



4.3 Business Process Description and Variances

4.3.1 Probate (P)

4.3.1.1 Probate Summary Process Description

The overall process starts with: Receive a notification of death or
Receive a request for presumption of death.

It ends with: Distribute trust assets to heirs, devisees and claimants.

Probate is the process by which a decedent's Trust assets and liabilities are identified and distributed, in accordance with Tribal, State and federal probate code, to heirs, devisees and claimants. It begins with a notification of death and includes three major activities:

- a) Prepare Probate Case: describes the activities required to verify the death of a beneficiary, create a complete and accurate estate inventory, identify all potential heirs and determine whether the case can be adjudicated by the BIA or must be referred to the OHA

A timely and efficacious probate process is essential to the Department's ability to maintain a current and accurate record of ownership and monetary interest in Trust properties and the encumbrances affecting those properties. The DOI's current practice is to ensure the completeness and accuracy of estate inventories and family information by spending the time required to obtain all relevant information. This process may occasionally take years to complete, especially when the decedent owns Trust interests in other regions or when potential heirs include adoptive children or individuals whose whereabouts are unknown. During this period, the BIA assumes complete responsibility for maintaining the estate and determining which leasing, permitting and other land utilization programs are appropriate for the estate properties.

- b) Probate Trust Estate: describes both the informal and formal probate procedures, together with the Probate appeals procedure and the process by which Tribal requests to purchase decedent Trust interests

Informal probate proceedings are adjudicated by the BIA; formal proceedings are held by the OHA. Both organizations apply the same principles in determining what statutes govern the distribution of properties. Where Tribal probate codes have been approved, that code takes precedence over state and federal probate statutes. The BIA and the OHA, however, governed by separate federal regulations and policies, may result in different distributions of Trust interests and monies even when the same probate code is applied.

- c) Close Trust Estate: defines the procedures required to distribute the decedent's Trust assets among heirs, devisees and claimants.

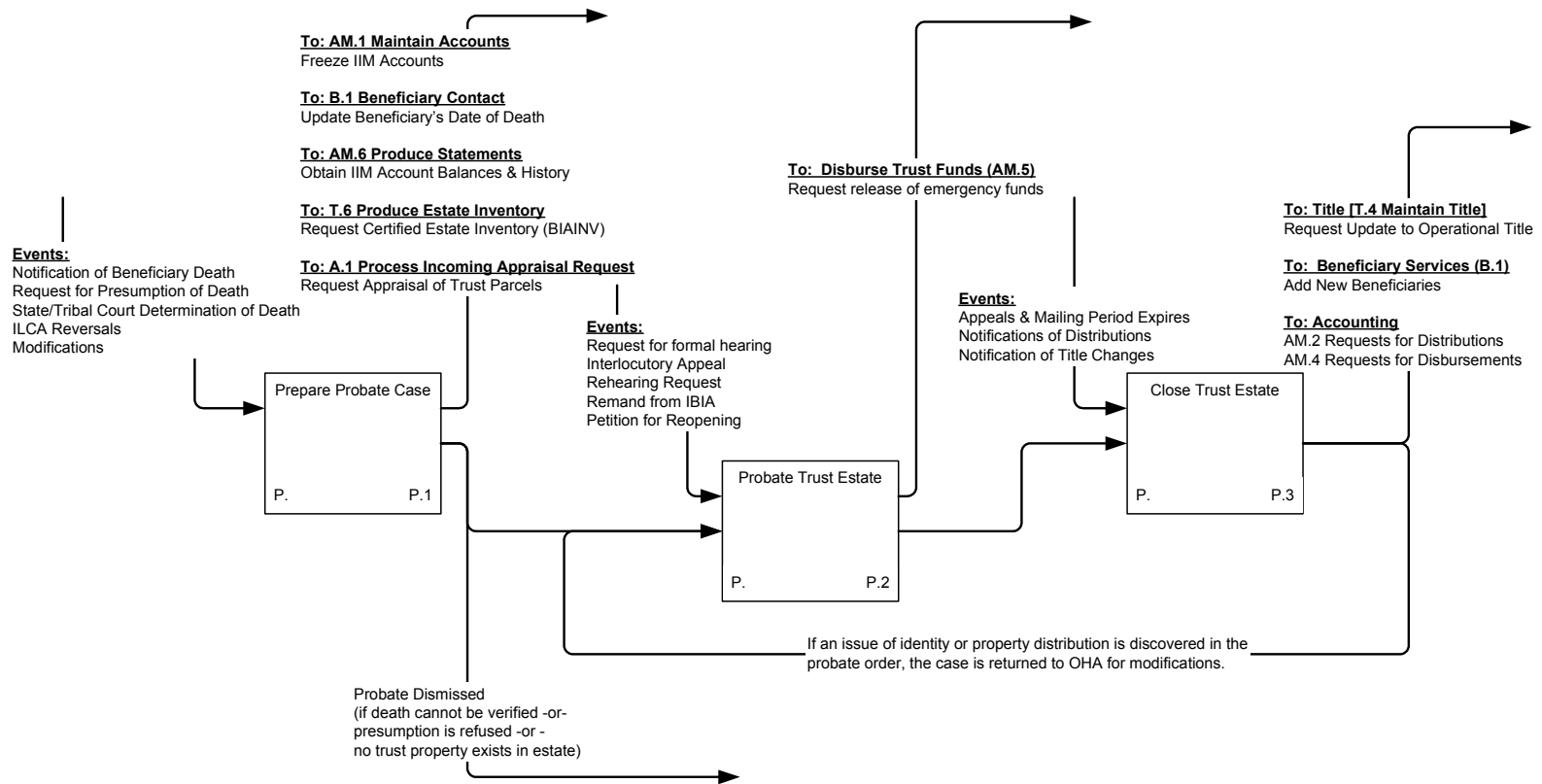


Figure 4.3.1- 1 Probate High-Level Diagram



Probate Objectives

The DOI performs probate for all Trust property (land and money) in order to assure its ability to maintain a current, complete and accurate record of the ownership and monetary interests in Trust, restricted and allotted lands.

As noted in Chapter 1, the specific Trust Strategic Goals and Objectives that relate to Probate are as follows:

a) Strategic Goal 1 - Beneficiary Services

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

Objective 1.1 Beneficiary Statements

Routinely provide timely, accurate, understandable, and comprehensive statements to 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 2.1 Probate and Estate Administration

Consistently prioritize and resolve probate and estate administration cases on a timely basis to meet effectively asset management and beneficiary service requirements.

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 6.6 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.



4.3.1.2 Prepare Probate Case (P.1)

Starts with: Receive notice of death from a knowledgeable party or
Receive request for presumption of death from a family member.
ILCA reversal in which the interest goes to an estate (Youpee escheated interests)
Ends with: Send Probate Package to the Deciding Official.

On initial notice of death the LTRO/TSO and OST/OTFM are notified and decedents Trust assets are placed in estate status. Probate staff takes the steps required to verify the death, obtain a complete and accurate estate inventory, including Trust ownership interests and Trust monies, and identify all potential heirs and devisees of the estate. This information is consolidated into a probate package that will become the record upon which probate decisions are made. When the probate package is complete, criteria identified in 25 CFR 15 are used to determine whether the case will be adjudicated by the BIA or must be forwarded to OHA for a formal hearing. Once the Deciding Official has been identified, the probate package will be forwarded to that individual.

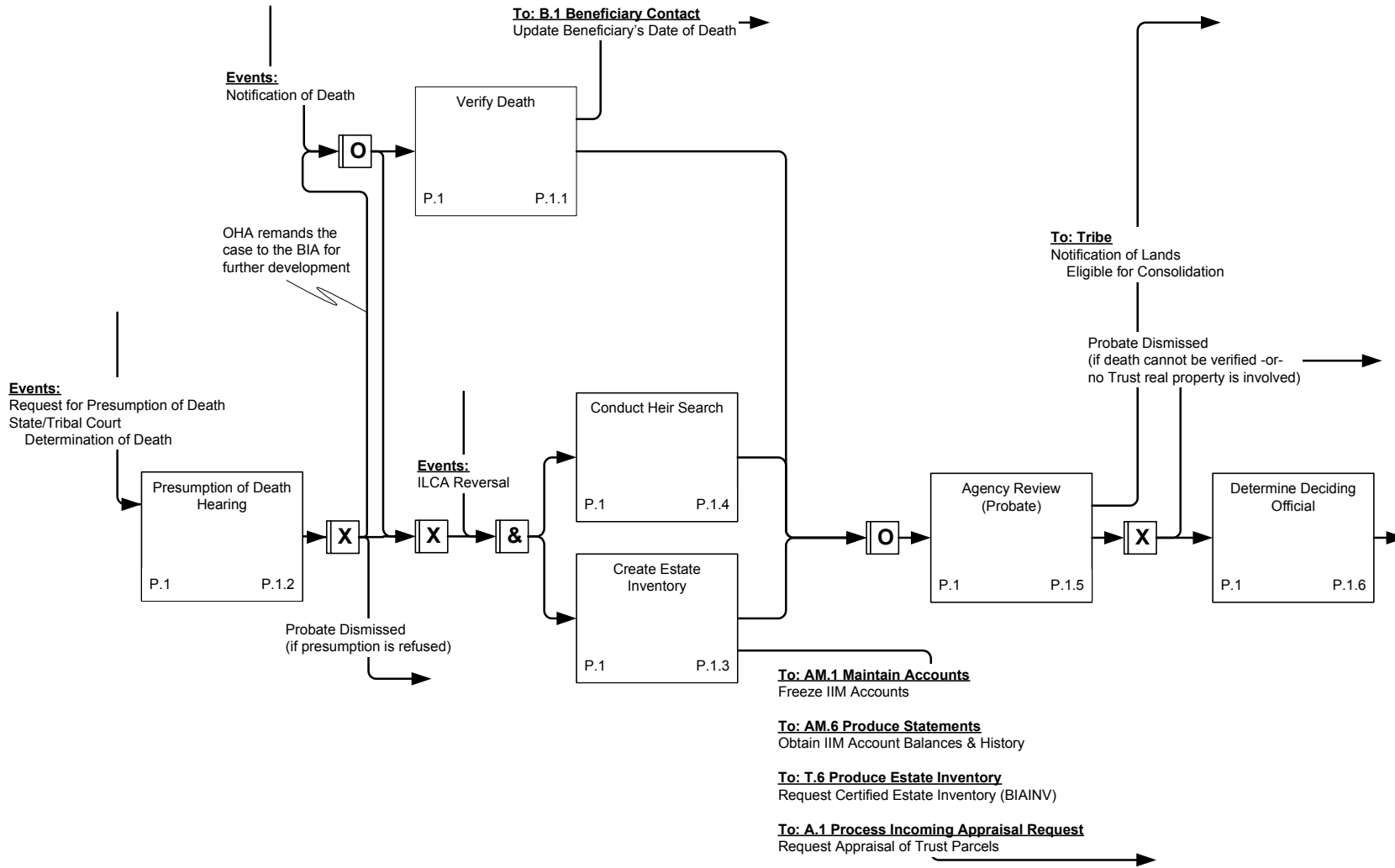


Figure 4.3.1- 2 Prepare Probate Case IDEF(3)



Beneficiary Involvement for Preparing Probate

Beneficiaries are involved by supplying family information required to prepare the probate package. Probably heirs, usually upon notification of a death, provide the will; however it is not unusual to have wills submitted during or after a hearing. When an estate involves a missing heir, family members are interviewed for information that may help locate the missing heir(s).

Prepare Probate Significant Notes

- a) Large numbers of beneficiaries die without a will (intestate).
- b) Many agencies and field offices have a difficult time obtaining documents (especially Tribes compacting and contracting this function) that verify vital statistics and family information from state organizations. Adoption information is especially difficult to obtain (usually requiring a subpoena).
- c) It is difficult to obtain inventory information from other BIA Regions and/or Agencies ("foreign agencies") in a timely manner, increasing the likelihood that probate decisions will have to be modified after they have been executed.
- d) Due to the effort and complexity associated with gathering estate and family information, it frequently takes 18 months or more to prepare a complete and accurate probate package.



Prepare Probate Detail Description

Verify Death (P.1.1)

Starts with: Receive notice of death from a knowledgeable party.

Ends with: Receive certified documentation confirming the death from a family member or outside party.

Upon receipt of a notification of death, the Department takes the steps required to obtain official evidence of death and to prepare the monthly death notice identifying individuals with interests in Trust property, use or income, that have died in the previous 30 days or whose death has not yet been reported.

