



### 4.3.5 Surface Asset Management (L)

#### 4.3.5.1 Surface Asset Management Summary Process Description

The scope of the Surface Asset Management process encompasses all forms of land management and utilization that do not require extractive activity. Due to its broad scope and complexity, Surface Asset Management has been divided into major types of resource use to enhance comprehension of the specific functions and activities of each segment. The major components are as follows:

Surface Asset Management				
Forestry	Range	Long-Term Leasing	Agricultural Leasing	Water Management

This section of Chapter 4 presents process information following the same segmentation.

### Surface Asset Management Objectives

As noted in Chapter 1, the specific Trust Strategic Goals and Objectives that relate to Surface Asset Management 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 2.3 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 3 - Land and Natural Resource Assets**

Provide stewardship and management of land and natural resource assets in the best interests of the beneficiaries, while fulfilling fiduciary and legal responsibilities.

**Objective 3.1 Land and Natural Resource Asset Plans and Stewardship Strategies**

Develop land and natural resource asset plans and stewardship strategies.



**Objective 3.2 Preservation and Protection of Land and Natural Resource Assets**

Preserve and protect the long-term viability of land and natural resource assets consistent with fiduciary duties and with the beneficiary's intended use of the assets.

**Objective 3.3 Land and Natural Resource Asset Business Management**

Manage land and natural resource assets effectively and proactively to obtain fair market value for beneficiaries, as required, and to incorporate beneficiary requirements.

**d) 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.

**e) 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 user friendly, 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.



#### **4.3.5.2 Forest Management (L.1)**

The overall process starts with: Compile forest management planning supporting documentation.  
It ends with: Monitor compliance of forest management plans and contracts, or close forest product contracts.

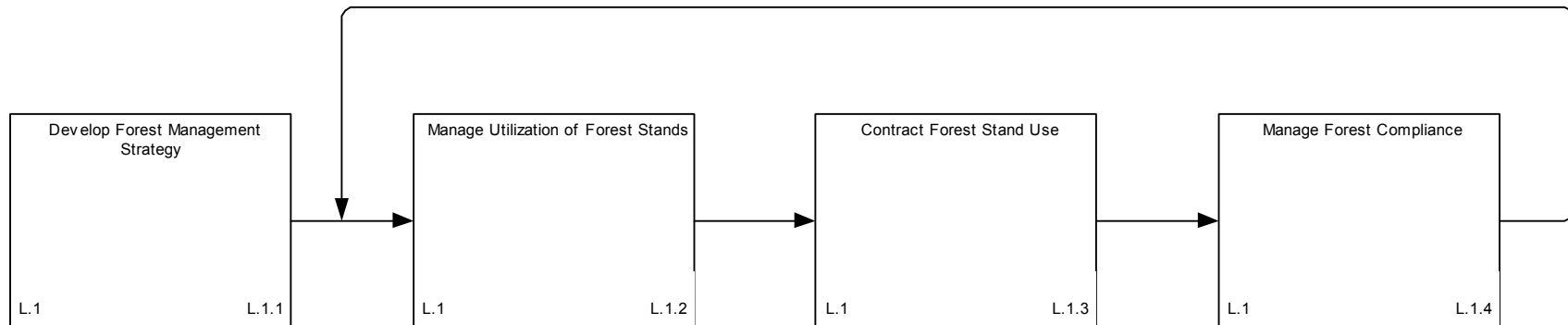
The Forest Management process for the Indian Trust involves four major components. The first of these components involves the development of a forest management strategy. The others focus on smaller areas of forested acres and forest stands. (Forest stands are generally large contiguous groups of trees of a similar species, age and composition). These final three components relate to managing forest stand utilization, contracting forest stand use (timber sales), and managing forest compliance (in connection with planned activities and contract terms).

Forest management focuses on large forests primarily on Tribal lands. For large forests in the Trust, BIA and the Tribes (with affected beneficiary involvement) develop overall forest management strategies, which result in Forest Management Plans. These plans involve significant collaboration with regulatory and/or historic preservation agencies, BIA staff and the Tribes, and can take up to 10 years to develop. In certain cases, regulatory agency approval alone has held up the process for years, making it difficult to proceed with other forest development activities.

Once an overall Forest Management Plan is in place and approved by DOI, the focus shifts to the utilization of forest stands within those forests. There are three primary activities that are conducted at the stand level in order to manage their utilization in ways that meet the needs of Tribes and individual beneficiaries: 1) Stands can be harvested for forest product revenues, 2) Stands can be selected for forest development, which involves appropriate thinning and planting of stands, 3) Finally, a significant forest management concern relates to forest stand protection, both in terms of pest control and forest fuels reduction or wildfire prevention.

For stands that have significant timber value, BIA and Tribes work together to set up contracts for forest product sales. Sales may include cutting timber for cords of wood, lumber, posts, Christmas trees, and pulp wood, among other things. Timber sales are one of the top revenue producers for the Indian Trust.

Finally, a significant forest management concern relates to forest stand protection, in terms of pest control, forest trespass, and forest fuels reduction/wildfire prevention. Monitoring occurs for compliance with Forest Management Plans, stand use plans and timber sale contract terms. Forest management on Indian Trust lands is a continuous process, and involves close collaboration between BIA and Tribal foresters.



**Figure 4.3.5.2- 1 Forest Management High Level Diagram**



#### **4.3.5.2.1 Develop Forest Management Strategy (L.1.1)**

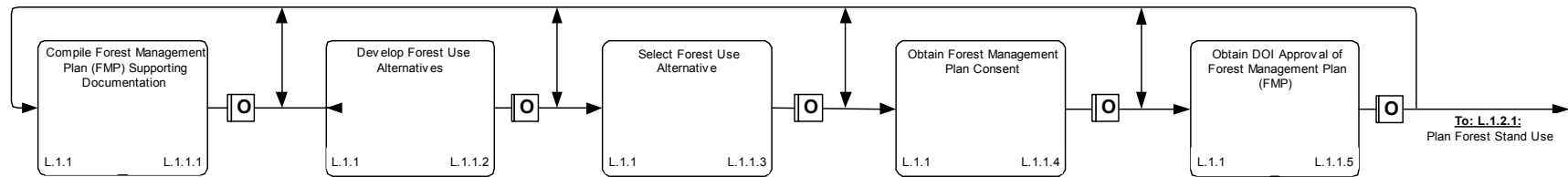
Starts with: Compile forest management planning supporting documentation.  
Ends with: Gain DOI approval of a Forest Management Plan.

Developing forest management strategies focuses on the creation of Forest Management Plans. Development of the Forest Management Plan must begin prior to the expiration of the current Plan, if possible. Significant documentation must be compiled to support the analysis and recommendations contained in these plans. Tribal input is a critical element in the gathering of data and helping to drive the formation of the Forest Management Plan. Supporting documentation must be obtained from within BIA and from multiple DOI bureaus or other agencies, including EPA, U.S. Army Corps of Engineers, National Marine Fisheries Service, U.S. Forest Service, the BLM, U.S. Park Service, historic preservation groups within the Tribe and historic preservation offices at the state or national levels. In addition to this information gathering, many of these regulatory agencies, historic preservation groups and Tribal committees must also provide concurrence or approvals related to the Forest Management Plan. The expanding requirement for regulatory agency opinions has burdened the process for development of Forest Management Plans. The Endangered Species Act in particular has placed demands on the process (for surveys of forested lands), which further elongate and complicate the forest planning process.

Once all supporting documentation has been created or compiled, forest use alternatives are derived and developed. After analysis and collaboration between government agencies, the Tribe on whose land the plan will be executed, and the individual beneficiaries who own interests in forest land, one alternative is selected and it becomes the Preferred Alternative for the Forest Management Plan. The Tribe selects the forest use alternative. After the Preferred Alternative with its associated outputs is clearly articulated, the draft Forest Management Plan is presented officially to the Tribe for consent on behalf of the Tribe. The Tribally-approved Forest Management Plan is then forwarded to the designated DOI Line Official for signature.



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**Figure 4.3.5.2- 2 Develop Forest Management Strategy IDEF(3)**



### **Beneficiary Involvement for Develop Forest Management Strategy**

Tribes provide significant input and resources into the development of Forest Management Plans. Tribal input is a critical element in the gathering of data, and obtaining Tribal historical preservation and other concurrence and approvals. Formal and informal scoping of the Forest Management Plan generally takes place throughout the process. Tribes then select the Forest Management Plan Preferred Alternative, and are responsible for obtaining Forest Management Plan consent officially from the Tribal governing body, which is usually a prerequisite to DOI approval. By definition, the forest management strategy documented in the Forest Management Plan is designed to “meet the objectives of the Tribe.”

### **Develop Forest Management Strategy Significant Notes**

- a) Forest Management Plans generally equate to a 10-year strategic plan for a particular forest. The development effort associated with Forest Management Plans is extensive, and an average development cycle can be seven to ten years. The most time-consuming phase of the cycle is the compilation of supporting documentation.
- b) Gaining collaboration and approvals of regulatory agencies such as the EPA or the National Marine Fisheries Service dramatically extend the duration of the effort.



## Develop Forest Management Strategy Detail Description

### Compile Forest Management Plan Supporting Documents (L.1.1.1)

Starts with: Initiate forest management planning and strategy development prior to the expiration of an existing Forest Management Plan.

Ends with: Complete a consolidated asset strategy for an entire forest.

Prior to the expiration of the current Forest Management Plan, the development of a new forest management strategy is initiated. The Continuous Forest Inventory data and analysis, and all other appropriate input, is collected. BIA and Tribal forestry program staff work closely together with other environmental and regulatory agencies to develop all needed documentation. Such documentation includes environmental assessments, historical use, cultural assessments, integrated or individual resource management plans (comprising total land resources beyond timber), remote sensing data (like aerial photography), and beneficiary requirements and needs. The process is completed when all necessary supporting data has been updated, created, and collected.

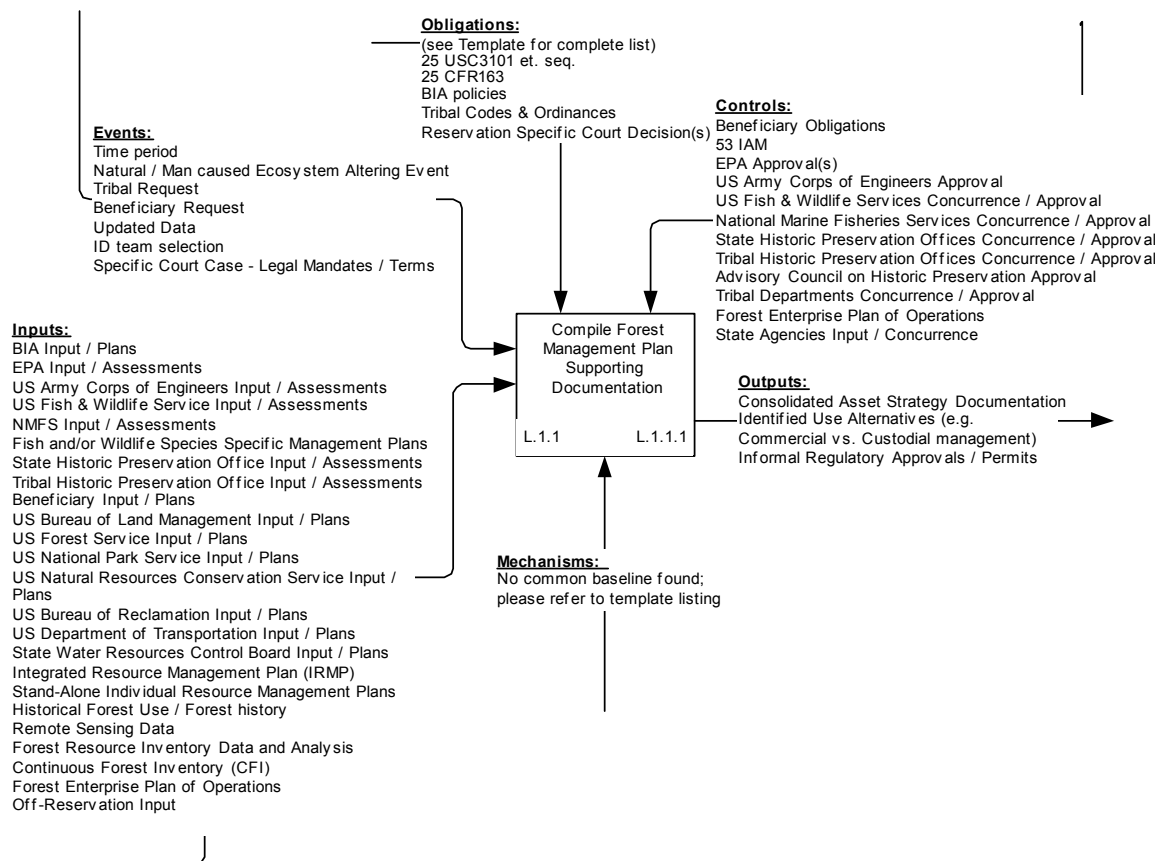


Figure 4.3.5.2- 3 Compile Forest Mgmt Plan Supporting Docs IDEF(0)





## Develop Forest Use Alternatives (L.1.1.2)

Starts with: Evaluate identified forest use alternatives and the consolidated asset strategy.  
 Ends with: Establish multiple forest use alternatives for Tribal review.

