmental Policy	For Eastern Navajo, coordinate with NPS for allotments within the Chaco Canyon.	Medium	Major
Eastern Navajo Agency	Role	IBLA Judge - Hears appeals	Departmental Policy	IBLA, rather than IBIA Administrative Judge hears and renders decisions on appeals relative to ROWs in wilderness areas.	Medium	Major
Navajo Nation	Organization	Navajo Indian Irrigation Project	Departmental Policy	Review and issue compliances for irrigation ROWs	Medium	Major
Eastern Navajo Agency	Organization	Agency – performs or reviews appraisals of the lands associated with a ROW/Easement. Requires warranty bonds from non-Governmental applicants in return	Departmental Policy	Minimal	Low	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		for the right to survey Trust lands. Requires signatures from Governmental applicants indicating that.				
Navajo Region	Organization	Education Line Officials provide consent for ROWs that transit Trust lands on which there are schools. They provide approval for ROWs that terminate on Trust lands on which there are schools.	Departmental Policy	Minimal	Low	Major
Shiprock Agency Western Navajo Agency Chinle Agency Fort Defiance Agency	Organization	Performs or reviews appraisals of lands associated with non-governmental Rights of Way in which government monies are not being used for the construction. Requires warranty bonds from non-Governmental applicants in return for the right to survey Trust lands.	Departmental Policy	Minimal	Low	Major
Navajo Region	Event	Lending institutions are not reliably forwarding notices of repayment or default to the Department.	External	The inability to receive timely notifications of default impairs the DOI's ability to avoid foreclosures and preserve Trust lands.	High	Medium
Navajo Region Eastern Navajo Agency	Mechanism	Navajo Agencies have created location-specific logs, databases and other mechanisms for	Local Policy	Region- and Agency-specific computer systems decrease the effort required	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Shiprock Agency Western Navajo Agency Eastern Navajo Agency Chinle Agency Fort Defiance Agency		prioritizing and monitoring A&D activities, conveyances, ROWs and mortgages.		to complete local Trust activities. These systems also, however, increase the complexity of, and investment in, information support as compared to common mechanisms.		
Navajo Nation	Event	Grantor returns affidavit of sale is not applicable.	Local Policy	Minimal	Low	Minor
Navajo Nation	Input	Tribe-specific mortgage forms are used for Restricted and unrestricted homesite leases.	Procedural	The use of Region-, Agency- or Tribe-specific forms increases the effort and time required to complete Trust transactions and also increases the complexity and investment in information support.	Low	Medium
Navajo Nation Navajo Region	Role	No Agency/Field Office Line Officials within Navajo Region. These positions were abolished during the 1996 budget cuts.	Regional Policy	Without Line Officials in the field, there is no one local individual responsible for all programs within the field. There is also no local mechanism for resolving local issues.	High	Medium
Navajo Region	Output	The Navajo Region discourages the assignment of Trust income as collateral for mortgages. As a	Regional Policy	Minimal	Low	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		result, Kennerly notifications are not prepared, changes in Direct Payment status are avoided and the Department is not required to divert Trust income to lend.				
Navajo Nation	Obligation	Navajo-Hopi Relocation Act - Federal Statute	Statutory	Where Navajo Tribal members apply for an allotment under the Navajo-Hopi Relocation Act, the Navajo-Hopi Relocation Commission provides funds for acquiring those lands.	High	Major
Navajo Nation	Obligation	Mescal Litigation	Statutory	Authorizes the issuance of Trust patents for mineral rights associated with allotted lands.	High	Major
Navajo Nation	Obligation	Land Consolidation Plan of 1988	Statutory	Represents consolidation of Eastern Navajo Agency allotted lands (but not limited to Eastern).	Medium	Major
Navajo Region	Obligation	Zuni Heaven Act	Statutory	Statutory authority providing the Zuni Tribe to acquire lands in Arizona for consolidation purposes.	Medium	Major
Navajo Region	Output	Letter to Navajo Nation - Notifies Tribe that the beneficiary is in	Tribal Policy	This notice provides the Tribe with an opportunity	High	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		default, requests Tribal intent relative to assumption.		to address defaults before the lending institution forecloses on lien collateral.		
Navajo Nation Navajo Region	Obligation	Legislation 164 - Navajo Tribal Code, Title 2 Amendments - Tribal government codes for Trust – Trust conveyances.	Tribal Statute	Identifies roles and responsibilities for Navajo Nation Tribal Government relative to transactions involving Trust lands.	High	Major
Navajo Nation	Obligation	Navajo Public Land Order 2198,	Tribal Statute	Reserved public lands for Navajo Nation use.	Medium	Major
Navajo Nation	Obligation	Title 2 - Tribal Authorization Authorities	Tribal Statute	Minimal	Low	Major
Navajo Nation	Obligation	Title 16 - Specific to Lands	Tribal Statute	Minimal	Low	Major
Navajo Nation	Obligation	Title 19 - Cultural Resources Protection Act	Tribal Statute	Minimal	Low	Major

Table 4.3.2- 10 Southwest Region Title Services, Acquisition & Disposal Variances