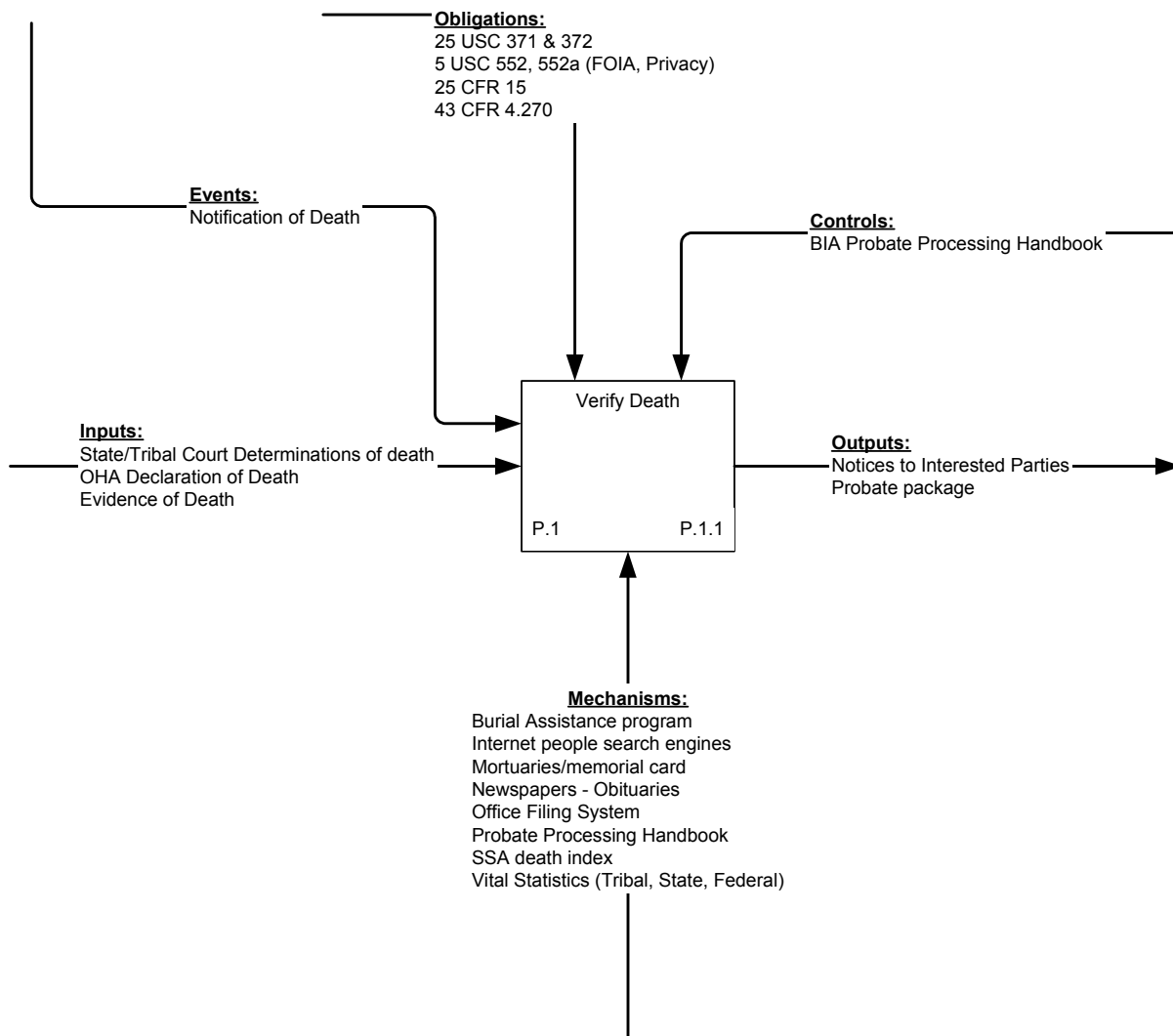


Figure 4.3.1- 3 Verify Death IDEF (0)

Presumption of Death Hearing (P.1.2)

Starts with: Receive request for presumption of death from a family member.
 Ends with: Issue order affirming, denying or remanding request to the interested parties.

Family members or probably heirs request a presumption of death hearing for a person, whose whereabouts are unknown and whose absence cannot be explained, that has Trust interest. The probate clerk gathers evidence and forwards the request to OHA for a hearing. The hearing is conducted and the presumption of death may be granted, denied or returned to the originating office for more information.

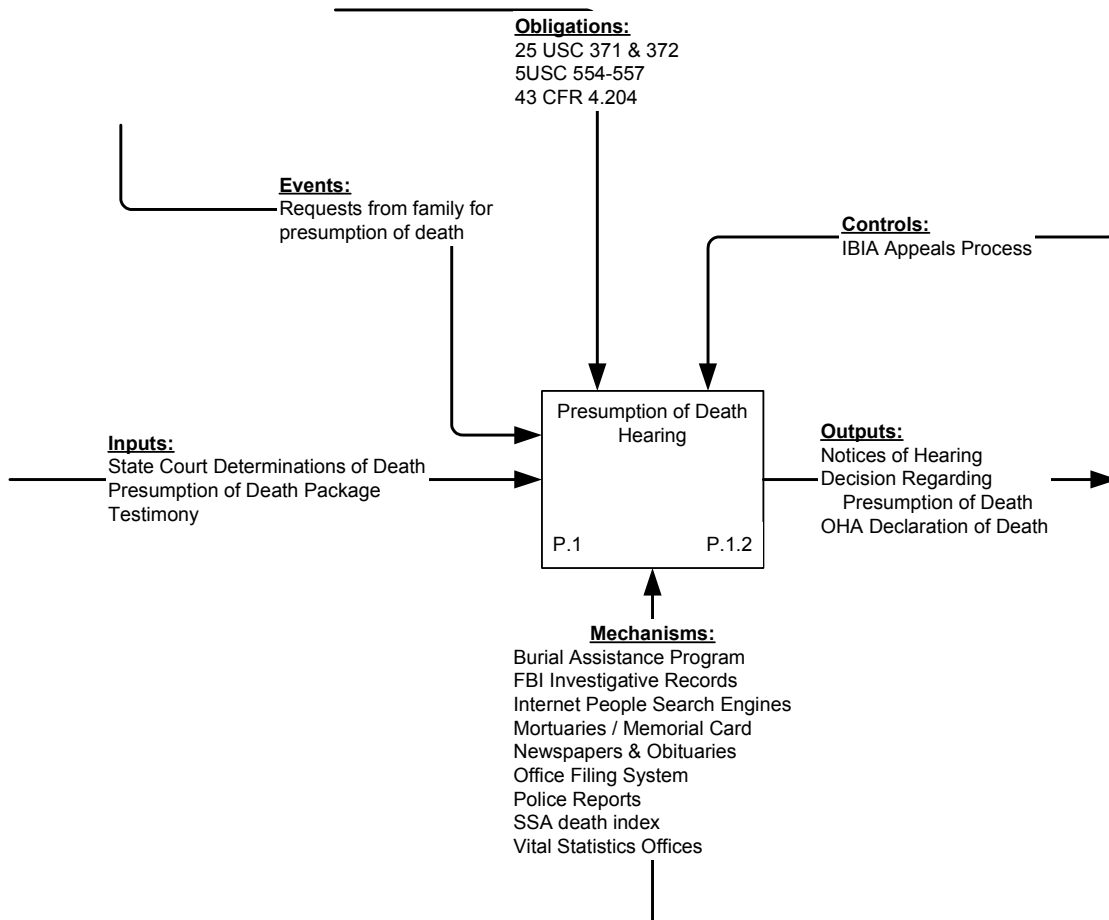


Figure 4.3.1- 4 Presumption of Death Hearing IDEF(0)



Create Estate Inventory (P.1.3)

Starts with: Receive notice of death from a knowledgeable party or
Receive court order presuming death.
Ends with: Update probate package with Trust ownership interests.

A complete and accurate inventory of the decedent’s trust interests (real property and monies) is obtained by requesting account balances and histories from OST/OTFM and certified estate inventories from the servicing LTRO/TSO. Creditors are provided with 60 days within which claims can be filed against the estate. This 60-day window begins when the death has been verified via the receipt of a certified death certificate or an OHA-ordered presumption of death.

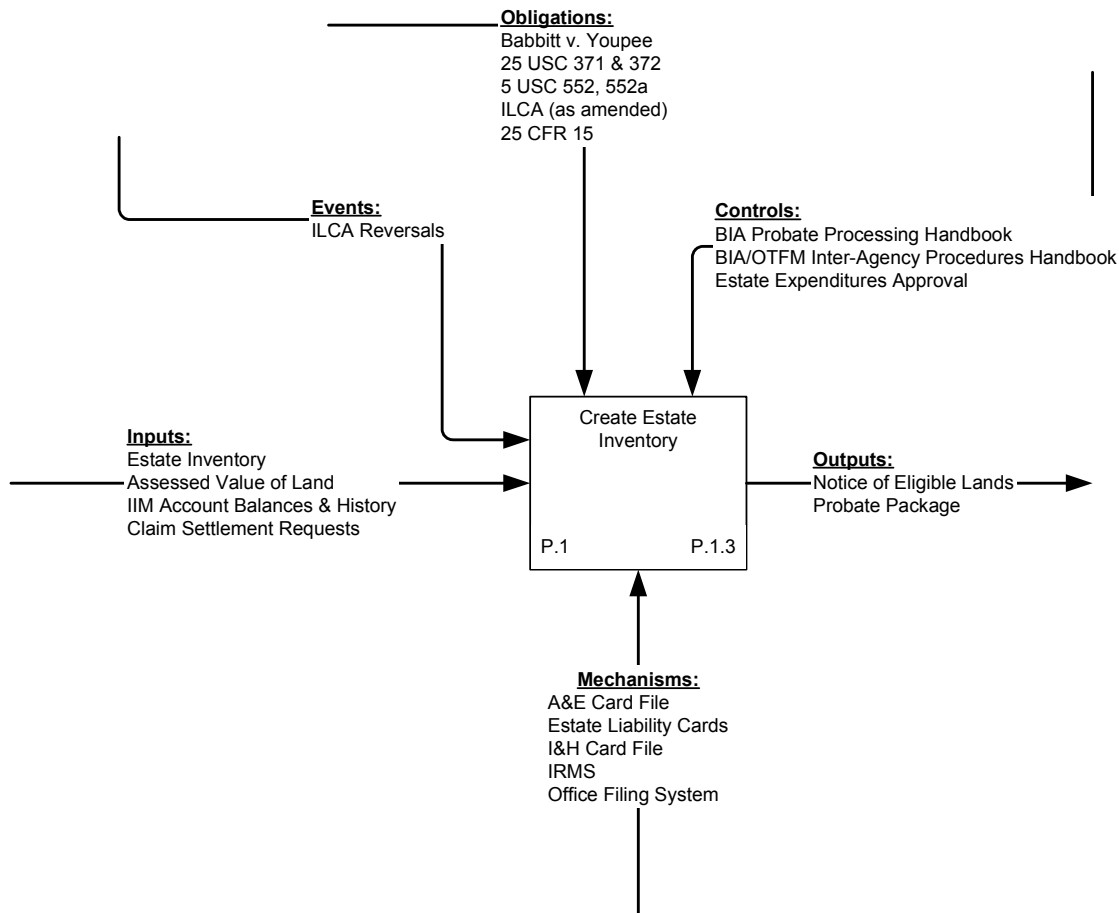


Figure 4.3.1- 5 Create Estate Inventory IDEF(0)



Conduct Heir Search (P.1.4)

Starts with: Receive notice of death from a knowledgeable party or
Receive order presuming death.

Ends with: Update Probate Package with family information.

An heir search attempts to identify all potential heirs and devisees of the decedent. Heirs are spouses, siblings and lineal descendants (or ascendants) that are enrolled or eligible to become enrolled members of a federally recognized Tribe. Devisees are individuals that are named in a will or are otherwise eligible to benefit from the estate.

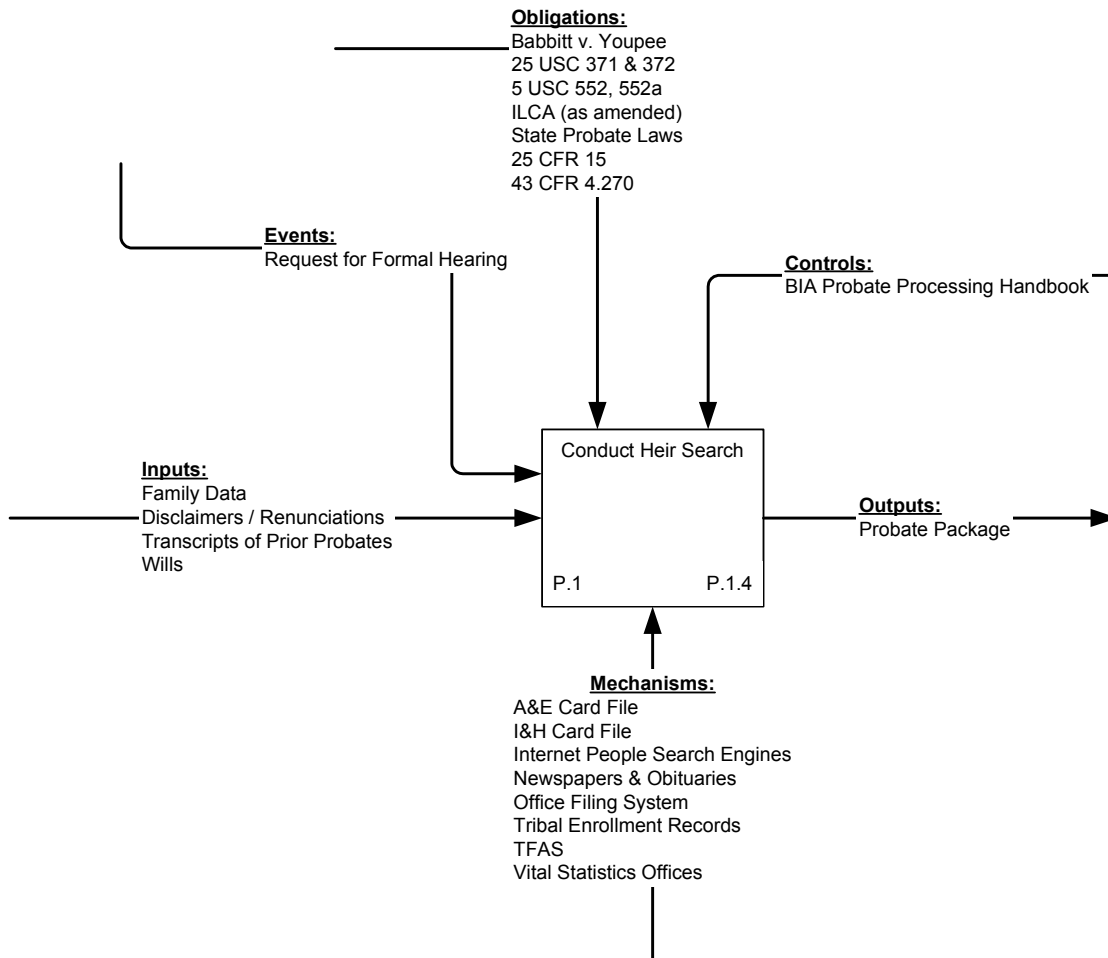


Figure 4.3.1- 6 Conduct Heir Search IDEF(0)

Agency Review (Probate) (P.1.5)

Starts with: Receive probate package from the Probate Clerk.
 Ends with: Submit probate package to the Regional Probate Specialist.