Substantial supporting documentation must be evaluated in order to develop several alternatives for forest use. In addition to core land status data, BIA forest program staff and Tribal staff collaborate with the U.S. Forest Service, Bureau of Land Management, U.S. National Park Service, U.S. Department of Transportation, and the Bureau of Reclamation for relevant input or assessments. Regulatory agencies also provide opinions and concurrence on plans. Input is solicited from land-owners as to the preferred outputs regarding the defined alternatives. A description of each alternative and the outputs to be produced for each alternative are developed, and then each is assessed for National Environmental Protection Act compliance. The process concludes when land use alternatives have been described in adequate detail for interested party selection.

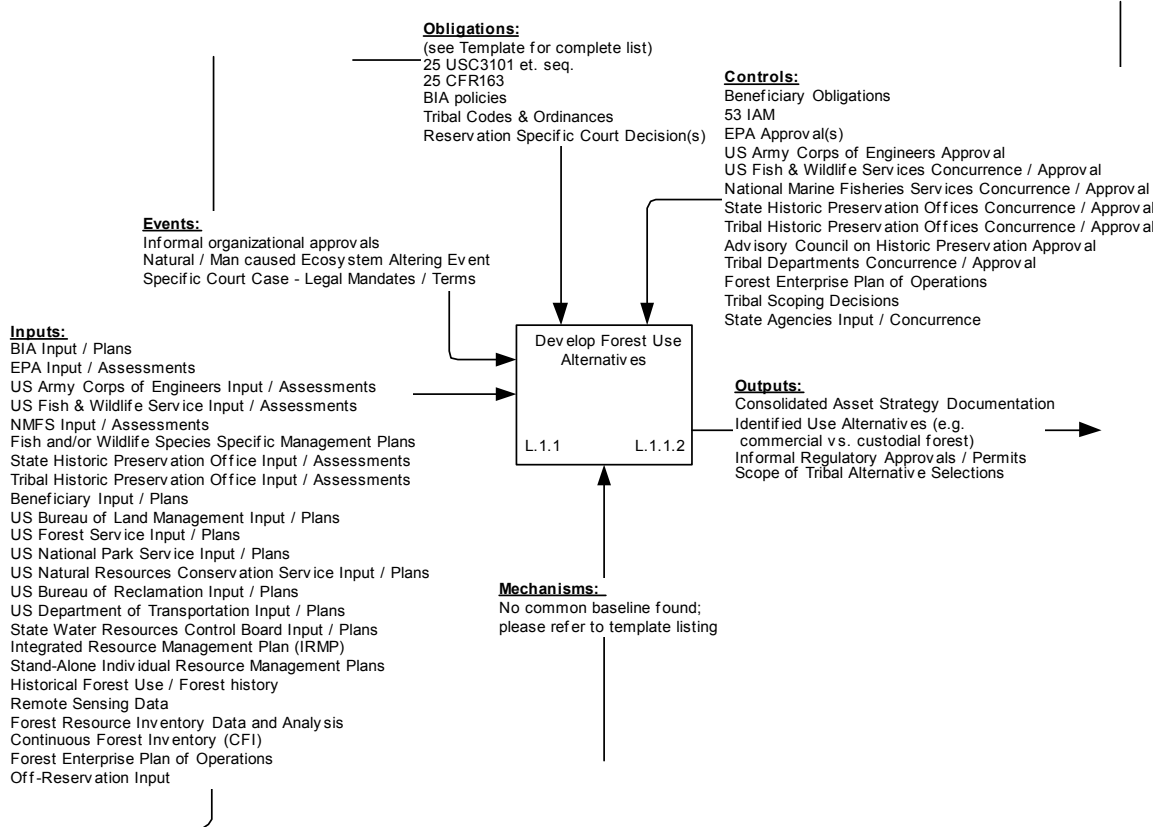


Figure 4.3.5.2- 4 Develop Forest Use Alternatives IDEF(0)



### Select Forest Use Alternatives (L.1.1.3)

Starts with: Review existing forest management planning defined alternatives  
Ends with: Select a forest use alternative.

When all documentation and input has been obtained and several different forest use alternatives have been developed for Tribal review, BIA submits those alternatives to the affected Tribe for review and discussion. Scoping meetings are conducted regarding the merits and issues of each concept of forest use, and the Tribe evaluates each alternative based on Tribal priorities (e.g., custodial land protection or commercial development), with input from individual Beneficiaries who own interests in forested lands. The Preferred Alternative must meet all statutory and regulatory requirements. In addition, due consideration for environmental constraints must be afforded. Finally, the Tribe selects a “Preferred Alternative” to be presented to the Tribal governing body for approval or rejection and reconsideration of other alternatives.

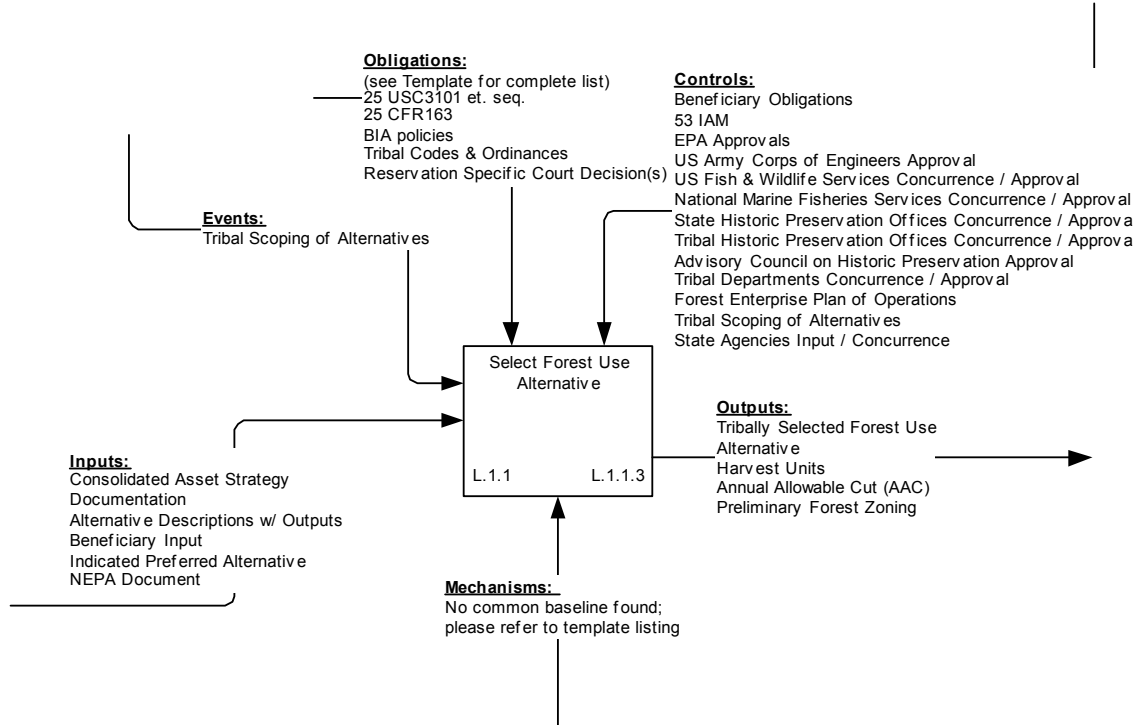


Figure 4.3.5.2- 5 Select Forest Use Alternative IDEF(0)



### Obtain Forest Management Plan Consent (L.1.1.4)

Starts with: Submit a Draft Forest Development Plan, detailing the Tribe’s Preferred Alternative, to the Tribal governing body.

Ends with: Consent to the Forest Management Plan.

The Tribal governing body convenes to review the Draft Forest Management Plan (FMP), with a Tribally-approved Preferred Alternative. Prior to the meeting to obtain official consent, multiple scoping meetings may occur to review and respond to questions from the Tribe regarding specifics of the Preferred Alternative previously selected. Finally, the Draft Forest Management Plan is presented to the Tribe to provide an opportunity for final comments prior to providing their approval. The process ends when the Tribe provides their official approval. This consent is almost always documented in the form of a Tribal Resolution, which is normally forwarded along with the Tribally-approved Forest Management Plan for DOI signature.

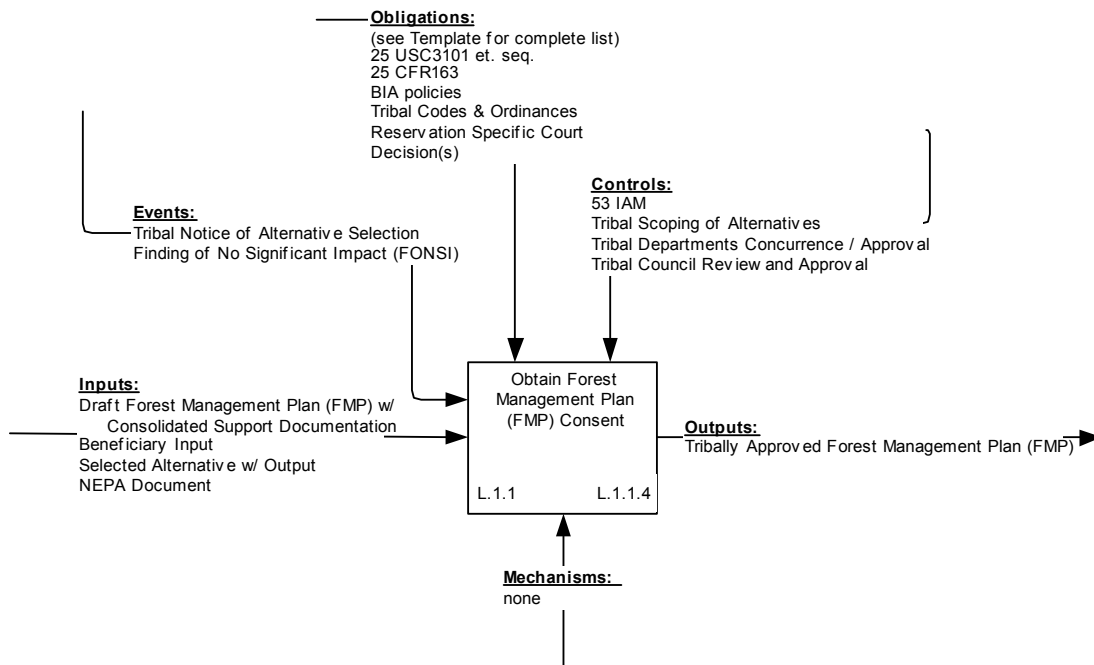


Figure 4.3.5.2- 6 Obtain Forest Management Plan Consent IDEF(0)



## Obtain DOI Approval of Forest Management Plan (L.1.1.5)

Starts with: Forward the Tribally-approved Forest Management Plan to DOI for signatory approval of the delegated Line Official.

Ends with: Approve a Forest Management Plan by signing appropriate signature documents.

A Tribally approved Draft FMP is submitted to DOI for review and approval. The designated DOI Line Official reviews the draft plan to ensure it aligns with Trust responsibilities, complies with environmental regulations, protects historic property and meets known beneficiary needs. The Forest Management Plan development process is officially completed when the delegated DOI Line Official approves the FMP.