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Southwest Region	Obligation	Mescal Litigation As a result of this case, the BIA was ordered to issue Trust patents	Court Order	The court order resulted in a significant number of Trust acquisitions associated with subsurface	Low	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		for mineral rights associated with allotted lands.		interests.		
Southwest Region	Obligation	1918 Statute	Federal Statute	Without congressional approval, the reservation cannot be increased.	Low	Major
Southwest Region	Obligation	The Kennerly Process is not followed in the Southwest Region.	Procedural	Regional lending activities associated with defaults and foreclosures are inconsistent with Departmental Policy and may jeopardize beneficiaries' rights to due process.	High	Minor
Southern Ute Agency	Role Input	A Land Committee screens proposed conveyances and makes its recommendation to the Tribal leadership and to the BIA Line Official.	Procedural	A combined review reduces the time required to complete Trust transactions.	Medium	Medium
Laguna Agency	Control	Laguna Agency maintains a listing of allotments affected by ROWs. These lists enable Realty staff to ensure that communications are maintained with all interest holders.	Procedural	Allotment lists reduce the effort associated with identifying interest holders and ensuring that consent forms are received from a majority of those parties.	Medium	Minor
Albuquerque LTRO/TSO	Mechanism	No Land Index is maintained in the Albuquerque LTRO/TSO.	Procedural	Minimal, Owner ID cards are maintained rather than	Low	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				the Land Index.		
Southwest Region	Event	Receipt of Monthly Death Report - BIAINV produced automatically when death report received.	Procedural	Minimal	Low	Minor
Southwest Region	Role	Southwest does not have a sufficient pool of environmental scientists. As a result, Realty Specialists in this region are delegated to NEPA.	Staffing	The lack of specialized skills may prevent Realty Specialists from identifying the full impact of a transaction on the environment.	High	Medium
Southwest Region	Mechanism	IRMS is not used in the Southwest Region. Agency-specific, paper-based logs and card files are used to monitor the status of Trust transactions and beneficiary interests in Trust lands.	System Constraint	The use of agency-specific, paper-based mechanisms increases the effort and time required to complete Trust transactions. It also increases the complexity of, and investment in, information support with no additional utility.	Medium	Medium
Southern Ute Tribe Laguna Agency	Input Output Obligation	NEPA Assessments are not performed if only Tribal monies are used to fund Tribal projects.	Tribal Sovereignty	The Department may not be aware of encumbrances that affect subsequent land use.	Medium	Major
Southern Ute Agency	Obligation	Tribal Resolution - Provides first right of refusal on Trust – Trust	Tribal Sovereignty	Minimal	Low	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		transactions.				
Jicarilla Agency	Obligation	Tribal Ordinances relative to Environmental, Archeological, Surface, etc.	Tribal Statute	Multiple sets of Tribal ordinances increase the complexity associated with complying with Tribal and Federal obligations.	Medium	Major
Pueblo of Acoma Pueblo of Cochiti Pueblo of Isleta Pueblo of Jemez Pueblo of Sandia Pueblo of San Felipe Pueblo of Santa Ana Pueblo of Santo Domingo Pueblo of Zia Ysleta Del Sur Pueblo	Organization Obligation	Mayordomos –Villages can approve agreements within their jurisdiction without obtaining the consent of assignment holders.	Tribal Statute	Minimal	Low	Major
Southern Ute Agency	Obligation	Tribal Land Code	Tribal Statute	Minimal	Low	Major
Southwest Region	Organization Office	Tribe - Where leasehold is on Tribal land, the Tribe signs off on the encumbrance.	Tribal Statute	Minimal	Low	Major