Confirmations of death, estate inventory information, heirship information, Tribal resolutions, claims and renunciations are consolidated into a Probate package in the local BIA office. The Probate Package is then reviewed by the local Line Official for completeness prior to submitting the package to the Regional Probate Specialist for a determination as to whether the case will be heard by OHA or BIA.

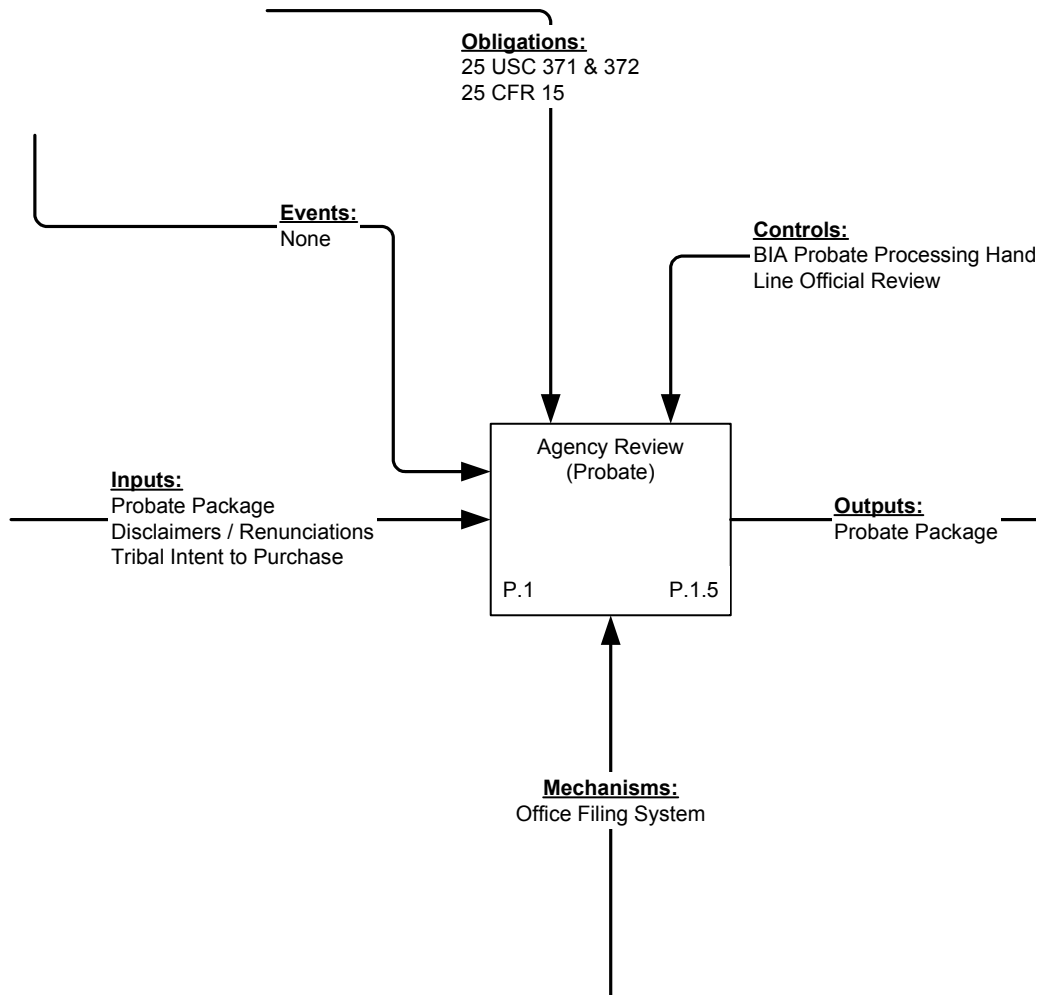


Figure 4.3.1- 7 Agency Review (Probate) IDEF(0)

Determine Deciding Official (P.1.6)

Starts with: Receive reviewed probate package from the Agency.
 Ends with: Send Probate Package to the Deciding Official.

The Probate Package is reviewed by the Regional Probate Specialist against established criteria to determine if it is a candidate for adjudication by the BIA or if it should proceed through a formal hearing by OHA. 25 CFR 15 subparts 205 and 206 define the criteria that are used to identify the organization that will adjudicate the estate. Subpart 206 establishes the criteria for performing summary distributions. Summary distributions are performed by BIA unless an interested party requests a formal hearing. Subpart 205 defines criteria, any one of which – if true – will require OHA to conduct a probate hearing.

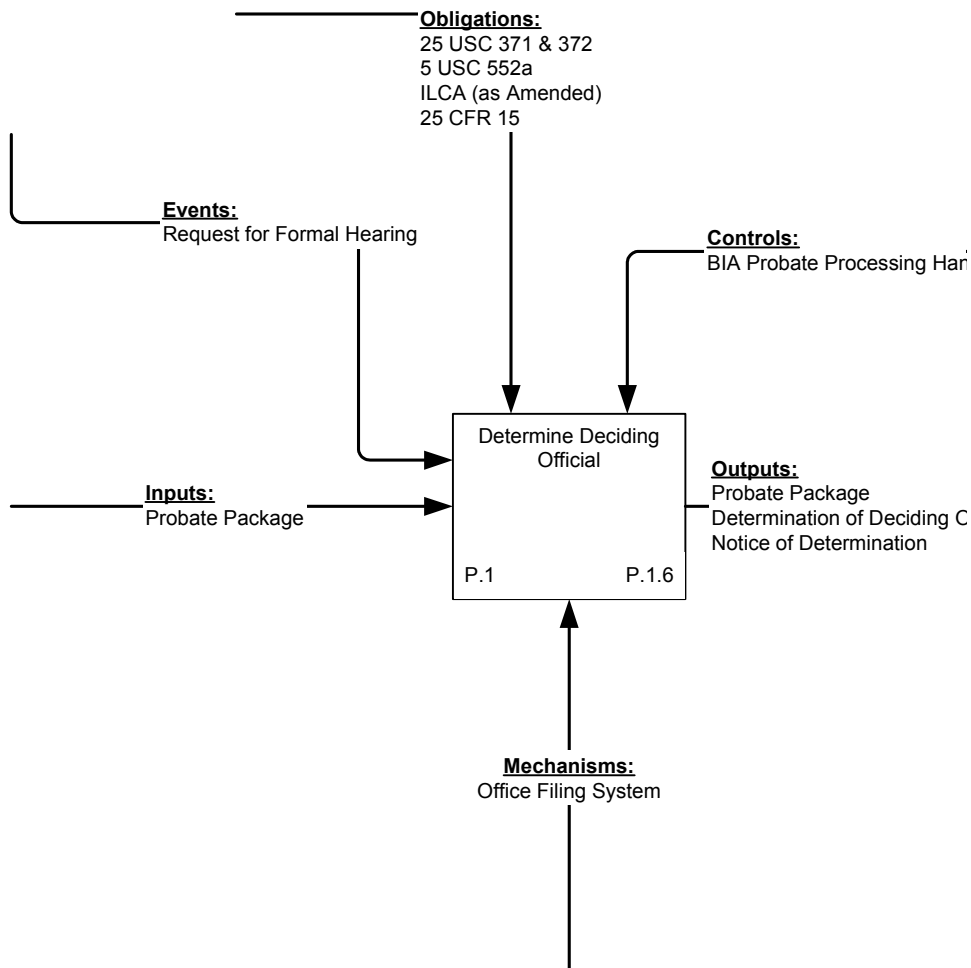


Figure 4.3.1- 8 Determine Deciding Official IDEF(0)



4.3.1.3 Probate Trust Estate (P.2)

Starts with: Receive probate package from the Probate Specialist.

Ends with: Issue probate order to the LTRO/TSO, Agencies and interested parties or
Issue Tribal purchase order to the Agency and Tribe.

Deciding Official (DO) receives the case, evaluates the case, accomplishes pre-hearing case development, sends notices of the location of the formal or informal hearing, conducts hearing, determines the validity of wills, accomplishes post hearing development and issues decision. Probate cases may be transferred among deciding officials for the convenience of interested parties: BIA Attorney Decision Makers (ADMs) must refer cases to OHA if they determine that questions of fact must be addressed in the probate proceeding.

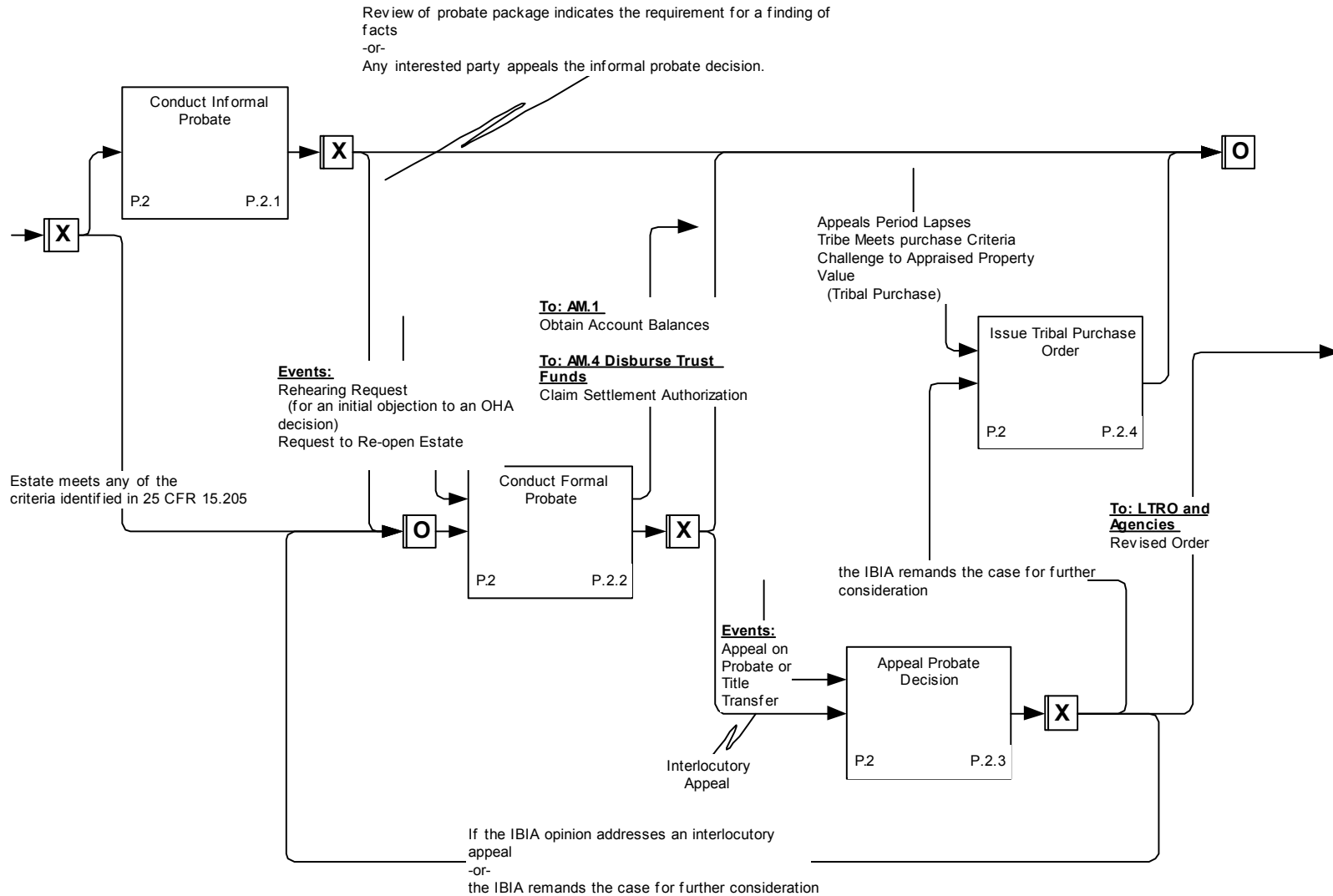


Figure 4.3.1- 9 Probate Trust Estate IDEF(3)



Beneficiary Involvement for Probate Trust Estate

Heirs, devisees and Tribal representatives generally attend probate hearings to provide testimony and evidence and documents verifying family and estate information (non-enrolled devisees are frequently offered the opportunity to issue a disclaimer renouncing their interest in the estate). When beneficiaries cannot attend the hearing in person, they will forward the requested information, either orally or in writing, to the Deciding Official (DO) in advance. Beneficiaries are advised by the DO to agree on the distribution of properties, in advance, to avoid further fractionation and to simplify the adjudication process. Beneficiaries may challenge rulings during the hearing or after the decision.

Probate Trust Estate Significant Notes

- a) Probate activities are governed by 25 CFR 15 and 43 CFR 4, regulations that have been significantly revised since 1999. Unlike most federal activities, the adjudication of Trust estates, however, is governed by the regulations in effect when the individual died rather than the regulations in effect when the probate hearing is conducted.
- b) Frequently, formal hearings held for small amounts of money are due to a question of fact.
- c) Multiple probate codes may apply to a single estate when trust lands are located in several states creating complex probates.
- d) OHA and BIA adjudicate. Both are governed by their own regulations and CFR which may conflict.
- e) The threshold for categorizing small vs. large estates is considerably lower than typically found in the private sector. A higher percentage of Indian estates are probated through a formal hearing process that would be probated in the private sector through an expedited probate process.



Probate Trust Estate Detailed Description

Conduct Informal Probate (P.2.1)

Starts with: Receive probate package from the Probate Specialist.

Ends with: Issue probate order to the interested parties or
Transfer case to OHA.