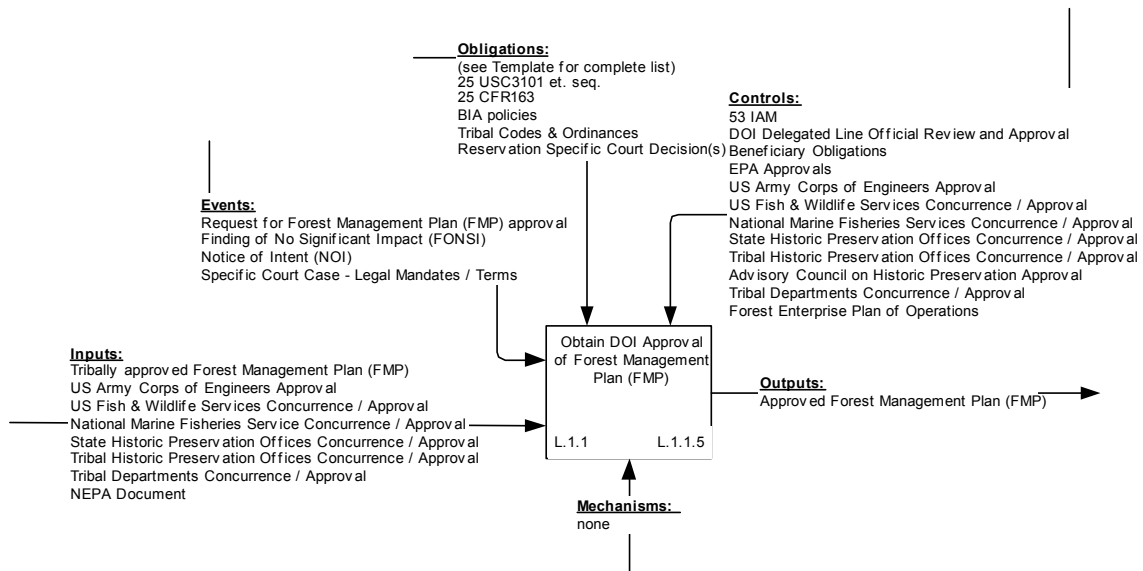


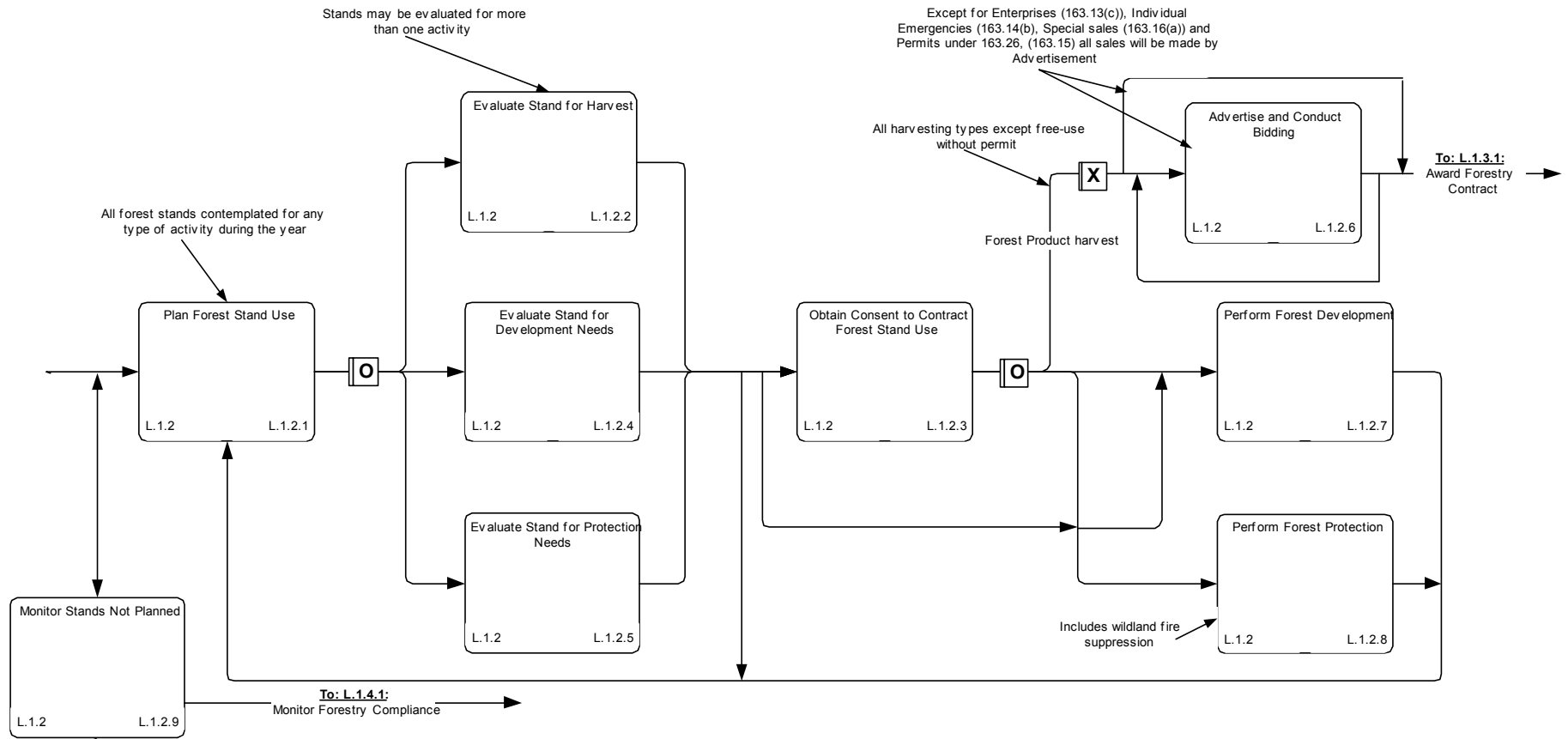
Figure 4.3.5.2- 7 Obtain DOI Approval of Forest Management Plan IDEF(0)



#### **4.3.5.2.2 Manage Utilization of Forest Stands (L.1.2)**

Starts with: Focus on forest stands to ensure highest and best use of Trust forest lands.  
Ends with: Conduct forest protection, forest development or forest harvesting activities.

The second component of forest management shifts focus from large forests lands to the stands that compose them. Because those stands can provide significant revenue or have special cultural significance, utilization of the stands must be managed on a regular basis. This management includes planning forest stand use; evaluating stands for harvest (forest product sale), development or protection; obtaining consent for forest stand use; advertising and conducting bidding for forest products; performing forest development and/or protection activities, and monitoring forest stands not under contract. On Tribal lands, obtaining consent is less difficult. On heavily allotted lands with significant forest stands, obtaining consent can be burdensome.



Forest stands not contemplated for any type of activity during the year for which some action is taken; includes wildland fires, trespass etc

Figure 4.3.5.2- 8 Manage Utilization of Forest Stands IDEF(3)



### **Beneficiary Involvement for Manage Utilization of Forest Stands**

Beneficiaries are encouraged to provide their input regarding utilization of forest stands on lands of which they are interest owners. Tribal governing bodies are often very involved in general planning for forest stand use and setting harvest schedules. Tribal foresters are often involved in evaluating stands for harvest, protection and/or development, and they also work with BIA foresters to perform these intended actions. Tribal and usually a majority of individual Trust ownership provide consent to any intended actions on their forested lands.

### **Manage Utilization of Forest Stands Significant Notes**

- a) The greatest cost to the forest management program in many regions is associated with wildfire suppression. Forestry staff conducts controlled burns to remove the underbrush, which is a dangerous ladder fuel during a wildfire. National forestry policies and environmental protection pressures over the past half-century have had the unintended result of increasing the amount of dangerous fuels in the forest. Over this period, a significant decrease in controlled burns and aggressive suppression of all wildland fires has led to this condition. This fact has impacted most forests on Trust lands, making them susceptible to wildfires.
  
- b) New environmental protection laws (such as the Endangered Species Act) and regulatory agency approvals have placed ever-expanding requirements on Trust forestry programs without corresponding budget increases to cover the costs of all compliance activities.



## Manage Utilization of Forest Stands Detail Description

### Plan Forest Stand Use (L.1.2.1)

Starts with: Identify stands for potential use within the year.  
Ends with: Complete plans for forest stand use.

After a forest-wide Forest Management Plan is approved, forestry program staff focuses on executing activities outlined in the plan, as well as selecting smaller forest stands for enhancement, protection or timber sale. A yearly planning process determines annual forest stand management workload. Natural or man-caused ecosystem events may also drive forest stand utilization requirements. Forest products appraisals may be done to indicate where timber may be harvested for forest product sales. Plans for forest stands may require regulatory concurrence or approvals, which are obtained prior to any activity on selected stands. The process is completed when specific stands are identified for evaluation during that year.

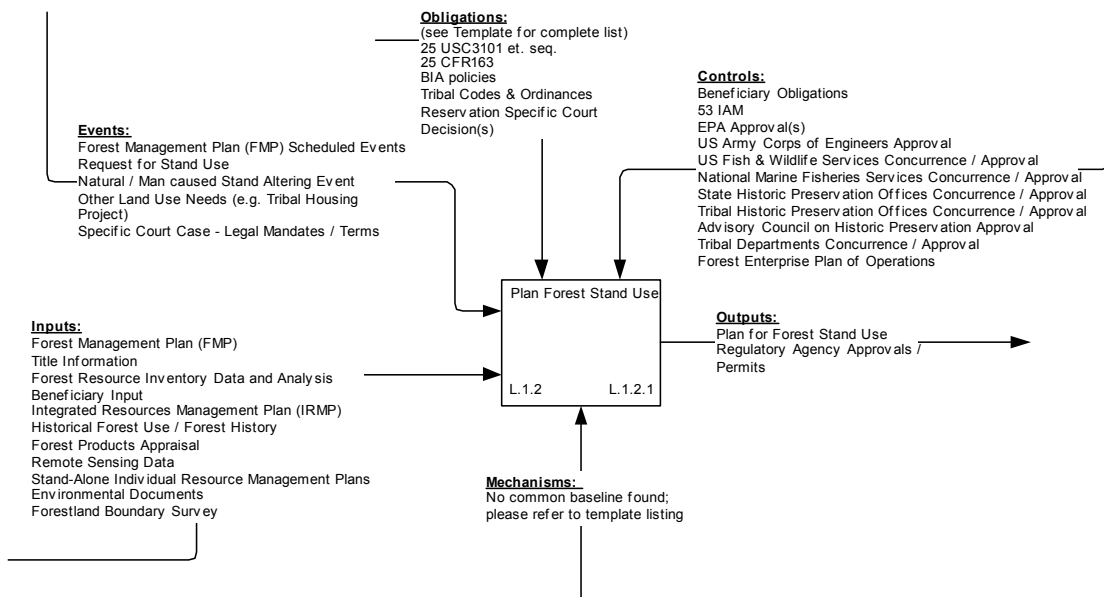


Figure 4.3.5.2- 9 Plan Forest Stand Use IDEF(0)





## Evaluate Stand For Harvest (L.1.2.2)

Starts with: Determine forest asset availability for harvest.  
Ends with: Select or reject a forest stand or group of stands for harvest.

After forest stand use planning has been conducted, individual stands are evaluated for harvest. When considering a forest products sale, availability includes confirmation that all aspects relevant to a contract (i.e., clear title, estimated volume/value of the timber, Rights of Way to access land assets, as well as harvest ability) are documented in a Forest Officer's Report (or its equivalent). Once completed, a draft of the contract or permit and the associated advertisement is prepared. The process ends in one of two ways. Either a draft contract or permit is completed with associated presale activities, (e.g., timber layout and environmental requirements) or a determination is made that the stand is not viable or not available for harvest.

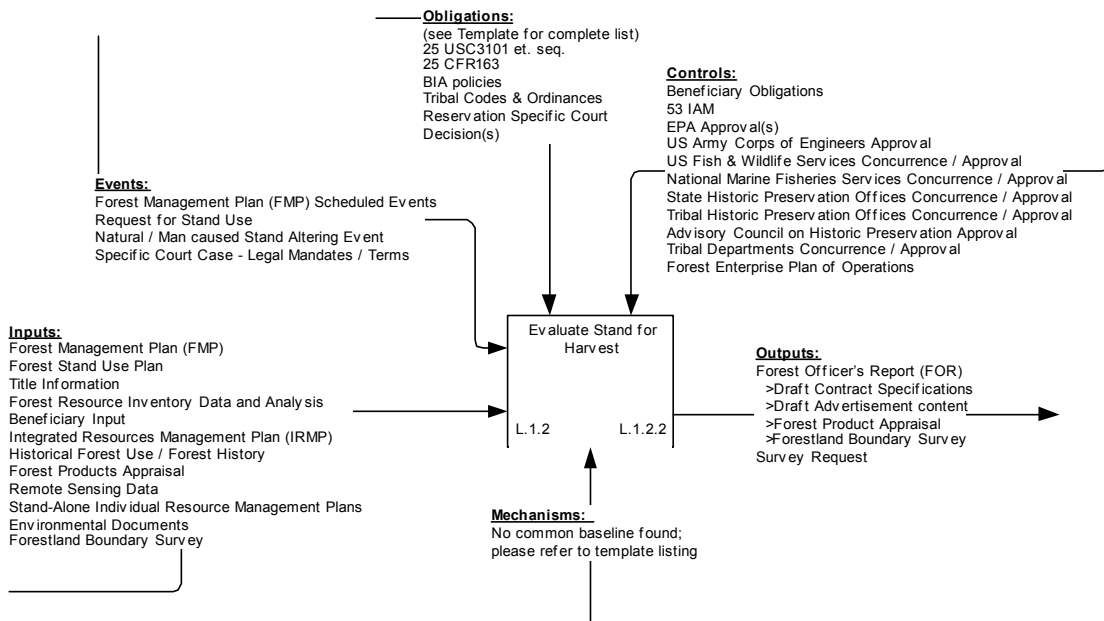


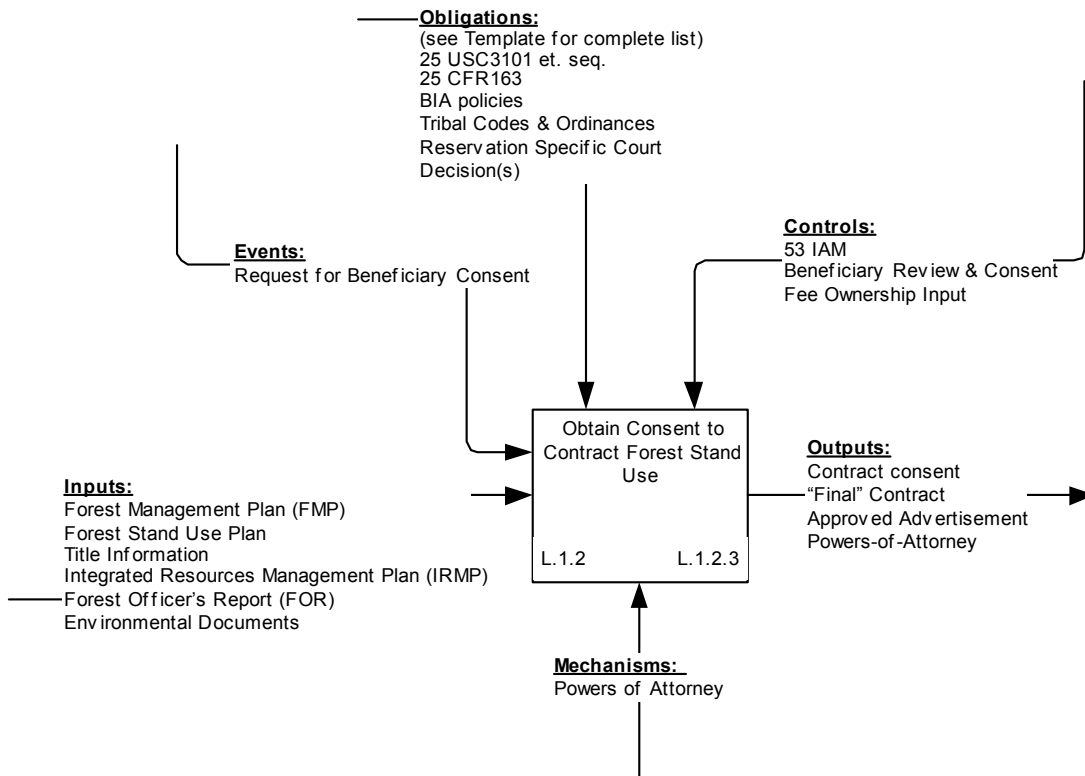
Figure 4.3.5.2- 10 Evaluate Stand For Harvest IDEF(0)



### **Obtain Consent to Contract Forest Stand Use (L.1.2.3)**

Starts with: Complete forest stand use planning and stand evaluations.  
Ends with: Process ends when either consent is received or denied.