Table 4.3.2- 11 Western Region Title Services, Acquisition & Disposal Variances

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Western Region	Input	The TRO created a substantial backlog of TSR requests, forcing Agencies to use local records until the backlog can be eliminated. As a result, Certified TSRs are not used to identify ownership and encumbrances. Agency records are used instead.	Court Order	The inability to obtain a certified record of title decreases the reliability of the records (identifying owner interests and encumbrances) upon which beneficiary and Departmental decisions are based.	Medium	Medium
Colorado River Agency Pima Agency Salt River Tribe	Mechanism	Excel and Access Databases - Log of Trust to Trust transactions and their status and maintain heirship information and ownership data.	Local Policy	Region- and Agency-specific computer systems decrease the effort required to complete local Trust activities. These systems also, however, increase the complexity of, and investment in, information support as compared to common mechanisms.	Medium	Medium
Western Region	Mechanism	Region has an MOU with State of Nevada under which the State has established a clearinghouse for addressing non-Gaming-related Trust acquisitions.	Procedural	The MOU significantly reduces the time and effort required to contact state agencies regarding proposed Trust acquisitions.	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Western Region	Role Input Obligation	Environmental Science Specialists and Archeologists are not involved in this process. Environmental and archeological clearances are deferred until the beneficiary declares a proposed change in land use.	Procedural	Deferring these clearances reduces the time required to complete a transaction. It also, however, presents the possibility that the environmental or archeological considerations may prevent the grantee from using the land as intended.	Medium	Minor
Colorado River Agency	Control	Leasehold Mortgage Checklist Mortgage Checklist - N/A	Procedural	Minimal	Low	Minor
Pima Agency	Control	Peer Review - Documents reviewed within Realty prior to forwarding to Realty Officer.	Procedural	The peer review increases the accuracy of documents forwarded to Realty Officers and Line Officials.	Low	Minor
Western Nevada Agency	Output	The Realty Officer produces a Certified Schedule of Damages upon completion of the Compliance Assessment in order to establish an initial bargaining position with the Grantee.	Procedural	This schedule establishes the basis of the claims for damages associated with non-compliant actions.	Low	Minor
Western Region	Input Output Obligation	Environmental and archeological assessments are not performed for Trust disposals.	Procedural	The impacts of intended changes in land use may not be identified while the Department has control	Low	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				over the lands.		
Western Region	Output	Probate and ROW originals are retained in the servicing LTRO/TSO. All other originals are returned to the originating office.	Procedural	Minimal	Low	Minor
Western Region	Output Inter-process Relationship	Certified TSR - Issued to the grantee (for a sale) identifying the change in title. Issued to the grantor and grantee for a partition to ensure they have an accurate record of Trust interests.	Procedural	Minimal	Low	Minor
Western Region	Input Inter-process Relationship	The local BIA organizations do not have the staff or the funds to perform surveys. Surveys, therefore, are provided by beneficiary in this region.	Staffing Funds	The lack of staffing and funding increases the cost of Trust conveyances to the beneficiaries.	Low	Medium
Western Region	Mechanism	IRMS not applicable in this Region. A&E cards and Agency records are used instead.	System Constraint	Where no automated support is available, the effort and time required to complete Trust transactions increases.	Medium	Medium
Hopi Tribe	Obligation	NEPA Assessments are not performed where no government funds are used on a project.	Tribal Sovereignty	The Department may not be aware of encumbrances that affect subsequent land use.	Medium	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Uintah and Ouray Agency	Role Input	Uintah and Ouray Agency has environmental coordinator and the Environmental Analysis is performed here.	Work Volume	U&O typically performs full Environmental Analysis rather than the abbreviated Environmental Assessment. This increases the cost of Fee-Trust activities but provides greater assurance that all environmental and archeological issues are identified.	Medium	Medium

Table 4.3.2- 12 Pacific Region Title Services, Acquisition & Disposal Variances

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Pacific Region	Mechanism	Region-specific mechanisms are used to prioritize and monitor A&D activities, conveyances, ROWs and mortgages.	Local Policy	Region- and Agency-specific computer systems decrease the effort required to complete local Trust activities. Where these systems provide support that is not available from common systems, the DOI should assess the extent to which those systems could	High	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				be more broadly leveraged.		
Pacific Region	Office Beneficiary Involvement	All Requests for TSR's must go through the Agency - The LTRO/TSO is backlogged with TSR requests and required maintenance.	Policy	This policy has been implemented to ensure all requests are well-founded before committing the resources required to produce a certified TSR	Medium	Medium
Pacific Region	Output	The Initial Certificate of Inspection & Possession is not applicable in these regions.	Procedural	Without initial Certificate of Inspection & Possession, identification of potential possession claims may not be discovered in a timely fashion and prohibit the acquisition process.	High	Minor
Pacific Region	Successor	T.4 - Maintain Title - For an installment sale, the conveyance document is signed and approved at the time the installment sale is conducted, but held until the final installment received.	Procedural	By not recording the encumbrance and lien to the title at the time of approval, ownership and encumbrances are not properly reflected on the title.	High	Minor
Pacific Region Southern California Agency	Control	Consortium and Southern California Agency - Fee to Trust Checklist	Procedural	Agencies are creating their own checklists, which increase the potential for inconsistent processes.	Medium	Minor
Pacific Region	Control	Other than the Northern	Procedural	Grant Screening (aka	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Northern California Agency		California, the Pacific Region has no formal means of reviewing proposed disposals. Northern California reviews proposals in committee.		Branch Screening) provides an opportunity for each branch to review the request for disposal, and to identify any issues (liens, etc.), which may impact the transaction.		
Pacific Region	Obligation	California Omnibus Act	Statutory	Restoration of certain California Tribes and specific lands.	Medium	Major
Pacific Region	Obligation	Hoopa/Yurok Settlement Act	Statutory	Funding set aside for Yurok land acquisitions.	Medium	Major
Pacific Region Northern California Agency	Mechanism	Aside from the Northern California Agency, IRMS not used within the Pacific Region. Probate number cards, IRMS log sheets and other manual records are used instead.	System Availability	IRMS only used in Northern California Agency. Manual records being used, which increases the effort and the likelihood of errors.	Medium	Medium
Southern California Agency	Mechanism	Probate Number Cards	System Availability	The use of agency-specific paper based mechanisms increases the effort and time required to complete Trust transactions and also increases the complexity and investment in information support.	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Southern California Agency	Mechanism	IRMS Log Sheets - Contain the information that would have been entered into IRMS.	System Availability	Maintaining manual records during the system wide shut down has enabled the agency to keep a record of the maintenance required to bring operational title records when IRMS is once again available.	Medium	Medium