Informal Probates are conducted by BIA Attorney Decision Makers (ADM)s. These conferences provide heirs and devisees with an expedited process by which the estate can be adjudicated. BIA probate decisions are generally based on the probate package as confirmed by interested parties attending the hearing. If, at any point prior to the decision, the ADM receives a request for a formal hearing from any interested party, or the ADM discovers a question of fact, the case will be forwarded to OHA for hearing (de novo review).

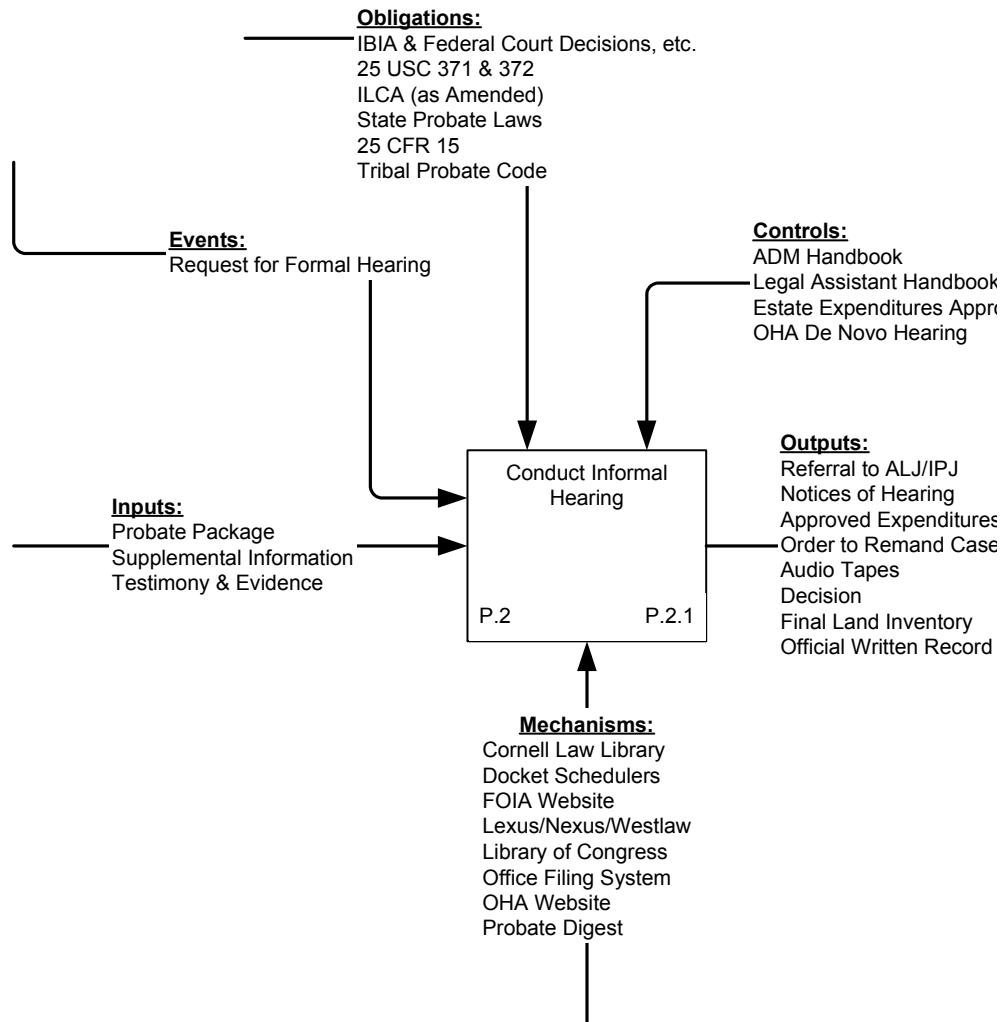


Figure 4.3.1- 10 Conduct Informal Probate IDEF(0)



Conduct Formal Probate (P.2.2)

Starts with: Receive probate package from the Probate Specialist or
Receive challenge to informal probate.
Ends with: Issue probate order to interested parties.

Formal probate proceedings are conducted by OHA Administrative Law Judges (ALJs) or Indian Probate Judges (IPJs). Formal proceedings are required whenever an estate meets any of the criteria identified in 25 CFR 15.205; when questions of law are evident; when any interested party requests a formal probate proceeding in front of OHA; when an Indian heir renounces his interest in the estate; when there is a challenge to the decision resulting from an Informal Probate proceeding; or when a Tribe elects to purchase ILCA-eligible interests in Trust lands. OHA probate decisions are based on a combination of the written record (the probate package) and the evidence and testimony obtained during the hearing.

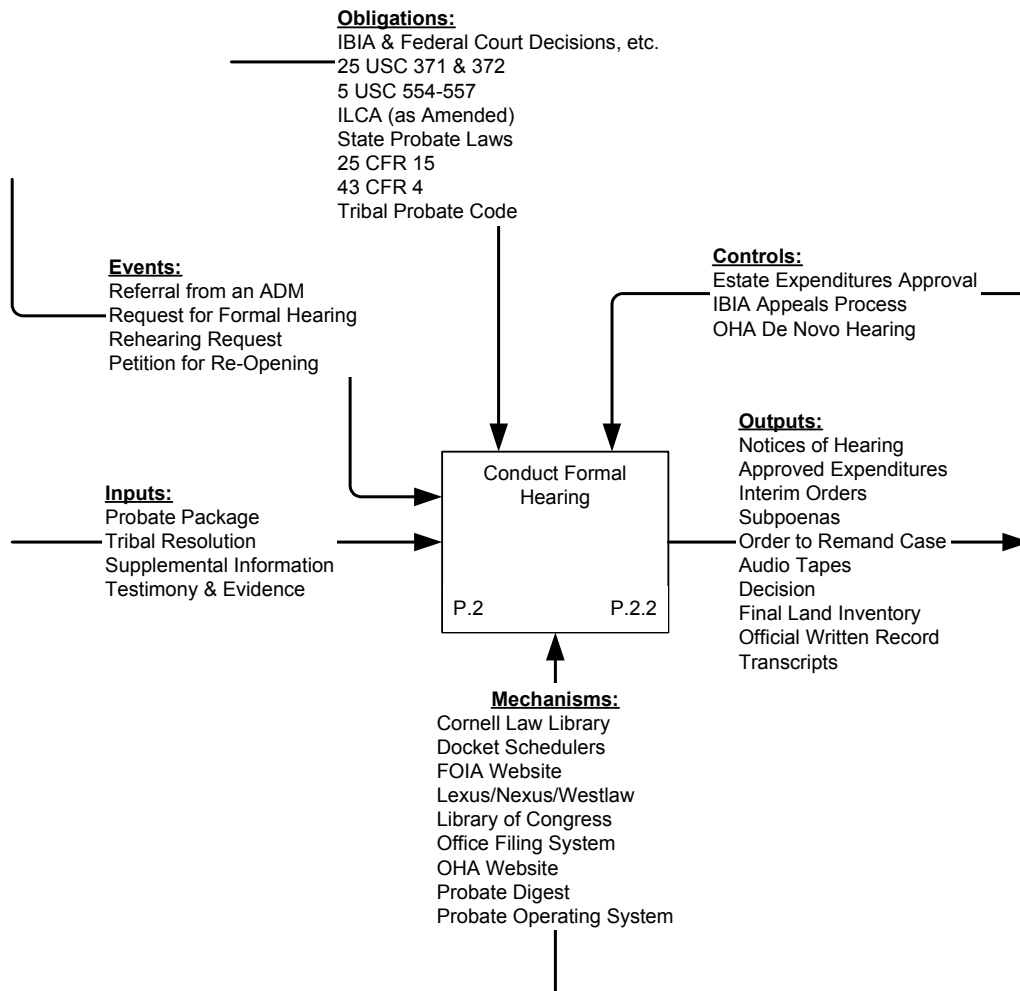


Figure 4.3.1- 11 Conduct Formal Probate IDEF(0)



Appeal Probate Decision (P.2.3)

Starts with: Receive appeal to probate decision or appeal of appraised value of Tribal purchase under ILCA.

Ends with: Issue order finalizing the decision or remanding the case.

Depending on the circumstances of the challenge, appeals arising from probate decisions are heard either by the original Deciding Official or by the Interior Board of Indian Appeals (IBIA). Initial challenges to the Deciding Official's decision are addressed by the original official, either as a re-hearing or a re-opening of the estate. Subsequent challenges to the decision will be heard by IBIA.

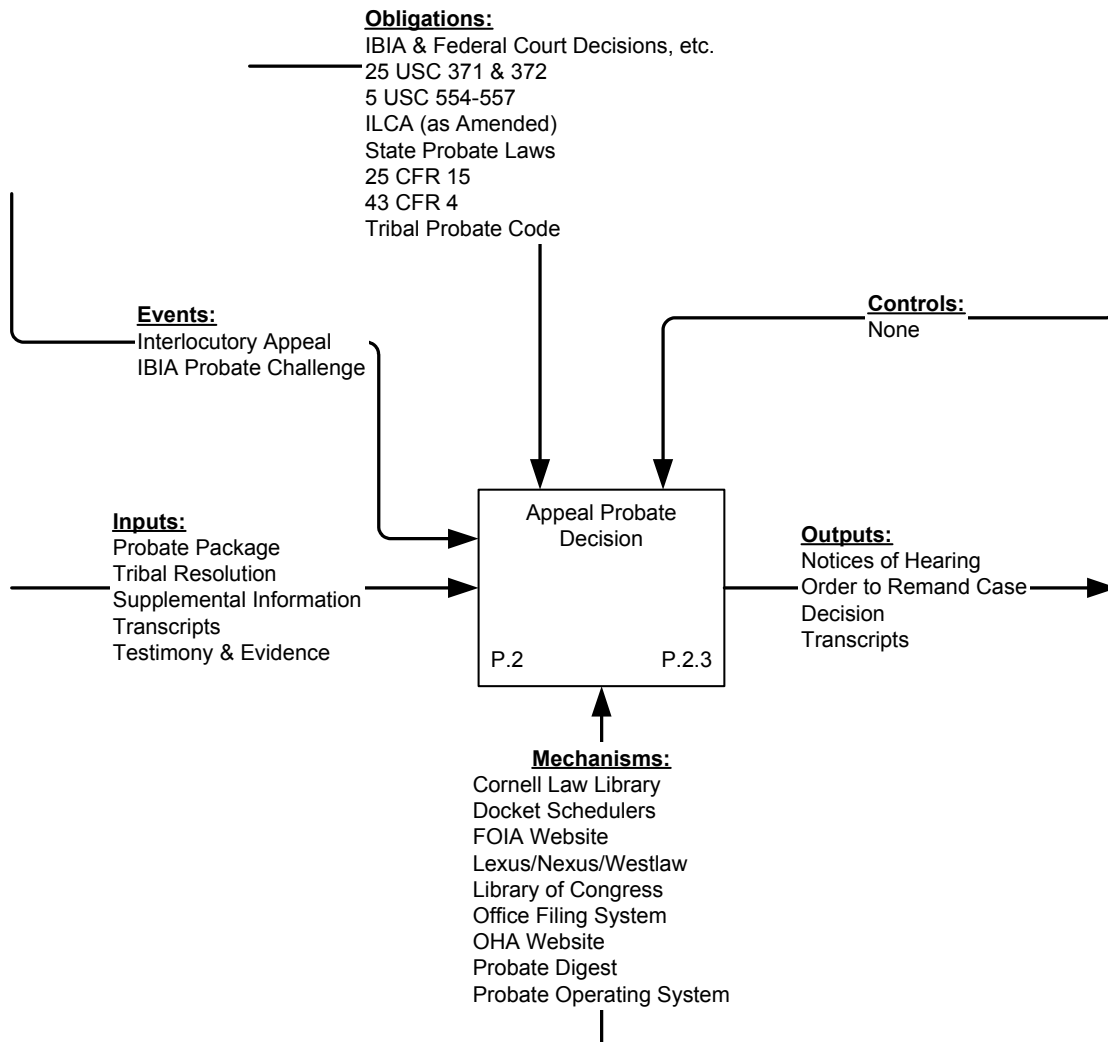


Figure 4.3.1- 12 Appeal Probate Decision IDEF(0)



Issue Tribal Purchase Order (P.2.4)

Starts with: Receive Tribal purchase package from the Agency and expiration of probate appeals period.

Ends with: Issue order confirming or denying Tribal purchase request to the Agency.

A Tribe's petition to purchase a decedent's interest(s) in trust, restricted or allotted lands is either affirmed or denied. The order is issued after the probate decision is final and after the Tribe has met all criteria for acquiring the lands in question.