This process usually begins with a request to the landowner(s) to approve the stand use proposed by BIA and/or the Tribe. Activities may include proposing timber for harvest, forest development (planting or thinning), and forest protection work (pest control or fuels reduction). Forest stands may actually be approved for multiple activities (for instance, a forest product sale and planting activities for forest development). This process ends when either consent is received or denied.



**Figure 4.3.5.2- 11 Obtain Consent to Contract Forest Stand Use IDEF(0)**



### Evaluate Stand for Development Needs (L.1.2.4)

Starts with: Determine forest asset availability for development.

Ends with: Select or reject a forest stand or group of stands for development.

Forest stands are enhanced through either reforestation or forest thinning. Reforestation enhances the value of the land. Removal of over mature and unhealthy trees allows for the regeneration of new trees, while thinning redistributes the growth and enhances the value to the residual trees. The process ends when the stand is evaluated and determined to either qualify or not qualify as a viable forest development project.

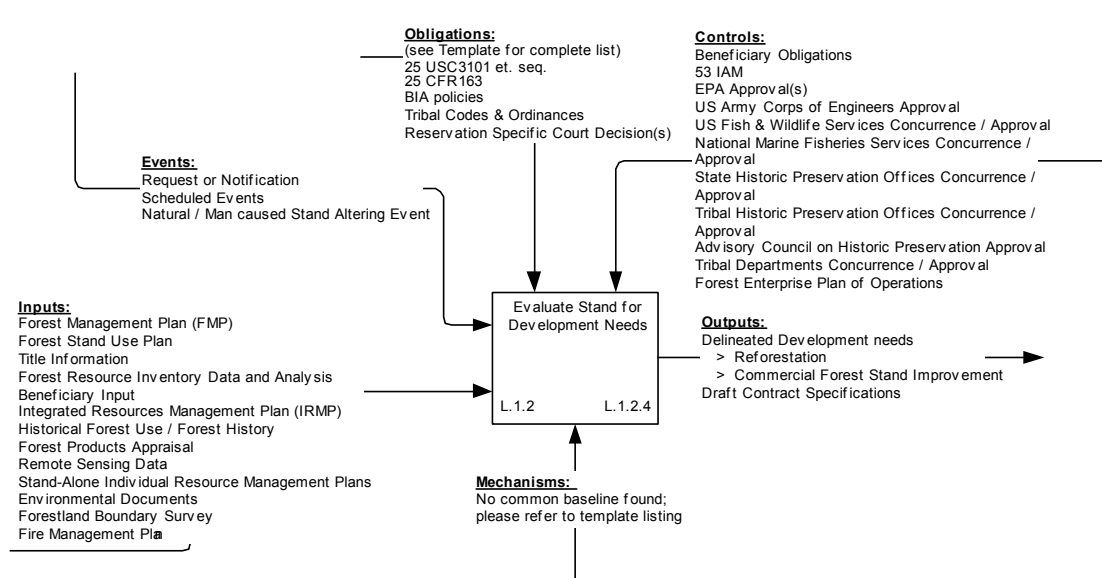


Figure 4.3.5.2- 12 Evaluate Stand for Development Needs IDEF(0)



### Evaluate Stand for Protection Needs (L.1.2.5)

Starts with: Determine forest asset availability for protection.

Ends with: Select or reject a forest stand or group of stands for protection.

Evaluation of stands for protection activities begins when a stand is identified for evaluation for forest protection needs. Protection may include one or more protection activities. These activities focus on forest pest control, wildland fuels reduction, forest stand thinning to reduce the possibility of wildfires, etc. This process ends when the stand is evaluated and a determination is made as to whether it qualifies for forest protection as a viable project.

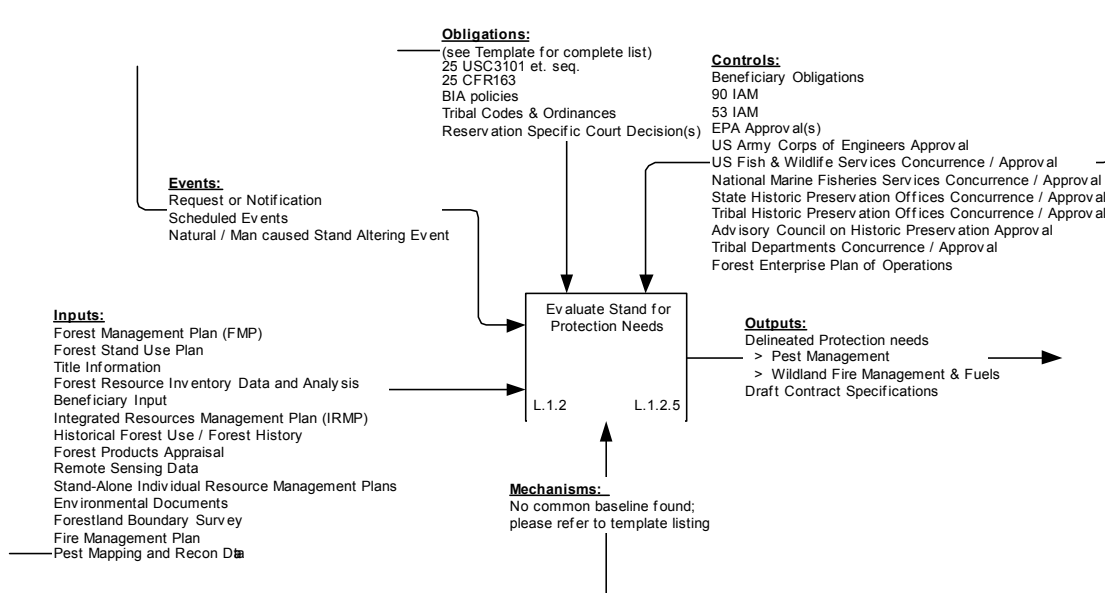


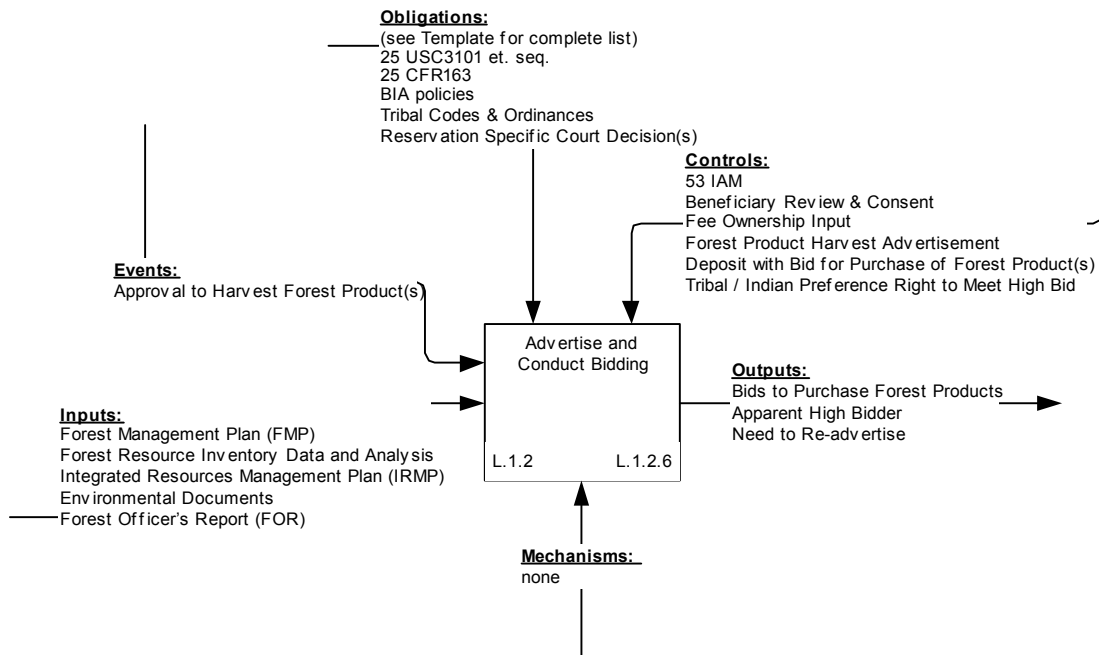
Figure 4.3.5.2- 13 Evaluate Stand for Protection Needs IDEF(0)



### **Advertise and Conduct Bidding (L.1.2.6)**

Starts with: Obtain consent to advertise a forest products sale.  
Ends with: Select a forest products contractor.

The process begins after the beneficiaries have authorized a forest product harvest. BIA forestry program staff develop a Forest Officer’s Report indicating the appropriateness of the sale. Tribal enterprises may have a right to meet the high bid, or may be awarded contracts at the appraised or other approved rate. BIA and the Tribe determine the precise bidding process and then develop the advertisement for the bid of the sale. Occasionally it may be necessary to re-advertise the sale, if no bidders come forward. The process ends when a sale has been advertised and the high bidder has been selected and the sale is awarded to the Tribal Forest Enterprise. If no purchaser is selected, the forest product sale is reevaluated.



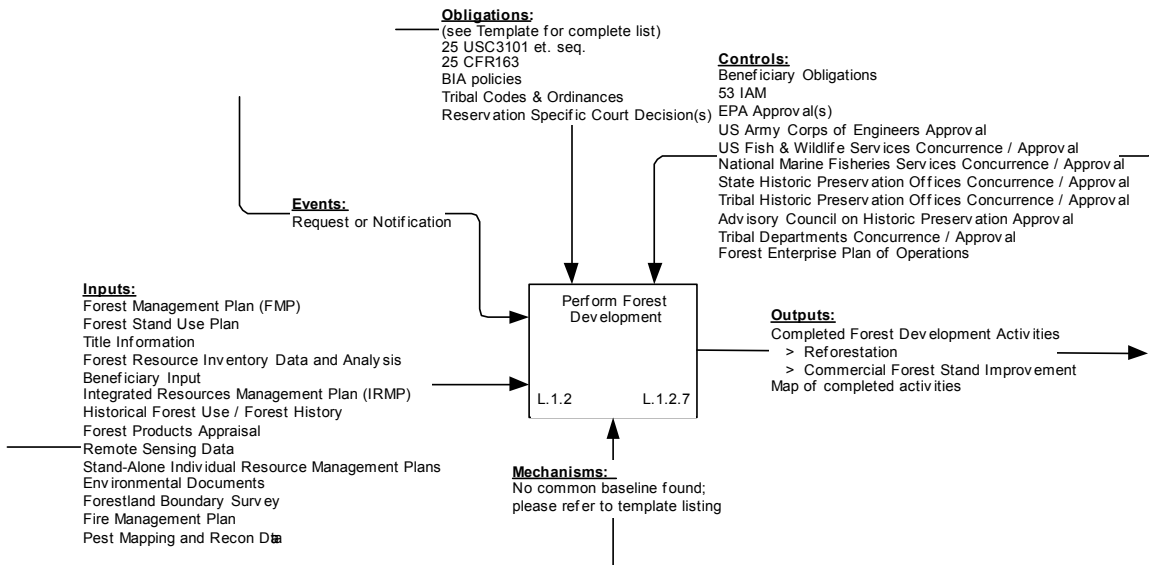
**Figure 4.3.5.2- 14 Advertise and Conduct Bidding IDEF(0)**



## **Perform Forest Development (L.1.2.7)**

Starts with: Create specific schedule and engage forestry crews for forest development activities.  
Ends with: Complete forest development activities.

Specific schedules are developed to accomplish forest development projects to enhance the value of forested lands. Forest development activities include reforestation and commercial stand thinning. This marks the completion of the forest development activities.



**Figure 4.3.5.2- 15 Perform Forest Development IDEF(0)**



## Perform Forest Protection (L.1.2.8)

Starts with: Schedule and/or engage forestry crews in forest protection.  
Ends with: Complete forest protection activities.

Forest protection activity includes; forest pest management, forest trespass and wildland fire protection and suppression. Fire management plans are developed when stands are in danger of wildland fires and if controlled burns are necessary for forest protection. This process ends when the forest protection project is completed and/or a wildfire is declared out.

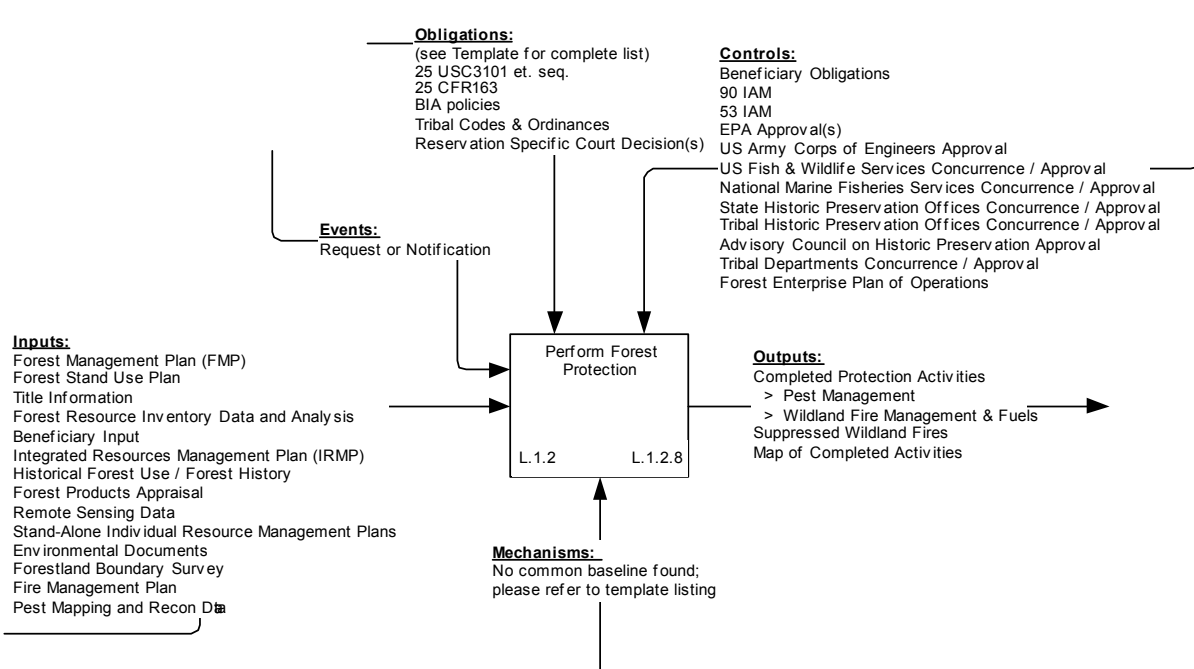


Figure 4.3.5.2- 16 Perform Forest Protection IDEF(0)



### Monitor Forest Stands Not Under Contract (L.1.2.9)

Starts with: Notify official of forest stand incident.

Ends with: Determine appropriate actions regarding forest stand incident.

This process begins when notice is received of an event or action impacting a forest trust asset not currently scheduled for management activity. Examples of events that might cause increased monitoring, and alter the current yearly schedule, include drought, flood, fire, or storm damage. Reporting of incidents such as trespass may be received from beneficiaries, forestry crews, or forestry staff conducting random monitoring. The process ends with appropriate actions.

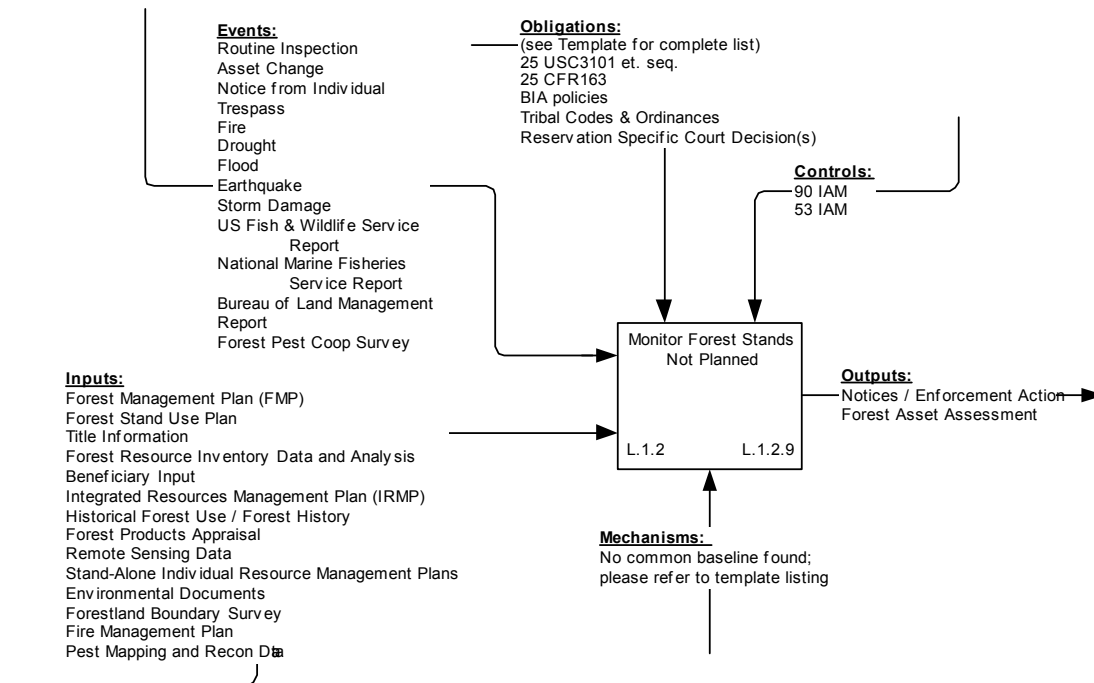


Figure 4.3.5.2- 17 Monitor Forest Stands Not Under Contract IDEF(0)





#### **4.3.5.2.3 Contract Forest Stand Use (L.1.3)**

Starts with: Identify forest stands for forest product sales.

Ends with: Final distribution of all proceeds from the harvest of forest products.

Beneficiaries must award the contract. Pre-contract billing and collection occur according to the terms of the contract. Such payments often include performance bonds, insurance bonds, and advance deposits/payments. After these pre-contract payments are made, “awarded” contracts are then approved by the DOI Line Official. After contracts have been officially approved, operational billing, collection, distribution and/or Direct Pay is conducted. Occasionally, contracts may be modified.

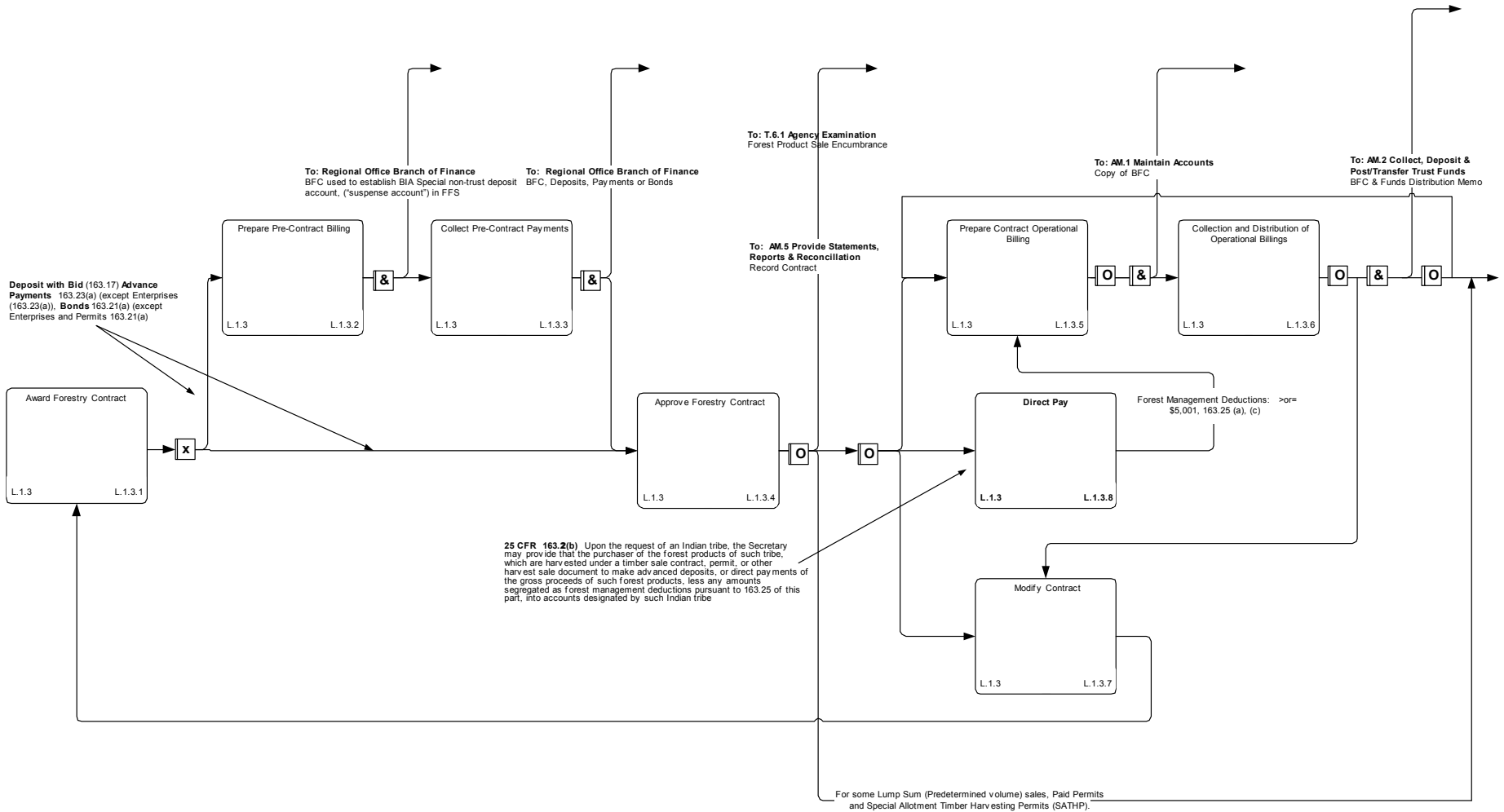


Figure 4.3.5.2- 18 Contract Forest Stand Use IDEF(3)



### **Beneficiary Involvement for Contract Forest Stand Use**

The beneficiaries review prospective forest product bids and the pre-contract requirements prior to providing and documenting their consent to contract forest stands for harvest. Beneficiary approval is usually a prerequisite to DOI approval of the contract. Beneficiaries may review the potential purchaser if it is warranted by past experience.

### **Contract Forest Stand Use Significant Notes**

- a) Many Tribes with valuable timber assets supplement federal government funding with Tribal funds in order to operate their forest management programs.



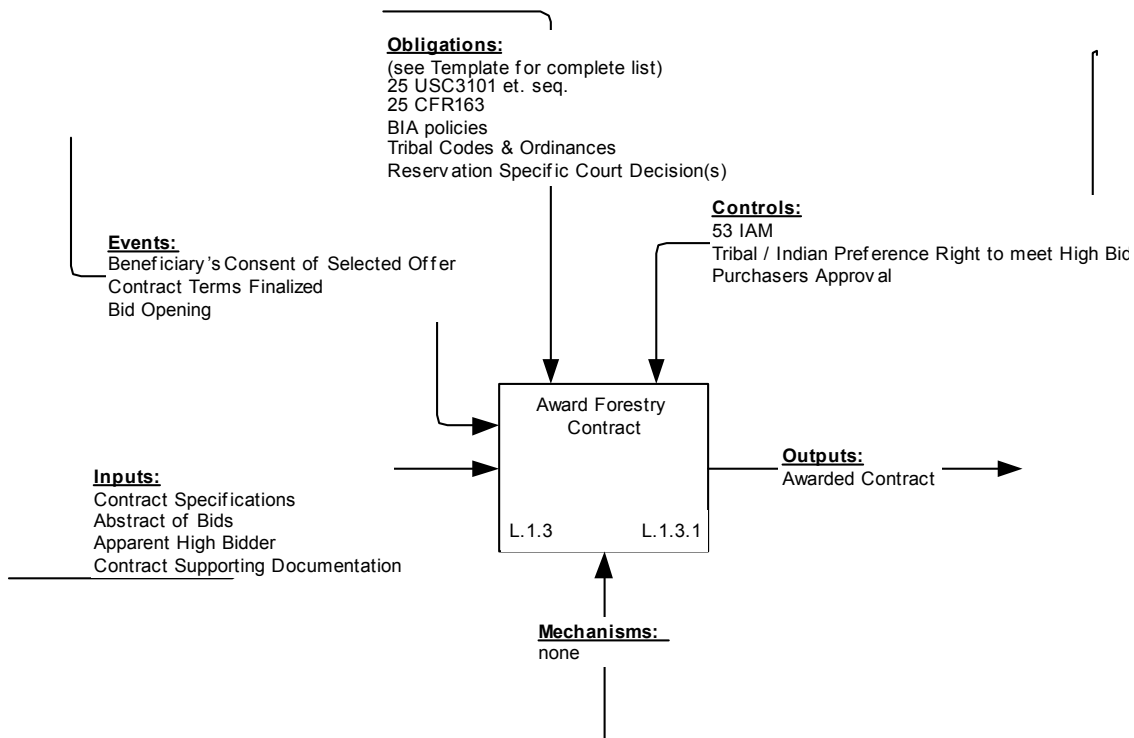
## Contract Forest Stand Use Detail Description

### Award Forestry Contract (L.1.3.1)

Starts with: Prospective purchaser is identified.

Ends with: Tribe, individual allottee(s), or BIA Line Official for allottee(s) award the contract.

Award, signifying beneficiary approval, of the Forestry contract begins when the Tribe or individual allottee(s) receives the draft contract and the purchaser is identified. The purchaser may have pre-contract obligations that must be met, such as performance bonds, advance payments, etc. The process ends with the award of the contract by the Tribe, individual allottee(s), or BIA Line Official for allottee(s).