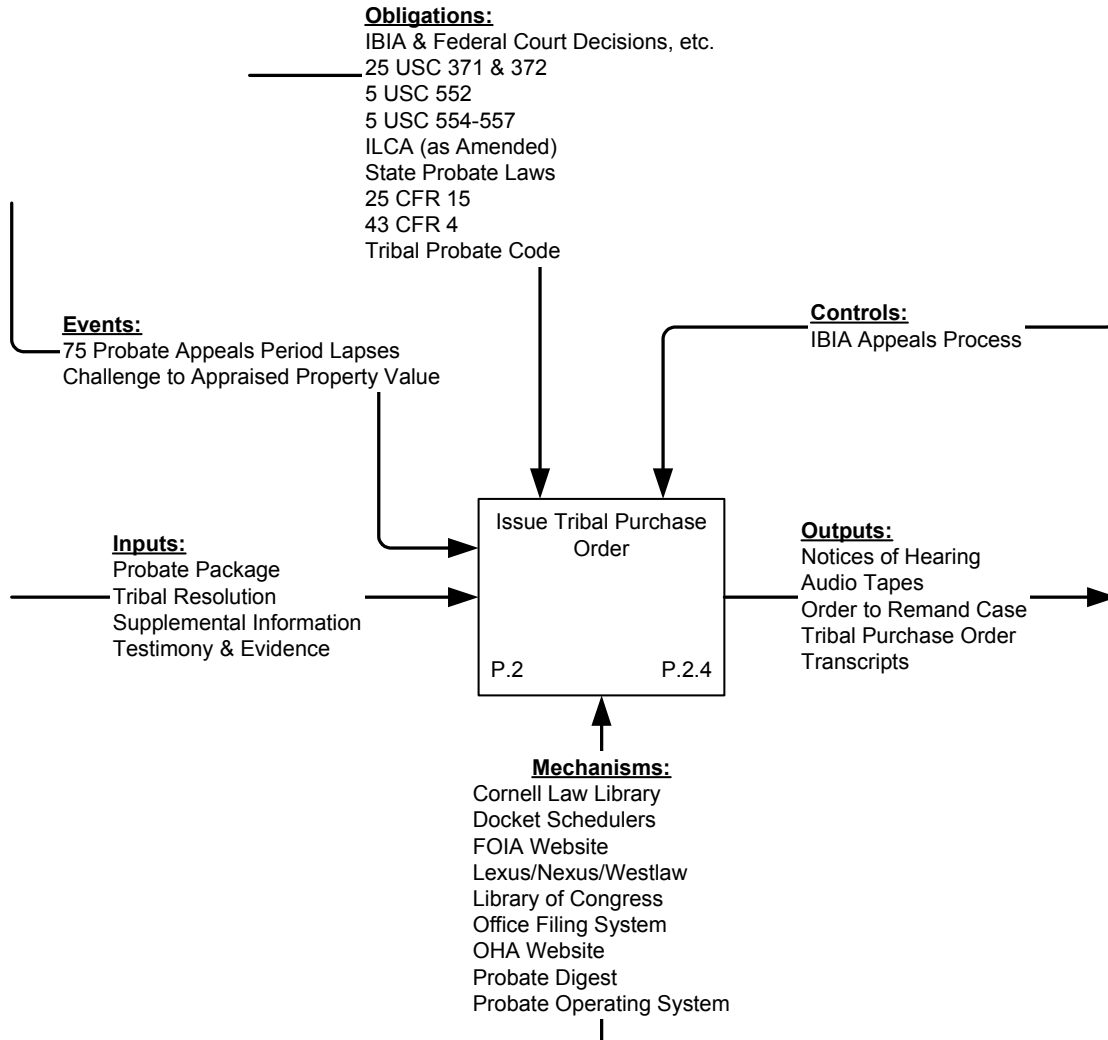


Figure 4.3.1- 13 Issue Tribal Purchase Order IDEF(0)



4.3.1.4 Close Trust Estate (P.3)

Starts with: Expiration of 75-day appeals period or
 Receive appeal decision or Tribal purchase order from the IBIA.

Ends with: Distribute trust assets to heirs, devisees and claimants.

The Deciding Official's probate decision is forwarded to the servicing LTRO/TSO and the Regional/Agency offices to record changes in land ownership and distributions of the monies. Agencies then submit O1-004 forms to establish accounts, as required, and prepare journal vouchers, public vouchers (1034 for submittal to OST/OTFM to distribute monies held in the decedent's accounts. Close Trust Estate starts when probate case decision is final and ends when changes to property title are made, money in Trust accounts is distributed, accounts are closed and claims are settled in accordance with the decision.

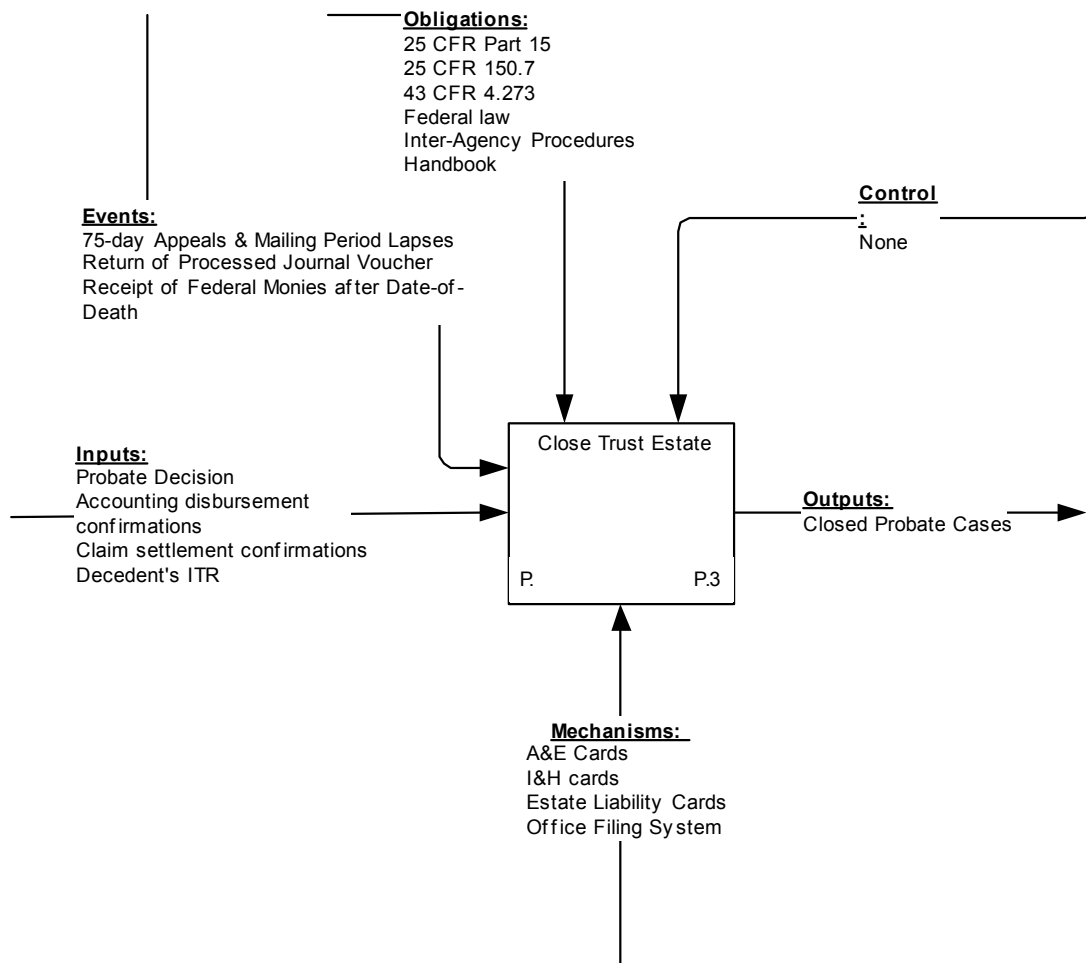


Figure 4.3.1- 14 Close Trust Estate IDEF(0)



Beneficiary Involvement for Close Trust Estate

Beneficiaries provide name, address, social security numbers and other required information to establish new accounts.

Close Trust Estate Significant Notes

- a) When an estate involves Trust interest in more than one BIA region, there is difficulty in coordinating the closing of accounts, distribution of assets and title changes to efficiently close the estate.



4.3.1.5 Probate 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' perceptions of the functions being performed.

Table 4.3.1- 1 Great Plains Region Probate Variances

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Sisseton-Wahpeton Sioux Tribe	Obligation	Trust or Restricted land of a decedent is escheated to the Tribe if an eligible heir is to receive less than 2 ½ acres or no eligible heirs exist - Prevent further loss of Trust land. Implemented by PL 98-513.	Federal Law	Reduces fractionation of trust land	High	Major
Standing Rock Sioux Tribe	Obligation	Trust or Restricted land of a decedent is escheated to the Tribe if no eligible heirs exist - Prevent further loss of Trust land. Implemented by PL 96-274.	Federal Law	Reduces fractionation of trust land	High	Major
Devils Lake Sioux Tribe	Obligation	Trust or Restricted land of a decedent is eligible for purchase by the Tribe if an eligible heir is to receive less than 2% or less of the total acreage and has earned less than \$100 in the preceding year.	Federal Law (PL 97-459)	Reduces fractionation of trust land	High	Major
Great Plain Region	Description	Agencies are forwarding cases to ALJs without applying the tests in	Local Policy	Overloads OHA's docket with cases that can be	High	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		.205 and .206.		adjudicated on the record.		
Pine Ridge Agency	Output	Monthly death notices are sent to the local Bank, IHA and Tribal Credit.	Local Policy	This is done to inform various credit entities to file claims if needed.	Medium	Minor
Winnebago Agency	Output	Monthly death notices are sent to Omaha and Winnebago Tribal credit but not to Santee Tribal Credit.	Local Policy	Requests from Omaha and Winnebago to be informed of deaths so Tribal credit programs can file claims if necessary.	Medium	Minor
Yankton Agency	Output	Monthly death notices are sent to the IHA and Tribal credit programs.	Local Policy	Requests from Tribe to be informed of deaths so that their Tribal credit programs can file claims if necessary.	Medium	Minor

Table 4.3.1- 2 Midwest Region Probate Variances

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Midwest Region	Mechanism	Use of local Historical Societies	Additional Resource	Provides another resource for local history, which helps identify possible heirs.	Medium	Minor
Midwest Region	Mechanism	Annuity Role - Used to identify relatives	Additional Resource	Provides another resource for local genealogy information, which helps	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				identify possible heirs.		
White Earth Reservation Business Community	Mechanism	WELSA - (White Earth Tribe) related probate documents - Used as a source to identify heirs in future probates	Additional Resource	Provides another resource for local genealogy information which helps identify possible heirs and a more accurate and efficient probate.	Medium	Minor
Great Lakes Agency	Mechanism	As a result of the Temporary Restraining Order and subsequent Stop Order, Great Lakes agency is using GLADS verified by A&E cards to produce certified inventories for probates.	Court Order	The agency has continued to process probates using A&E cards (kept updated) and GLAD to produce certified inventories.	High	Major
Midwest Region	Mechanism	Internet genealogy resources are not being used to identify potential heirs.	Court Order	Lack of internet access has prevented probate clerks from identifying heirs using internet genealogy research web sites.	High	Major
Great Lakes Agency	Mechanism	Datacom Sciences has reconciled many of the ID discrepancies while doing summary probates. They have built a data base with the ID reconciliation. (Pilot Initiative)	Local Initiative	Eliminate summary distribution backlog and reconcile Owner ID's	High	Medium
Great Lakes Agency	Mechanism	Great Lakes keeps a status sheet which every office checks before making payments etc.	Local Policy	This assures no direct payments are sent after a decedents trust assets are	High	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				placed in estate status		
Minnesota Agency	Beneficiary Involvement	Minnesota Agency does not require social security card, enrollment card, picture ID, etc. if they are enrolled	Local Policy	No other form of ID is required if the heir is an enrolled member	Medium	Minor
Minnesota Agency	Output	Sends death notice to Tribes	Local Policy	Informs Tribal credit programs so they will have the opportunity to file a claim.	Medium	Minor
Minnesota Agency Great Lakes Agency Michigan Field Office	Output	Sends an initial notice to selected heirs outlining the probate process and what is needed and expected (25 CFR 15.104); sometimes followed up by a phone call if needed documents have not been submitted. Not a formalized process but it is being done	Local Policy	This can expedite the preparation of a probate package.	Medium	Minor
Midwest Region	Obligation	Twin Cities OHA regularly produces Transcripts	Local Policy	Makes for easy access to prior transcripts which is a good source of genealogy information in preparing a probate package	Low	Minor
Red Lakes Field Office	Beneficiary Involvement	Provide social security card, enrollment card, picture ID and 3 forms (notarized) for funds disbursement.	Procedural	To ensure identification of heirs is accurate	High	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Mille Lacs	Obligation	Mille Lacs has a written Memorandum of Understanding defining the division of responsibilities between the Minnesota agency and Tribe (Tribe has compacted Probate)	Procedural	The memorandum of understanding defines the Tribe's and BIA's responsibilities for the compact in more detail. This reduces misunderstandings.	Medium	Medium
Great Lakes Agency Michigan Field Office	Beneficiary Involvement	Agencies requires a SS card and a picture ID	Procedural	To ensure identification of heirs is accurate	Medium	Minor
Midwest Region	Beneficiary Involvement	Midwest sends an initial notice to selected heirs outlining the probate process and what is needed and expected sometimes followed up by a phone call. Heirs are expected to respond with the needed documentation	Procedural	Creates a better understanding of what is needed and how the process will proceed for the heirs.	Medium	Minor
Great Lakes Agency Red Lake Field Office	Organization	Red Lake Agency sends the completed probate package to Great Lakes for review and signature	Staffing	There is no superintendent at Red Lake and all probate packages are sent to the Great Lakes Superintendent for review.	Medium	Medium
Mille Lacs	Control	Mille Lacs' MOU with Minnesota Agency - Defines responsibilities of the Tribe and Agency for probate (compact by Mille Lac)	Tribal Policy	Clarifies the Tribe and Agency responsibilities in more detail than the compact. This reduces problems and confusion when the Tribe is	High	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				performing non-inherently federal functions of probate.		

Table 4.3.1- 3 Eastern Region Probate Variances

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Eastern Region	Process	Does not have probates that involve allotted lands - All the land is Tribal Trust/Restricted	No allotted lands.	There is no allotted land to probate. They do have some IIM accounts created from judgments.	Medium	Major

Table 4.3.1- 4 Alaska Region Probate Variances

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Alaska Region	Input	Cultural adoptions - adoptions done at Tribal level which are culturally accepted but usually have no legal documents proving family heritage.	Cultural	Slows the process because each DO requires different forms of proof of genealogy.	Medium	Major
Alaska Region	Obligation	P.L. 83-280 - Enables states to assume civil jurisdiction in matters involving Indians as	Federal Law	Public Law 83-280 - Tribes are not provided funding to create and staff family	Medium	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		litigants on reservation land.		courts, as a result no legal papers are available for cultural adoptions. ALJs will accept Tribal resolutions as proof of a cultural adoption.		
Alaska Region	Obligation	Alaska Claims Settlement Act - Identifies individual allotments. Sets aside Indian land in Restricted Fee Simple status rather than Trust status.	Federal Law	BIA has to get official title records from the State.	Medium	Major
Alaska Region	Obligation	Fee-Restricted in Alaska – The Native Allotment Act as amended (1922, 1956 and 1971) and the Alaskan Claims Settlement Act of 1971 have defined the land as restricted fee lands.	Federal Law	This is the law that makes the allotments restricted fee and therefore title is recorded at the State	Medium	Major
Alaska Region	Organization	Alaska has Consortiums (Entities that compact/contract services for a number of Tribes)	Federal Law	This is done usually by small Tribes because of economy of scale.	Medium	Major
Alaska Region	Input	Original Allottee information - Records for original Allottees from the Allotment act of 1906	Federal Law	Historical records of original allottees.	Medium	Minor
Alaska Region	Event	Region is P.L 280 State, no Tribal courts in Alaska for determination of death	Federal Law	No Tribal courts to initiate a presumption of death hearing	Low	Major
Alaska Region	Event	ILCA Reversals - ILCA does not	Federal Law	Minimal	Low	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		apply in Alaska, therefore there are no escheats or Tribal purchases to be reversed.				
Alaska Region	Control	Under the authority of the Native Allotment Act of 1906, title to Restricted Fee land is maintained by the State. This authority is also referenced in the Native Village Act of 1926 and the Vietnam Veteran Act of 1988.	Federal law	Aside from the complexity associated with accessing outside agencies and systems of record, the impact of these laws is minimal.	Medium	Minor
Alaska Region	Organization	Estate inventories are created by the service provider (Tribe, Consortium or BIA). Title to the property is recorded with the State - Title is maintained at the State because the land is restricted fee.	Local Policy	If the service provider records are not current this could lead to modifications.	Medium	Medium
Alaska Region	Process	Determinations of Death - They are treated as a probate with an additional step.	Local Policy	Current circumstances are not conducive to determinations of death, however if a case is very strong the probate clerk sends the documents for the probate along with the determination of death package. This is more expedient.	Medium	Minor
Alaska Region	Mechanism	Monthly Notices of Death from	Procedural	Greatly reduces the number	High	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		all 37 Service Providers in Alaska - Notice of deaths from each service provider to all other service providers in Alaska informing them of Deaths at their location. Done to keep everyone informed and reduce the number of modifications.		of modifications done in probate.		
Alaska Region	Organization	Alaska Title Service Center receives the decision and they provide a certified copy to the Service provider (BIA, Tribal or Consortium) that is responsible for closing the probate. The Service provider updates their records and has the changes recorded in the State records office.	Procedural	Alaska Title Service Center distributes copies of the decision and has the appropriate title changes made with the State.	Medium	Major
Alaska Region	Mechanism	BIA Probate Processing Handbook (Pub 6/2001) - Separate handbook is used	Procedural	This helps Probate staff process probates more efficiently by making allowances for all the variations in the Region.	Medium	Medium
Alaska Region	Input	Confirmation for title changes comes after the Service Provider submits the decision to the State for recordation and the State notifies Service provider the changes have been made -	Procedural	State confirms the changes have been made by notifying the Appropriate service provider (BIA or Tribe). This allows the	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		Because the land is restricted Fee and recorded with the State		case to be closed efficiently		
Alaska Region	Role	All information needed for probate has to be requested by letter rather than phone call.	Remoteness of Villages	They send detailed request and forms to family members with explanation of what and how the probate will take place. This can expedite the preparation of a probate package.	Medium	Medium

Table 4.3.1- 5 Northwest Region Probate Variances

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Nez Perce Tribe	Obligation	Inheritance Act - So that the Tribes needs can be considered in Probating Trust Estates	Federal Law	Allows the Tribes to address their specific needs as they pertain to probates.	Low	Major
Warm Springs	Obligation	Warm Springs Inheritance Act - So that the Tribes needs can be considered in Probating Trust Estates	Federal Law	Allows the Tribes to address their specific needs as they pertain to probates.	Low	Major
Yakama Tribe	Obligation	Inheritance Act - So that the Tribes needs can be considered in Probating Trust Estates	Federal Law	Allows the Tribes to address their specific needs as they pertain to probates.	Low	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Confederated Tribes of the Umatilla Indian	Obligation	Umatilla Probate Code - Inheritance law for Probating a Trust Estate	Tribal Probate Code	Allows the Tribes to address their specific needs as they pertain to probates.	Low	Major
Nez Perce Tribe	Obligation	Nez Perce Tribe Inheritance Act - Inheritance law for Probating a Trust Estate	Tribal Probate Code	Allows the Tribes to address their specific needs as they pertain to probates.	Low	Major
Umatilla	Obligation	Approved Probate Code - So that the Tribes needs can be considered in Probating Trust Estates	Tribal Probate Code	Allows the Tribes to address their specific needs as they pertain to probates.	Low	Major
Yakama Tribe	Obligation	Yakama Tribe Inheritance Act - Inheritance law for Probating a Trust Estate	Tribal Probate Code	Allows the Tribes to address their specific needs as they pertain to probates.	Low	Major

Table 4.3.1- 6 Eastern Oklahoma Region Probate Variances

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office	Role	Tribal and Agency Realty Clerks update surface leases, ownership and Tax Records		Title documents are recorded at the local court house but has to be compared to Agency title information to assure all restricted property is accounted for.	Medium	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office	Description	Regional Director's Office receives notice of probate and forwards it to the Solicitors office. The Solicitors office reviews the petition to see if it conforms to Federal law, checks for missing heirs and files the probate in county court.	Federal Law	Federal law requires these probates go through State District court. This requires a larger everyday role from the DOI solicitors office to assure court decisions are not violating federal statutes pertaining to the Five Civilized Tribes and Osage	High	Major
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office	Description	Probates not involving a will are filed with the District Court by a private attorney and forwarded to the superintendent. At the agency it is date stamped and forwarded to the Solicitor who monitors the case	Federal Law	Federal law requires these probates go through State District court. This requires a larger everyday role form the DOI solicitors office to assure court decisions are not violating federal statutes pertaining to the Five Civilized Tribes and Osage	High	Major
Osage Agency	Process Description	Maintains interest information for head rights that have been sold to non-Indians. These shares have to be figured and payment request sent to San Francisco for disbursement	Federal Law	Because head right shares are paid by oil companies that include thousands of shares that include non-Indian shareholders, they have to be processed and paid even though they are not trust funds.	High	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Osage Agency	Process Description	Intervivos Trust (by statute this has to be a revocable trust and often is referred to as a revocable trust) is similar to a will where the individual Osage Indian could transfer to the Secretary of the Interior his restricted real property, head rights and Lake Fund	Federal Law	Intervivos Trust allows the Superintendent to distribute the assets after the individual's death and is less cumbersome than state court.	High	Major
Osage Agency	Role Output	Solicitor prepares a distribution report and submits it to the agency.	Federal Law	Order to execute the Trust after the 30-day period for challenges.	High	Major
Osage Agency	Mechanism	Agency office records title changes and ownership of head rights and Lake fund shares.	Federal Law	Agency maintains the official record of head rights and Lake Fund shares	Medium	Major
Osage Agency	Obligation	25 CFR Part 154 - Certificate of Competency Osage. Before distributions can be made agency must check to see if the heir has a certificate of competency.	Federal Law	Before accounts can be set up for new heirs, agency staff must check for a certificate of competency. If none, a restricted account must be set up.	Medium	Major
Cherokee Tribe Chickasaw Tribe Choctaw Tribe Creek Tribe Seminole Tribe	Obligation	25 CFR 115 does not apply to the Osage Nation or to the Five Civilized Tribes. Indian IIM accounts. Instead 25 CFR 116 was written to establish specific IIM regulations for the Five Civilized Tribes and 25 CFR 117	Federal Law	Introducing separate sets of regulations increases the complexity of administering IIM accounts for Trust beneficiaries.	Medium	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Osage Nation		was written for the Osage Nation.				
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office	Control	If a sale of land is required to satisfy a lien the Solicitors office reviews the sale to see if it is necessary and makes sure any sells conform to 61 Statute 731.	Federal Law	To ensure the sale conforms to 61 Statute 731.	Medium	Major
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office	Obligation	25 CFR Part 16 - Estates of Indians of Five Civilized Tribes.	Federal Law	Regulations for discharging the responsibilities of the Secretary in connection with the State Courts performance of Indian Probates.	Medium	Major
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office	Office	Solicitors office reviews and transmits the court order for the Five Civilized Tribes to the EORO.	Federal Law	Requires a review of any court ordered claims by the Solicitors office and a recommendation on the validity of the claim.	Medium	Major
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office	Control	If the decision complies with federal law the solicitor forwards it with his recommendation to the superintendent for distribution	Federal Law	This is a review by the Attorney Advisor in the solicitor office to ensure the decision complies with all federal law.	Medium	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Wewoka Field Office Osage Agency						
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office Osage Agency	Input	Attorney Advisors review and makes a recommendation for payment of attorney fees.	Federal Law	This is a review by the Attorney Advisor in the Solicitor's office, to ensure the fees are reasonable.	Medium	Major
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office Osage Agency	Mechanism	Official Title for restricted land for Osage and Five Civilized Tribes is maintained by the State.	Federal Law	Title maintained at the agency must be compared to title maintained in local courthouses to assure all restricted property is included in the probate.	Medium	Major
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office Osage Agency	Obligation	Hearings / recommendations for wills conducted by the Solicitors Office.	Federal Law	Requires a hearing for any wills by the Solicitors office and a recommendation on the validity of the will.	Medium	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office Osage Agency	Process Description	Probates for Osage and Five Civilized Tribes restricted land and trust funds are heard by Oklahoma District Court.	Federal Law	This requires a larger everyday role for the DOI Solicitors office to assure court decisions are not violating federal statutes pertaining to the Five Civilized Tribes and Osage.	Medium	Major
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office Osage Agency	Role	Attorney Advisor (DOI Solicitors Officer) presides over challenges to an Intervivos Trust and makes recommendation to Superintendent.	Federal Law	Requires a hearing to be held by the Solicitors office if there is a challenge to an Intervivos Trust and that the Attorney Advisor makes a recommendation on the validity of the challenge.	Medium	Major
Osage Agency	Role Office	Challenges to Intervivos Trusts are addressed by the Solicitor's Office rather than by the IBIA. An Attorney Advisor from the Solicitor's Office makes a recommendation as to the validity of the challenge.	Federal Law	Separate statutes and regulations increase the complexity of administering the probate process.	Medium	Major
Osage Agency	Obligation	25 CFR Part 17 - Action of will on Osage	Federal Law	Separate statutes and regulations increase the complexity of administering the probate	Medium	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				process.		
Osage Agency	Obligation	1978 Act - Establishes the authority for the Superintendents to do will approvals and the state court to do probates	Federal Law	Separate statutes and regulations increase the complexity of administering the probate process.	Medium	Major
Osage Agency	Obligation	After review of the Intervivos Trust by the Solicitors office, the Superintendent approves or denies the Intervivos Trust. If approved, the Superintendent distributes Trust assets accordingly.	Federal Law	Separate statutes, regulations and processes increase the complexity of administering the probate process.	Medium	Major
Osage Agency	Role	Agency Realty Specialist updates ownership, Tax records (head rights and Lake Fund) and lease records.	Federal Law	Title maintained at the agency is unofficial but they maintain the official record of head rights and Lake Fund shares.	Medium	Major
Osage Agency	Organization	Agency office records new ownership of head rights and Lake Fund shares.	Federal Law	No systems available for these unique trust assets. Agency created their own automated systems to track ownership.	Medium	Medium
Chickasaw Agency Okmulgee Field Office Miami Field Office	Office	Solicitors Office occasionally calls families for additional information, usually concerning heirs.	Federal Law	If it is an issue that can be readily clarified the Solicitor will call the family for clarification rather than	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Talihina Field Office Wewoka Field Office Osage Agency				go through the agency office.		
Osage Agency	Event	Distribution report for Intervivos Trust, wills and intestate succession.	Federal Law	Report is reviewed by Attorney Advisor and returned to Superintendent with a recommendation.	Low	Major
Osage Agency	Input	Agency has to have an official death certificate or the district court decision (after Solicitors review) with the date of death noted on it before distributions are made.	Federal Law	Minimal	Low	Major
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office	Office	Reviews and recommends to the Superintendent concerning Orders for payment from the District Court.	Federal Law	All court orders for payment of a claim, taxes, appraisers, etc. must be approved by the Superintendent after review by the solicitors office and his recommendation.	Low	Major
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office	Organization	Attorney Advisors review and make recommendation for payment of attorney fees.	Federal Law	To assure attorney fees are reasonable.	Low	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office Osage Agency	Event	Final Decree from District Court plus 30 days appeal period	Federal Law	Appeals period is 30 days as opposed to 30 + 15 in 25 CFR part 15	Low	Major
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office Osage Agency	Input	Appraisals for restricted lands are only done when requested by the District Court.	Federal Law	Unless probate orders include an appraised value of estate lands, heirs and devisees may not understand the value of inherited Trust interests.	Low	Major
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office Osage Agency	Obligation	The State District Court has jurisdiction as the Deciding Official over all probate matters involving the Osage Nation and the Five Civilized Tribes.	Federal Law	Aside from the additional complexity associated with coordinating probate activities with non-Departmental organizations, there is little impact.	Low	Major
Chickasaw Agency Okmulgee Field Office	Office	Solicitor reviews and monitors probate cases being conducted in District Court.	Federal Law	Solicitor monitors probate cases in state court and reviews the decision to	Low	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Miami Field Office Talihina Field Office Wewoka Field Office Osage Agency				assure it complies with all applicable laws.		
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office Osage Agency	Office	When decedent is represented by a private attorney the estate, inventory is provided to the attorney.	Federal Law	Minimal	Low	Major
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office Osage Agency	Output	An order to pay a claim, which goes through the Solicitors office for review with a recommendation to the Superintendent/Field Representative.	Federal Law	Attorney Advisor reviews the order to assure it complies with all applicable laws. He then makes a recommendation to the Superintendent whether or not they appear to be valid and don't conflict with any laws.	Low	Major
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office	Output	Probates are conducted in District Court with decedent's estate represented by private attorneys.	Federal Law	Minimal	Low	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Wewoka Field Office Osage Agency						
DOI Regional Solicitors Office	Role Office Organization	If there is a challenge to an Intervivos Trust the Solicitors Office hears the challenge and gives recommendation to the Superintendent.	Federal Law	An Attorney Advisor from the Solicitors Office must hear challenges to an Intervivos trust.	Low	Major
Osage Agency	Office	District court orders to pay claimant, taxes, appraisers etc. must be approved by the Superintendent after review by the solicitor and his recommendation.	Federal Law	The Superintendent must approve all court orders for payment of a claim, taxes, appraisers, etc.	Low	Major
Osage Agency	Role	Realty Assistant provides head right values for the probate.	Federal Law	Value of a decedents head rights based on past quarterly payments sent to the private attorney representing the decedent.	Low	Major
Osage Agency	Role	Realty Assistant sends unofficial death notices to Tribal Council Office and the Solicitor.	Federal Law	To assure Solicitor is informed of the death and Tribal credit programs know of the death should they need to file a claim.	Low	Major
Osage Agency	Role	Review and makes recommendation to the Superintendent on Distribution report for Osage wills, intestate	Federal Law	Attorney Advisor reviews the order to assure it complies with all applicable laws. He then makes a	Low	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		succession and Intervivos trusts Superintendent.		recommendation to the superintendent whether or not they appear to be valid and doesn't conflict with any laws.		
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office	Mechanism	Probate Cards- Paper based cards with Five Civilized Tribes decedent's name, date of death, heirs, name of court that presided over the probate, date and case number.	Local Policy	Card system that is used with all the information that might be needed of all past probates.	High	Minor
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office	Process Description	For the Five Civilized Tribes the Tribal /Agency Realty Specialist sends unofficial/official death notice to Tribal enrollment, Eastern Oklahoma Regional Office and Land Titles office.	Local Policy	Ensures that all affected offices know that the decedents trust assets are in estate status.	High	Minor
Eastern Oklahoma Regional Office	Mechanism	They use the SSA Death Index for research (missing heirs, confirmation of a death, etc.)	Local Policy	This is a very reliable system for researching missing heirs, confirmation of a death, etc.	High	Minor
Osage Agency	Process Description	BIA sends unofficial death notices to Tribal Council Office and the DOI Solicitor.	Local Policy	Ensures that the Tribe knows the decedent's shares in head rights or lake funds are in estate status and that the solicitor's	High	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				office can prepare for monitoring the case.		
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office	Role	Attorney Advisor reviews and transmits the court order for the Five Civilized Tribes to EORO.	Local Policy	This is a review by the Attorney Advisor in the solicitor office to ensure the decision complies with all federal law.	Medium	Major
Eastern Oklahoma Region	Mechanism	A & E Cards - maintained on microfiche	Local Policy	Since BIA internet access was lost in late 2001 these cards have been very useful. These cards are being maintained and kept on microfiche.	Medium	Medium
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office	Role	Tribal/Agency Realty Specialist sends unofficial/official death notice to Tribal enrollment.	Local Policy	To assure the Tribe has updated enrollment information.	Medium	Minor
Eastern Oklahoma Region	Inter-Process relationship	T.4 - Maintain Title - N/A	Local Policy	No formal process to notify probate staff that the title changes have been completed. Causes extra work for the probate staff trying to confirm when	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				changes are made and the case can be closed.		
Eastern Oklahoma Region	Inter-Process relationship	T.4 - Maintain Title - N/A	Local Policy	No formal process to notify probate staff that the title changes have been completed. Causes extra work for the probate staff trying to confirm when changes are made and the case can be closed.	Medium	Minor
Eastern Oklahoma Region	Output	OHA offices serving these regions sends the decision to OST/OTFM - because they are an interested party.	Local Policy	This does not appear to be necessary because the Agency will send the decision and journal vouchers for the distribution of the decedents funds.	Medium	Minor
Eastern Oklahoma Region	Process	Determinations of Death - They are treated as a probate with an additional step.	Local Policy	Current circumstances are not conducive to determinations of death, however if a case is very strong the probate clerk sends the documents for the probate along with the determination of death package. This is more expedient.	Medium	Minor
Eastern Oklahoma Region	Role	OHA refers cases back to ADM's	Local Policy	Minimal	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		- If after the ALJ/IPJ's review of the Probate package it appears that the case could be decided on the record.				
Osage Agency	Role	Attorney Advisor produces a distribution report for Osage wills, intestate successions and Trusts.	Local Policy	Minimal	Medium	Minor
Cherokee Tribe Chickasaw Tribe Choctaw Tribe Creek Tribe Seminole Tribe	Organization Office	Tribes check distribution report with Tribal enrollment/CDIB documentation, sends out the forms for new IIM accounts then sends forms back to EORO who sends to OST/OTFM.	Local Policy	The benefits are that the Tribe is able to get the forms from new heirs to open a new account more efficiently.	Low	Minor
DOI Regional Solicitors Office	Mechanism	Osage Head Right Cards - Paper based cards with head right ownership information kept by the Solicitors Office.	No off the shelf or DOI applications that would work.	The use of paper-based systems increases the effort and likelihood of error associated with supported business processes.	Low	Minor
Eastern Oklahoma Regional Office	Output	If there is a disputed claim the BIA will keep the disputed amount in a suspense account until it is resolved.	Procedural	To assure money is available for claims should they be valid.	Medium	Medium
Chickasaw Agency Okmulgee Field Office	Office	The Regional Office receives the decision from the Solicitors office and forwards it to the appropriate	Procedural	After the solicitor review the decision from district court the decision and his recommendation is	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Miami Field Office Talihina Field Office Wewoka Field Office		Agency or Tribe for execution.		forwarded to the Regional Office. The Regional Office forwards to the appropriate Tribe or Agency.		
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office	Output	EORO Realty Office sends the decision and the distribution report to the agency minerals office for update of their leases (Five Civilized Tribes).	Procedural	This assures the heirs begin receiving any payments to which they are entitled.	Medium	Minor
Chickasaw Agency Okmulgee Field Office Miami Field Office Talihina Field Office Wewoka Field Office Osage Agency	Office	Regional Office receives notice of Probate from the District Court when trust assets are involved.	Procedural	Minimal	Low	Minor
Osage Agency	Input	Wills are done by private attorneys and submitted to the Superintendent/Field Representatives for approval. 25 CFR Part 17	Regulation	Wills for Osage Indians are governed by federal law. They are reviewed by the solicitor's office and approved by the superintendent.	Medium	Major
Osage Agency	Obligation	Requires the Solicitors office hold	Regulation	Attorney Advisor holds a	Medium	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		<p>a hearing on a will and make a recommendation to the Superintendent. The Superintendent approves or disapproves the will.</p> <p>25 CFR Part 17</p>		<p>hearing and reviews the will for format. He then makes a recommendation to the superintendent. This is to assure the will is properly formatted and complies with all applicable laws.</p>		
Eastern Oklahoma Region	Mechanism	IRMS - N/A	System constraints	<p>The use of Agency-specific, paper-based mechanisms increase the effort and time required to complete Trust transactions. It also increases the complexity of, and investment in, information support with no additional utility.</p>	High	Medium
Eastern Oklahoma Region	Mechanism	LRIS - N/A	System constraints	<p>The use of Agency-specific, paper-based mechanisms increase the effort and time required to complete Trust transactions. It also increases the complexity of, and investment in, information support with no additional utility.</p>	High	Medium
Osage Agency	Mechanism	Osage Lake Fund System - Tracks interest and ownership of settlement funds for Osage	Tribal Obligation	Automated specialized system that tracks ownership and interest of	High	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		Indians.		the Osage Lake Fund Settlement.		
Osage Agency	Mechanism	Osage Annuity Program - Spreadsheet to track Osage head rights (shares in producing wells).	Tribal Requirements	In house spreadsheet for tracking head right income and ownership.	Low	Medium