**Figure 4.3.5.2- 19 Award Forestry Contract IDEF(0)**

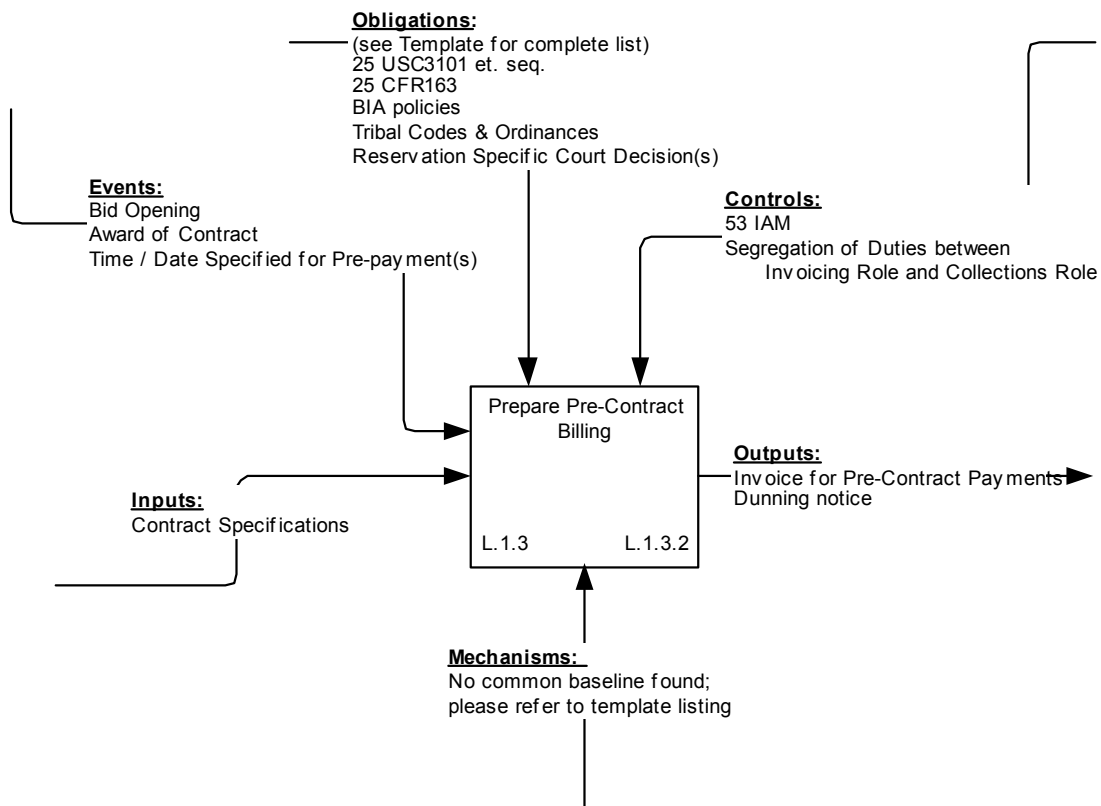


### **Prepare Pre-Contract Billing (L.1.3.2)**

Starts with: Prepare all pre-contract requirements and payment terms.

Ends with: All pre-contract Bills for Collection have been sent to the selected purchaser.

BIA forestry staff prepares any pre-contract payment requirements (usually through Bills for Collection). Typical pre-contract requirements include; Performance Bonds, Bids with Deposit, Advanced Payments, Advanced Deposits, payments for Lump-Sum (Predetermined Volume) timber sales, Paid-Permits, or Special Allotment Timber Harvesting Permits (SATHP). Process ends when all pre-contract Bills for Collection have been sent to the selected purchaser.



**Figure 4.3.5.2- 20 Prepare Pre-Contract Billing IDEF(0)**

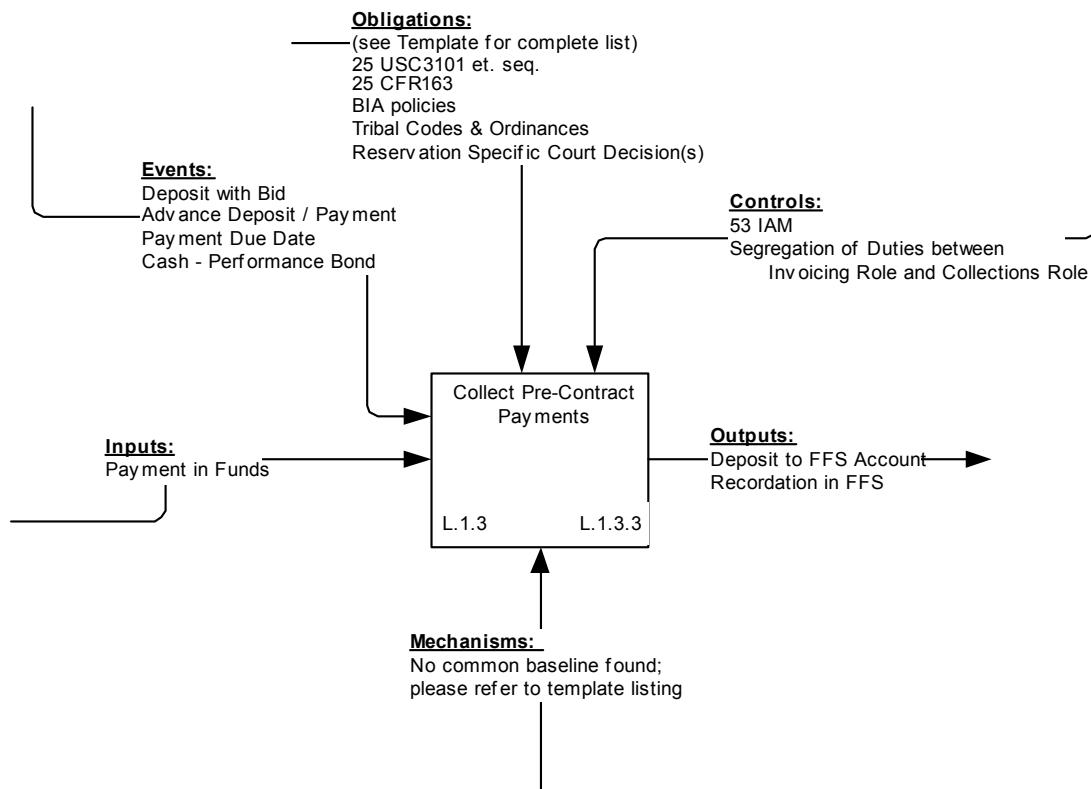


### **Collect Pre-Contract Payments (L.1.3.3)**

Starts with: Receive pre-payment funds.

Ends with: Forward pre-payment funds to BIA Division of Accounting Management for collection into the Federal Financial System.

The forest products purchaser sends any required pre-contract payments to the BIA forestry program staff. These funds are considered non-Trust funds because the relevant contract has not yet been approved by DOI. The funds are collected and forwarded to the BIA Division of Accounting Management for deposit into a non-Trust escrow account. Therefore, these funds are not yet collected into DOI's Trust Fund Accounting System, and are not distributed to beneficiaries until after the designated DOI Line Official has signed the contract. Advanced payments, after forest management deductions (if applicable), will be distributed to beneficiaries.



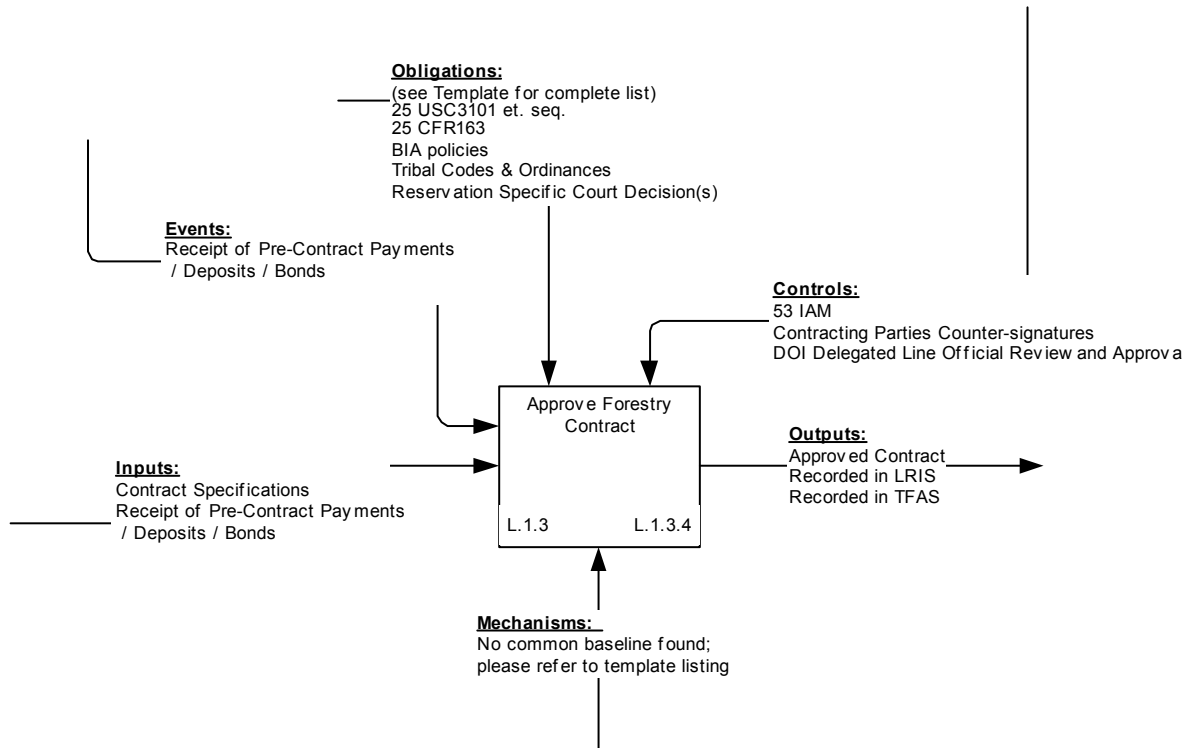
**Figure 4.3.5.2- 21 Collect Pre-Contract Payments IDEF(0)**



### **Approve Forestry Contract (L.1.3.4)**

Starts with: Submit forest product sale contract to DOI Line Official for approval.  
Ends with: Approved forest product sale contract.

When all pre-contract requirements have been met, the contract paperwork is submitted to the designated DOI Line Official for approval. This official reviews the contract to ensure DOI is properly managing Trust assets, and approves the contract or permit by signing the contract.



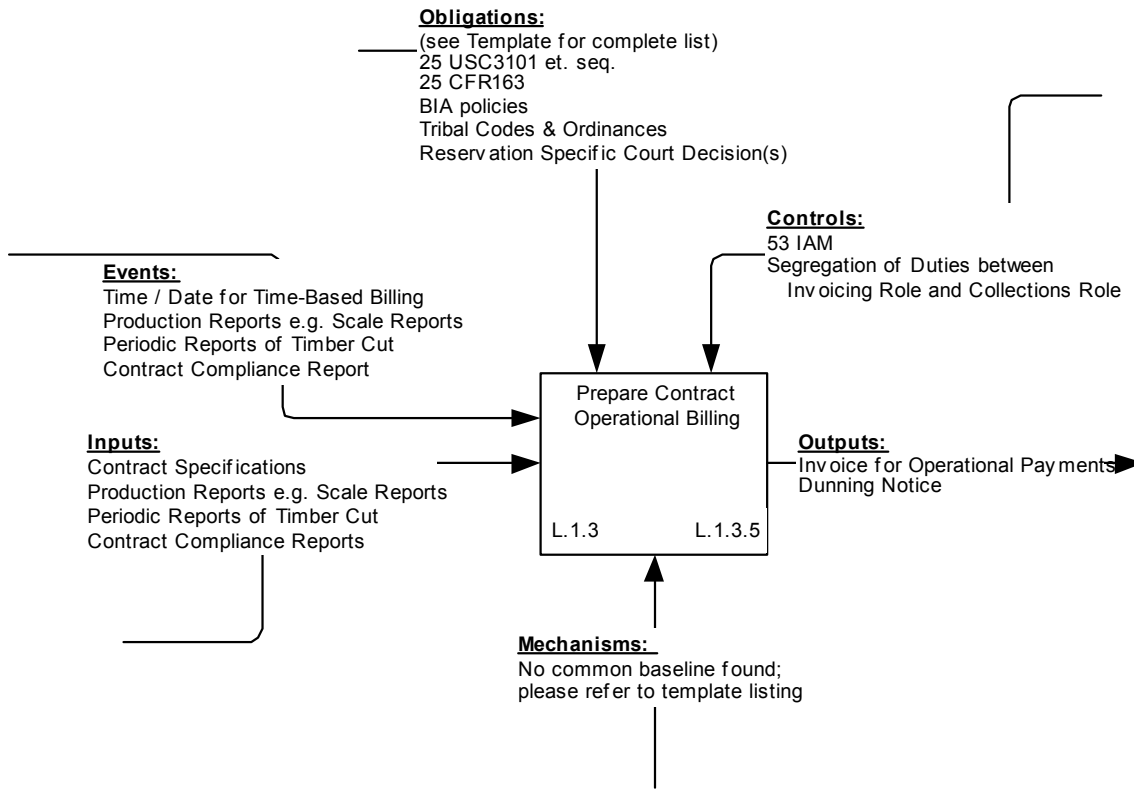
**Figure 4.3.5.2- 22 Approve Forestry Contract IDEF(0)**



### **Prepare Contract Operational Billing (L.1.3.5)**

Starts with: Prepare all contract payment requirements and payment terms.  
Ends with: Bills for Collection have been sent to the purchaser.

This process begins after the forest product contract is approved and there are additional payments or deposits required. Operational payments may be made as lump sums or on a schedule based on the amounts and values of timber cut for the payment period. Invoices may be created based on Production Reports for the sale. If payments are not received, a notice is sent to the contractor. This process ends when a final Bill for Collection has been sent to the purchaser.