Table 4.3.1- 7 Southern Plains Region Probate Variances

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Southern Plains Region	Mechanism	Real Estate Module - REM - Used to identify individual interests.	Local Policy	Where stand alone systems are created, the complexity and investment in information support increases, without a corresponding benefit (increase in utility).	Medium	Medium
Southern Plains Region	Role	Agencies are not requesting transcripts.	Local Policy	This may be because the cases are held in district court.	Medium	Medium
Southern Plains Region	Predecessor	T.4 - Maintain Title - N/A	Local Policy	No formal process to notify probate staff that the title changes have been completed. Causes extra work for the probate staff trying to confirm when	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				changes are made and the case can be closed.		
Southern Plains Region	Organization	OHA offices serving these regions sends the decision to OST/OTFM - Because they are an interested party.	Local Policy	This does not appear to be necessary because the Agency will send the decision and journal vouchers for the distribution of the decedents funds.	Medium	Minor
Southern Plains Region	Description	Determinations of Death - They are treated as a probate with an additional step.	Local Policy	If a case for determination of death is strong they will prepare the probate package with it and sent to OHA. This expedites the case.	Medium	Minor
Southern Plains Region	Organization	OHA refers cases back to ADM's - If after the ALJ/IPJ's review of the Probate package it appears that the case could be decided on the record.	Local Policy	Minimal	Medium	Minor
Southern Plains Region	Input	Transcripts of prior probates are not used when compiling the OHA-7 form.	Procedural	Use of prior probate transcripts can increase accuracy in the preparation of a probate package.	Medium	Medium
Southern Plains Region	Input	Decisions (Final Order) - No ADM's	Staffing	Currently all cases have to go through OHA.	Medium	Medium
Southern Plains Region	Mechanism	LRIS - N/A	System constraints	The use of Agency-specific, paper-based mechanisms	High	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				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.		
Southern Plains Region	Mechanism	Kardex logs and other local records are used to manage probate and realty information.	System constraints	The use of Agency-specific, paper-based mechanisms increase the effort and time required to complete Trust transactions. It also increases the complexity of, and investment in, information support with no additional utility.	High	Medium

Table 4.3.1- 8 Rocky Mountain Region Probate 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	I & H Cards - Used for reference only - not kept current.	Local Policy	Since BIA internet access was lost in late 2001 these cards have been very useful. They are not being kept current but are used for historical reference.	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Rocky Mountain Region	Office	ADM - conduct informal telephone conferences	Local Policy	ADM conducts informal conferences to adjudicate simple estates.	Medium	Minor
Rocky Mountain Region	Process Description	Believe they have instructions from the ALJ for all probates to go to OHA.	Local Policy	Overloads OHA's docket with cases that can be adjudicated on the record.	Medium	Minor
Rocky Mountain Region	Mechanism	A & E Cards are used but not updated anymore.	Local Policy	Since BIA internet access was lost in late 2001 these cards have been very useful. If they have not been updated they can only be used for original allotment laws.	Low	Medium
Ft. Peck Rocky Mountain Region	Control Output	Approval for estate expenditures - If less than \$2,500 in estate a request is made to the ALJ for emergency expenditures (Ft. Peck Agency).	Local policy	If an estate does not meet the criteria for superintendent's approval of an estate expenditure they make a request to OHA for an approval.	Low	Minor
Ft. Peck Crow	Organization	Enrollment information obtained from BIA Records rather than Tribal Records.	Local Policy	Agency maintains the Tribes enrollment records.	Low	Minor
Rocky Mountain Region	Output	Sends title changes to BIA Irrigation billing system.	Procedural	Ensures that irrigation services are billed to the new heirs.	High	Minor
Chippewa-Cree	Mechanism	Title System - Maintain title information.	Procedural	Tribe maintains its own title information for easy access	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				but consistency with LTRO title information is difficult.		
Rocky Mountain Region	Input	Transcripts of other probates and other information - N/A	Procedural	Use of prior probate transcripts can increase accuracy in the preparation of a probate package.	Medium	Medium
Fort Peck Agency Crow Agency	Event	Notifications from home agencies that the updates to a decedents account have been made. This enables foreign agencies to transfer decedent interests in a timely manner.	Procedural	Can cause lease payments in a foreign agency to be collected after the IIM account is closed.	Medium	Minor
Chippewa-Cree	Role	The Tribal Realty Officer forwards all probate packages to the ALJ. No probates are heard by an ADM.	Tribal Policy	Overloads OHA's docket with cases that can be adjudicated on the record. There is no allotted land at Rocky Boy but many members own land at foreign agencies or have IIM accounts.	Medium	Minor
Rocky Boy's	Process Description	All probate hearings are conducted by the ALJ.	Tribal Policy	Overloads OHA's docket with cases that can be adjudicated on the record. There is no allotted land at Rocky Boy but many members own land at foreign agencies or have IIM accounts.	Medium	Minor