**Figure 4.3.5.2- 23 Prepare Contract Operational Billing IDEF(0)**



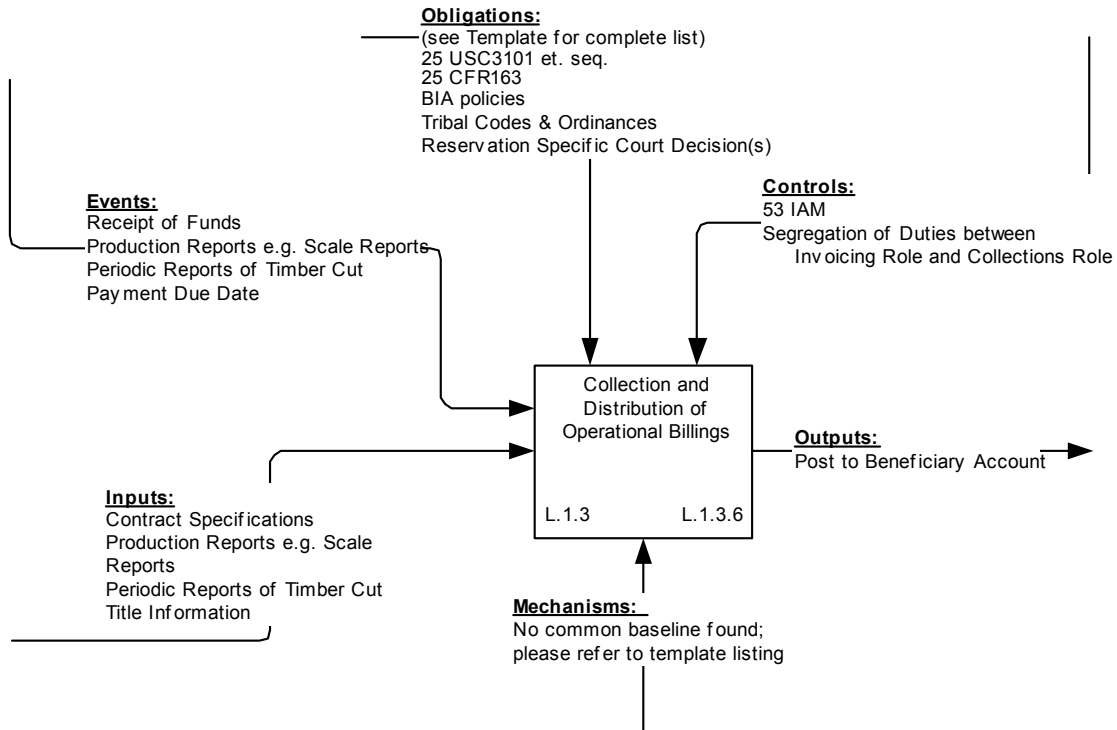


### **Collection and Distribution of Operational Billings (L.1.3.6)**

Starts with: Receipt of operational payment based on contract terms.

Ends with: Receive final operational payment and make final distributions.

The contract stipulates when payments for forest products are to be made. When operational funds are received and documented, they are forwarded to OST/OTFM for deposit into appropriate beneficiary accounts.



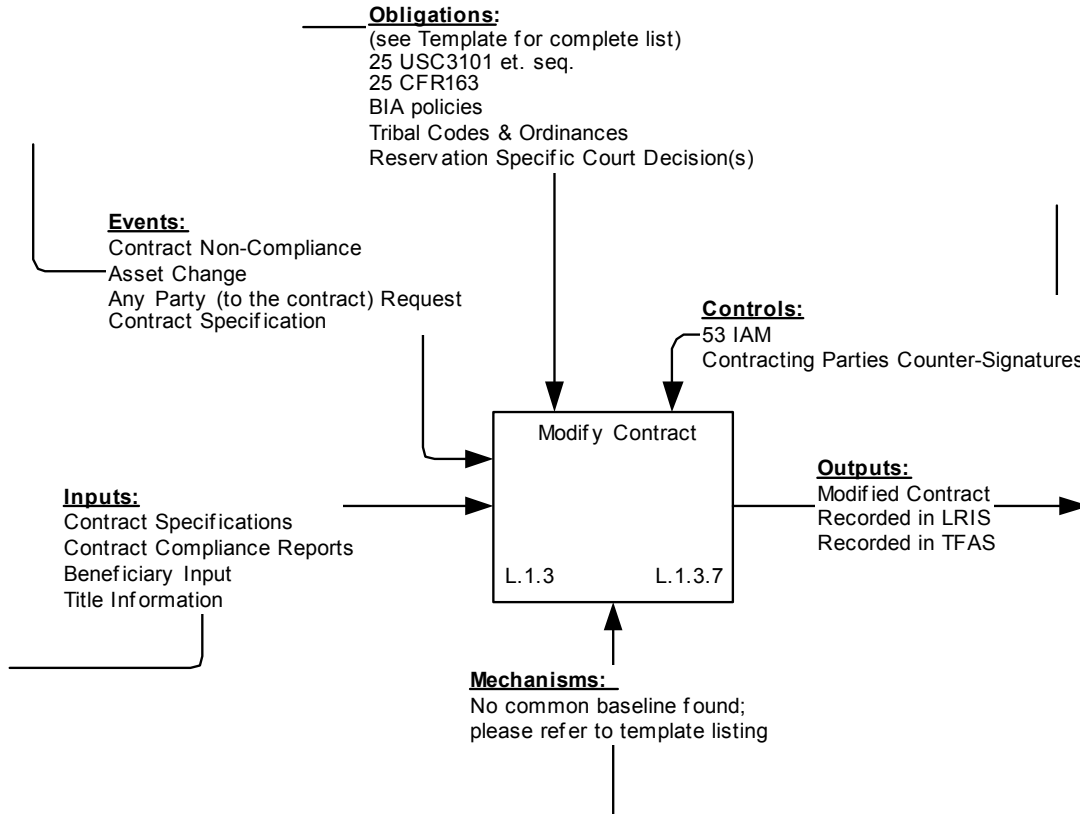
**Figure 4.3.5.2- 24 Collection and Distribution of Operational Billings IDEF(0)**



### **Modify Contract (L.1.3.7)**

Starts with: Indicate interest in forest products contract modification.  
Ends with: Approve contract modification by all parties.

During the course of large forest product sales, contract issues may warrant a modification to the contract. BIA and Tribal staff ensure protection of the interests and responsibilities of the Trust by drafting the modification which proceeds through the normal contract approval process.



**Figure 4.3.5.2- 25 Modify Contract IDEF(0)**

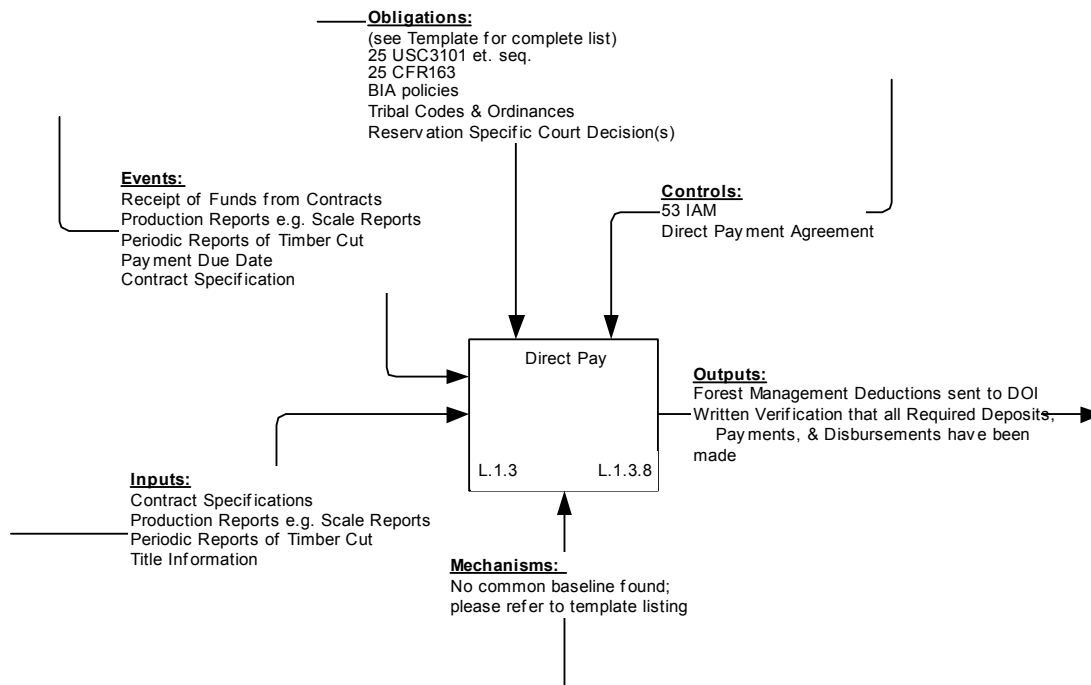


### **Direct Pay (L.1.3.8)**

Starts with: Established a Direct Pay agreement for a forest products contract.

Ends with: DOI verification that all direct payments and distributions stipulated in the contract have been made.

A Direct Pay agreement stipulates that all purchaser payments shall be made directly to the Tribe. All Direct Pay funds bypass DOI's accounting systems and are received directly into Tribal accounts. In addition, for forest product sales of over \$5,001, Forest Management Deductions must be collected and forwarded to DOI to facilitate ongoing forest management programs. The process ends when written verification that all required deposits, payments, and disbursements has been made and any amounts segregated as Forest Management Deductions are collected by the designated DOI Line Official.



**Figure 4.3.5.2- 26 Direct Pay IDEF(0)**



#### **4.3.5.2.4 Manage Forest Stand Compliance (L.1.4)**

Starts with: Monitor forest stands.

Ends with: Close forest product sales contracts.

The final component of the Forest Management process focuses on forest compliance. Compliance monitoring includes contract activities, planned forest development and protection activities. While the BIA forestry staff possesses contract and permit compliance authority, they do not have law enforcement authority to ensure compliance.

Finally, forest product contracts are closed at the end of a sale.

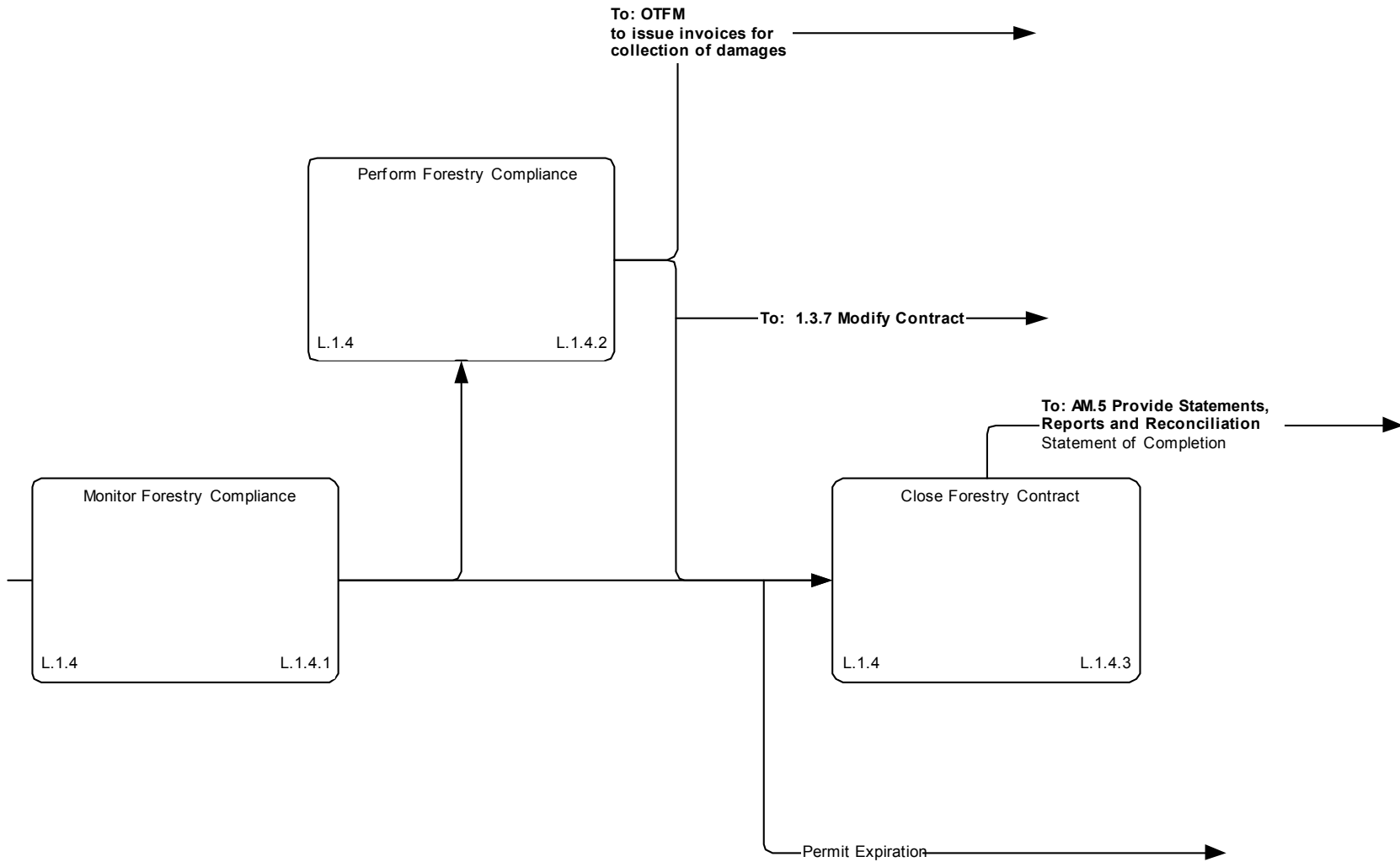


Figure 4.3.5.2- 27 Manage Forest Stand Compliance IDEF(3)



## **Beneficiary Involvement for Manage Forest Stand Compliance**

Tribes provide significant oversight and management of Tribal forest lands. In addition, individual beneficiaries are often the first to notice incidents on lands of which they have an owner interest, and are able to provide both Tribal foresters and BIA with notice of compliance issues, access to affected land, and special issues they may have with compliance issues. In the case of wild-fires and arson, beneficiaries provide input into monitoring and/or enforcement actions.