Table 4.3.1- 9 Navajo Region Probate Variances

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Navajo Region	Office Input	FIMO - Mineral Interest Updates in RDRS Confirmations - Updates to the RDRS by FIMO at Farmington.	Court Order	This has been a very successful office. It is staffed by BLM, BIA and MMS. Questions about Navajo allotments are usually answered in a matter of minutes. Confirmations of updates are sent to BIA Agency Office.	High	Major
Navajo Region	Role	Program Support Assistant (ADM's Office) - Position is advertised and includes the requirement that the applicant speak fluent Navajo.	Cultural	Initiative to be more efficient in dealing with Navajo probates in the ADM's office.	High	Medium
Navajo Region	Organization	BIA - Hearings for Navajo frequently require an interpreter.	Cultural	Many Navajo speak only Navajo. This requires an interpreter at all proceedings.	Medium	Medium
Navajo Region	Input	Grazing permits, homesite leases and sheep units go through Tribal Court for Probate - Considered personal property.	Cultural	The grazing permits involve Tribal Trust land and are based on families' historical use of certain grazing lands and associated with a certain number of sheep units. It is based on a use plan	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				developed some years ago with the BIA.		
Navajo Region	Mechanism	Case Status Logs - most offices create their own tracking logs and no standard mechanism exists.	Local Policy	Where stand alone systems are created, the complexity and investment in information support increases, without a corresponding benefit (increase in utility).	High	Minor
Navajo Region	Mechanism	I & H Cards - Use as reference but they are no longer updated.	Local Policy	Since BIA internet access was lost in late 2001 these cards have been very useful. They are not being kept current but are used for historical reference.	Medium	Medium
Navajo Region	Mechanism	A & E Cards - Use as reference but they are no longer updated.	Local Policy	Since BIA internet access was lost in late 2001 these cards have been very useful. If they have not been updated they can only be used for original allotment laws.	Low	Medium
Navajo Region	Output	Approved Expenditures - Requests are very rare.	Local Policy	If an estate does not meet the criteria for superintendent's approval of an estate expenditure they make a request to OHA for an approval.	Low	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Navajo Region	Office	Regional Office - N/A	Organizational	All Tribes are represented by an Agency and the regional office does not have to do close trust estate process.	Low	Minor
Navajo Region	Control	Superintendents/Field Representatives Review - No Superintendents.	Staffing	All issues normally approved by the Superintendent has to go to the Regional Office. Has also created a lack of coordination between branches at the agency.	High	Medium
Navajo Region	Role	Superintendent/Field Representative - Summary Distributions - Not currently being done.	Staffing	No agencies in the Navajo region have a Superintendent.	High	Medium
Navajo Region	Role	Line Official - No Superintendents.	Staffing	All issues normally approved by the Superintendent has to go to the Regional Office. Has also created a lack of coordination between branches at the agency.	High	Medium
Navajo Region	Role	Regional Realty officer does many of the duties of the line official e.g. approves changes and distributions. All agencies send to the Regional realty office.	Staffing	All agencies, except for Eastern Navajo Agency, use the Regional Realty Officer as the line official for approval of changes and	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		Eastern Navajo has a Realty Specialist that performs both functions.		distributions. Eastern Navajo has a Realty Specialist that performs both functions.		
Navajo Region	Organization Role Office Obligation	Tribal Enrollment Office - Provides information on Tribal enrollment, common law marriages, adoptions, paternity cases, and divorces.	Tribal Code	Tribal Court makes determinations on marriage, adoption and divorce. These determinations are not always consistent with records in Tribal enrollment.	Medium	Major
Navajo Region	Input	Uses Tribal Vital Statistics instead of county.	Tribal Policy	Tribal Court (Makes determinations on adoptions and divorcees and these statistics are supposed to be kept by Tribal enrollment. However, there are usually inconsistencies between the courts records and Tribal enrollment.	Medium	Medium



Table 4.3.1- 10 Southwest Region Probate Variances

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Southwest Region	Mechanism	A & E Cards - cards are called ID cards.	Local Policy	Since BIA internet access was lost in late 2001 these cards have been very useful. These cards are being maintained and used.	Medium	Medium
Southwest Region	Mechanism	A & E Cards - update of these are crucial to accurate probates. Agencies are currently updating these as time permits.	Local Policy	Since BIA internet access was lost in late 2001 these cards have been very useful. These cards are being updated by the agency as time permits.	Medium	Medium
Southwest Region	Mechanism	I & H Cards - update of these are crucial to accurate probates. Agencies are currently updating these as time permits.	Local Policy	Since BIA internet access was lost in late 2001 these cards have been very useful. These cards are being updated by the agency as time permits.	Medium	Medium
Laguna Agency	Role	Administrative Officers prepares the journal voucher and the Probate Assistant reviews it before forwarding to OST/OTFM.	Local Policy	Preparation of the Journal voucher is normally done by Probate staff that are more familiar with probate decisions. A new administrative officer at this agency would require some time to learn this process.	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Southwest Region	Obligation	OHA Instructions for Probates submitted - Defines the order of documents to be included in the OHA-7 package.	Local Policy	Provides the agency probate staff clear guidance on what should be included in the Probate package and in what order.	Medium	Minor
Southwest Region	Role	Regional Probate Specialist - Occasionally appointed as Guardian Ad Litem (objective 3rd party representative for non-comp mentis, minors etc.).	Local policy	Is being appointed guardian for non-compos mentis, which should be a social worker function.	Medium	Minor
Ute Mountain Agency	Input	This Agency produces their own Inventories.	Procedural	Agency has been working off agency records to produce inventories because we have been off line and unable to receive them from the Region.	High	Minor
Southwest Region	Input	Only revenue producing properties are appraised. The value of all other properties is computed using a location-specific algorithm or omitted entirely.	Procedural	Using an arbitrary formula for determining the value of lands fails to provide heirs and devisees with a reasonable assessment of their inherited trust interests. In states where probate code orders a biased distribution of assets, arbitrary formulas do not provide the Deciding Official with the	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				information required to distribute estate assets in accordance with state statute.		
Southwest Region	Control	Probate Checklist - Checklist to ensure completeness of Probate package.	Procedural	Checklist provided by the Regional Office to assure the probate package is complete before forwarding to the Regional Probate Specialist.	Medium	Minor
Southwest Region	Control	Agency Supervisory Review - Review of probate package by probate clerks supervisor before submitting to Superintendent/Field Representative for review.	Procedural	Increases the accuracy of probate packages from the agency but increases the time to process.	Medium	Minor
Southwest Region	Event	Only acceptable form of death is the Certified Death Certificate in this region.	Procedural	May cause delays if the death certificate is difficult to obtain. There are other acceptable forms of documentation outlined in 25 CFR.	Medium	Minor
Southwest Region	Input	For all deceased heirs the region requires a copy of their probate & Tribal enrollment number.	Procedural	Increases the accuracy of the probate package.	Medium	Minor
Southwest Region	Input	Disclaimers (Renunciations) - All Renunciations go to ALJ.	Procedural	Renunciations from a Non-Indian can be taken by an	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				ADM. This may be causing cases that could go to the ADM to be heard by an ALJ.		
Southwest Region	Input	ALJ want source of funds listed and adoptive natural parents listed.	Procedural	Increases the accuracy of the decision and requires fewer contacts with the agency to clarify these issues.	Medium	Minor
Southwest Region	Role	Probate Clerk uses old probate transcripts that are on file, but has not requested any new transcripts.	Procedural	This appeared to be because they did not know they could request the transcripts.	Medium	Minor
Southwest Region	Mechanism	IRMS is not used within the Southwest Region. Agency-specific spreadsheets and manual records are used in its place.	System constraints	The use of Agency-specific, paper-based mechanisms increase the effort and time required to complete Trust transactions. It also increases the complexity of, and investment in, information support with no additional utility.	High	Medium



Table 4.3.1- 11 Western Region Probate Variances

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Western Region Colorado River	Input	Uncertified TSR - Colorado River has access to them.	Court Order	Colorado River is the only agency in Western Region that has access to the Uncertified TSR. This allows them to verify title changes have been completed and the case can be closed.	Medium	Major
Western Region	Output Obligation	Notice to interested parties (25 CFR 15.203 c (1)) - Send copies of the wills if the DO is the ADM.	Local Policy	To the extent that wills are considered personal and confidential, sharing wills with interested parties conflicts with 5 USC 552a.	High	Minor
Pima Agency	Mechanism	I & H Cards - Electronic Version	Local Policy	Since BIA internet access was lost in late 2001 these cards have been very useful. These cards are being maintained and kept in electronic format.	Medium	Medium
Salt River Field Office Pima Agency	Mechanism	A & E Cards are automated	Local Policy	Since BIA internet access was lost in late 2001 these cards have been very useful. These cards are being maintained and kept in electronic format.	Medium	Medium
Western Region	Role	Paralegal (OHA) has not provided	Local Policy	WRO doesn't appear to	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		any transcripts in last couple of years.		know they could request a transcript to help prepare a probate of a related decedent.		
Western Region	Obligation	Probate File Order - Identifies the sequence of documents to be included in the probate package.	Local Policy	Provides the agency probate staff clear guidance on what should be included in the Probate package and in what order.	Medium	Minor
Western Region	Obligation	Death Report Policy - Indicates what elements need to be included on the report and who is to be notified of death.	Local Policy	Provides the agency probate staff clear guidance on what should be included on the death report and the offices that need to be notified of a death.	Medium	Minor
Western Region	Output	Transcripts - Transcripts are only produced when appealed to the IBIA or for the convenience of another ALJ.	Local Policy	Accommodates appeals to the IBIA and other ALJs when adjudicating another related probate.	Medium	Minor
Western Region	Output	Notice to the Tribes of the death of an enrolled member.	Local Policy	Informs Tribal credit programs so they will have the opportunity to file a claim.	Medium	Minor
Western Region	Organization	OHA offices serving these regions sends the decision to OST/OTFM - Because they are an interested party.	Local Policy	This does not appear to be necessary because the Agency will send the decision and journal	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				vouchers for the distribution of the decedents funds.		
Western Region Colorado River	Output	When requested, these agencies send heirs cards identifying inherited allotments, interest and income.	Local Policy	Beneficiary service.	Medium	Minor
Western Region	Beneficiary Involvement Input Output	Advises non-Indian heirs of their option to renounce their inheritance.	Local Policy	Early notification to a non-Indian heir of their option to renounce their share of trust land.	Low	Minor
Western Region	Office	Regional Office - N/A	Organizational	All Tribes are represented by an agency and the Regional Office does not have to do close trust estate process.	Low	Minor
Western Region	Inter-process Relationship	Appraisals are not performed for property included in Probate estates. An arbitrary formula is used instead.	Procedural	While neither Nevada nor Colorado require a biased distribution of an estate, the use of an arbitrary formula for determining the value of estate Trust interests misleads heirs and devisees as to the value of inherited interests.	High	Medium
Uintah & Ouray Agency	Mechanism	Mortuaries/Memorial Cards - funeral homes are providing	Procedural	Expedites the probate process by making certified	High	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		certified copies of the death certificate.		copies of death certificates readily available.		
Western Region	Control	Review of OST/OTFM disbursements, distributions prior to closing the probate case.	Procedural	Assures all disbursements and distributions have been made before closing the case.	High	Minor
Western Region	Input	This Region is using older transcripts, but not currently requesting them for use in current probate.	Procedural	Use of prior probate transcripts on hand increases accuracy in the preparation of a probate package.	Medium	Medium
Western Region	Input	Appraisals - Estimated arbitrary assessed value of the Trust Assets for probate purposes.	Procedural	Region uses a formula that may not take into account type or location of property.	Medium	Medium
Colorado River Agency	Mechanism	BIA Indian services is providing copies of birth certificates, death certificates and copies of the base roll.	Procedural	Provides easy access to some of the documentation needed to complete a probate package (birth certificate, enrollment information, death certificates).	Medium	Minor
Fort Yuma Field Office Pima Agency	Event	Agency/Field Office does not receive confirmation of Distributions/disbursements.	Procedural	Can cause additional efforts by the probate clerk in trying to confirm trust funds distributions/disbursements before closing the case.	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Western Region	Control	Superintendents/Field Representatives Review - Realty Officer does Review.	Procedural	Realty Officer is not as familiar with Tribal and family issues as the Superintendent.	Medium	Minor
Western Region	Mechanism	TFAS - Using to verify disbursements and distributions have been made.	Procedural	System is used to verify disbursements and distributions have been made before closing the probate.	Medium	Minor
Colorado River Tribe Fort Yuma Field Agency	Mechanism	Tracks income with Income cards (income associated with allotment and leases) rather than IRMS.	System constraints	The use of Agency-specific, paper-based mechanisms increase the effort and time required to complete Trust transactions. It also increases the complexity of, and investment in, information support with no additional utility.	High	Medium

Table 4.3.1- 12 Pacific Region Probate Variances

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Pacific Region	Role	Paralegal (OHA) has not provided any transcripts in last couple of years.	Local Policy	Minimal	Low	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Palm Springs Field Office	Predecessor	Appraisals are only requested for the Palm Springs Field Office. All other agencies and field offices use arbitrary formulas for valuing estate properties.	Procedural	While California does not require a biased distribution of an estate, the use of an arbitrary formula for determining the value of estate Trust interests misleads heirs and devisees as to the value of inherited interests.	High	Medium
Pacific Region	Mechanism	Probate Logs - all keep some sort of log but there is no standard tracking system. Most offices have created their own.	Procedural	Where stand alone systems are created, the complexity and investment in information support increases, without a corresponding benefit (increase in utility).	High	Minor
Pacific Region	Input	Transcripts of other probates and other information - N/A	Procedural	Use of prior probate transcripts can increase accuracy in the preparation of a probate package.	Medium	Medium
Southern California Agency Central California Agency	Mechanism	Family Court - Used to obtain adoption, marriage and divorce papers.	Procedural	Family courts provide an additional means of obtaining information required to compile a complete and accurate OHA-7 form.	Medium	Minor
Pacific Region	Mechanism	IRMS - N/A	System Constraints	The use of Agency-specific, paper-based mechanisms	High	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				increase the effort and time required to complete Trust transactions. It also increases the complexity of, and investment in, information support with no additional utility.		
Pacific Region	Office	Consortium Probate Specialist working out of the Regional Office, but performing duties relating to the Consortium of Six Tribes.	Tribal Policy	Consortium of six Tribes contracted probate and hired one probate specialist. The probate specialist works out of a Pacific Regional Office.	Medium	Medium