### **Manage Forest Stand Compliance Significant Notes**

- a) BIA has a responsibility to protect Trust assets. However, the BIA staff essentially has no law enforcement authority to ensure compliance with timber sale contracts or to prevent trespass, arson and other potential damage to forest land. Tribal police where applicable and local law enforcement may assist in this compliance support.



## Manage Forest Stand Compliance Detail Description

### Monitor Forestry Compliance (L.1.4.1)

Starts with: Approve forest products contract.

Ends with: Satisfy all forest products contract terms.

This process begins with an approved forest product contract and authorization for the contractor to proceed. During the course of the contract, normal or routine monitoring of forest events occurs. However, at times, notices are received from individuals or organizations concerning impacts to forest trust resources. These are assessed and appropriate parties are contacted (e.g., law enforcement, beneficiaries or a Tribal governing body). In the event that there is a significant impact to trust resources, asset inventories may need to be updated as appropriate and/or additional appropriate management actions taken. This process ends when all contract requirements have been fulfilled.

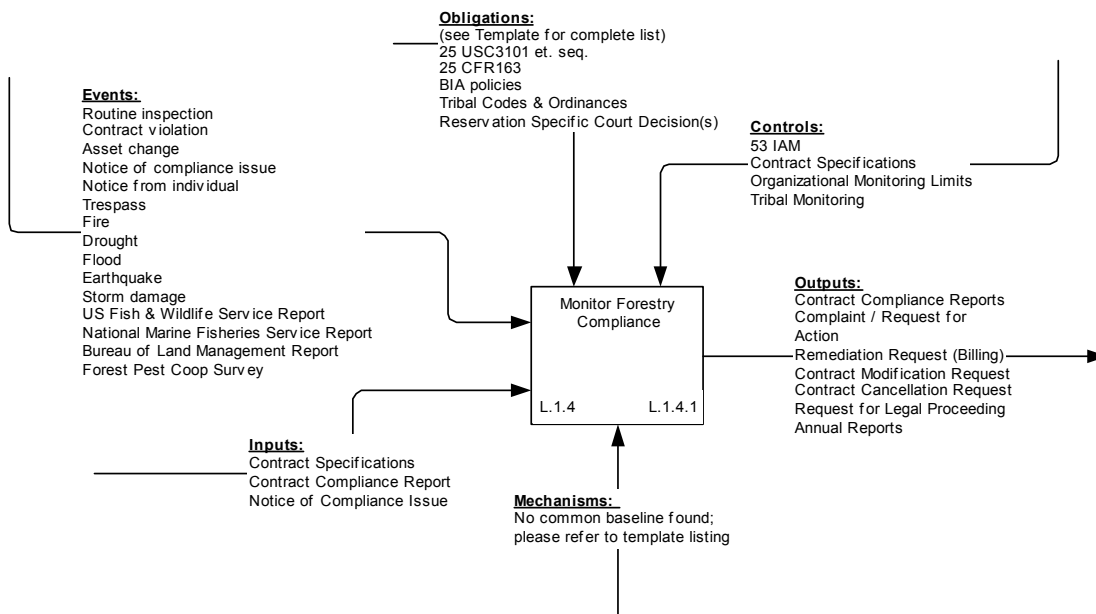


Figure 4.3.5.2- 28 Monitor Forestry Compliance IDEF(0)

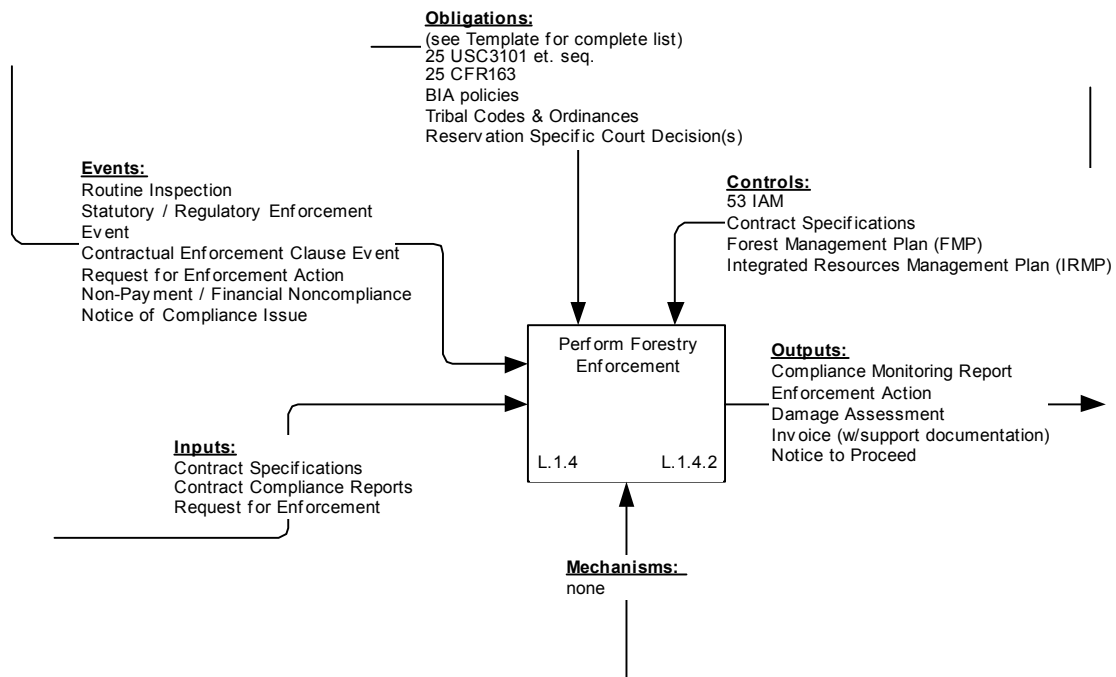


## **Perform Forestry Enforcement (L.1.4.2)**

Starts with: Determine enforcement action may be necessary based on a Contract Compliance Report.

Ends with: Document forestry enforcement action.

Routine inspections may identify a problem, incidents may be reported by beneficiaries, or others. Contractor non-payment may indicate a need for enforcement actions. Compliance monitoring reports may be filed along with damage assessments, if appropriate. DOI and the Tribe pursue appropriate enforcement action. The process ends when enforcement of the contract requirements has been ensured or other legal enforcement channels have been pursued.



**Figure 4.3.5.2- 29 Perform Forestry Enforcement IDEF(0)**



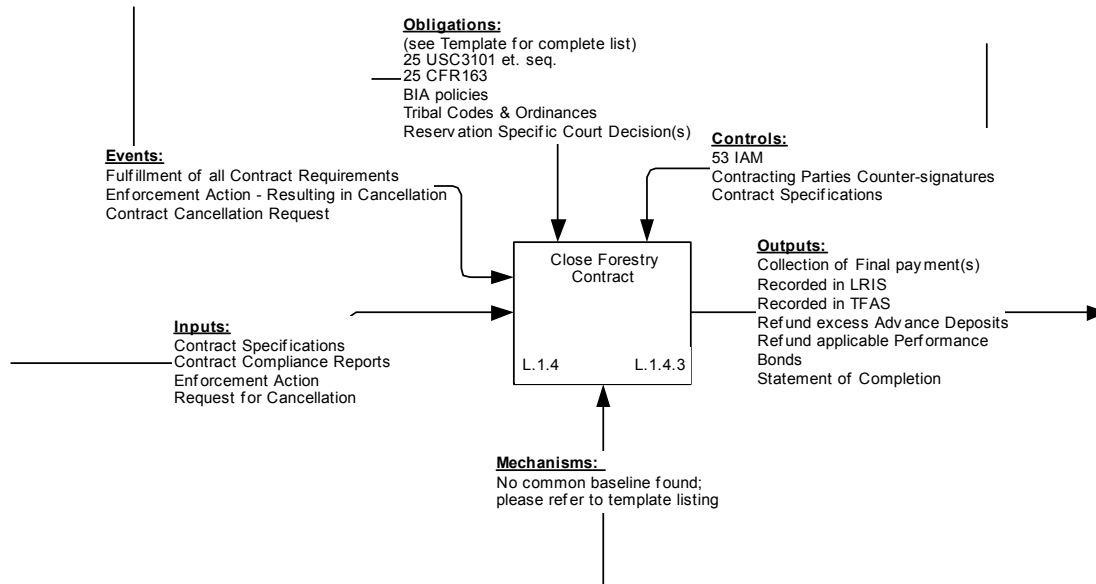


### **Close Forestry Contract (L.1.4.3)**

Starts with: Event that causes a need to close the forestry contract.

Ends with: Close forest product sales contract by a Statement of Completion and a refund of the contractor's performance bond, if appropriate.

This process begins with an event that causes a need to close the forestry contract or natural termination of the contract occurs because all contract requirements have been met. When BIA, the Tribe and beneficiaries are all in agreement that the terms of the contract have been met and all appropriate payments have been received, the BIA forestry program staff reviews the contractor's performance on the contract. When all terms and conditions of the forest product contract have been satisfied, the forest product contract is closed by return of the performance bond or any overpayment accompanied by a Statement of Completion of the sale.



**Figure 4.3.5.2- 30 Close Forestry Contract IDEF(0)**



#### 4.4.5.2.5 Forest Management Variances 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 4.3.5.2- 1 Great Plains Region Forestry Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
None						

**Table 4.3.5.2- 2 Midwest Region Forest Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Midwest Region Red Lake Tribe	Process Description	The size of Advance Payments is calculated on purchasing truck tickets based upon average volume and value per load.	Procedural; Workload; Staffing	Strong potential for maintaining less than minimum account advance balances.	Medium	Medium

**Table 4.3.5.2- 3 Eastern Region Forest Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Eastern Region Grand Portage Penobscot	Process Description	Direct Pay: No written verification that all required deposits, payments and	Procedural	Does not appear to be in conformance with regulations	High	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Menominee Passamaquoddy		distributions are made.		[§ 163.22 Payment for forest products. (c) The format must allow the Secretary to maintain trust responsibility through written verification that all required deposits, payments, and disbursements have been made.]		
Eastern Region Grand Portage Penobscot	Process Description	Forest Management Deductions (FMDs) are not sent to OST/OTFM.	Procedural	Does not appear to be in conformance with regulations. [§163.25 Forest management deductions. (c) Forest management deductions shall not be withheld where the total consideration furnished under a contract, permit or other document for the sale of forest products is less than \$5,001.]	High	Minor



**Table 4.3.5.2- 4 Alaska Region Forest Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Alaska Region	Role	The Alaska Regional Office provides Forestry services for the Agencies.	Procedural; Staffing	Agencies are not involved in the forest management process and Tribes must collaborate directly with the Regional Office, which may provide geographical issues.	Medium	Medium
Alaska Region	Process Description	The Alaska Region has developed a process whereby commercial forest viability (harvestability) is determined prior to providing further forestry services.	Procedural; Workload; Staffing	Decreases approval process because a portion of stands do not need to be considered each year for harvest.	High	Minor
Alaska Region	Process Description	Not all of the allotments have "title." Forestry program funds cannot be used on an Allotment until a Trust title has been approved.	Workload; Staffing	Significant delay in providing any forestry services.	High	Major

**Table 4.3.5.2- 5 Northwest Region Forest Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Northwest Region	Role	Forest Management Inventory and Planning work for Tribes within the Northwest Region is overseen (with assistance	Procedural	The Northwest uses staff at a special regional office branch of Forest Planning, while all other regions work	Low	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		provided including CFI analysis) by the Northwest Regional Office.		with the national Branch of Forest Resources Planning.		
Northwest Region Quinault Tribe	Process Description	Forest Management Deductions are calculated on appraised value rather than as a percentage of gross proceeds from a timber sale.	Procedural	Does not appear to be in conformance with regulations. [§ 163.26 Definitions. <i>Forest management deduction</i> means a percentage of the gross proceeds from the sales of forest products harvested from Indian land which is collected by the Secretary].	Low	Minor
Northwest Region Quinault Tribe Makah Field Office	Process Description	The Direct Pay agreement provides no written verification that all required deposits, payments and distributions have been accomplished.	Procedural	Does not appear to be in conformance with regulations [§ 163.22 Payment for forest products. (c) The format must allow the Secretary to maintain trust responsibility through written verification that all required deposits, payments, and disbursements have been made.]	High	Minor
Northwest Region Makah Field Office	Role	Tribal Forester approves permits	Procedural	Does not appear to be in conformance with regulations.	High	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				[§ 163.26 Forest product harvesting permits. (a)...To be valid, permits must be approved by the Secretary.]		
Northwest Region Quinault Tribe Makah Field Office	Process Description	Tribes are given 24 hours to invoke “Tribes right to meet high-bid,” which allows Tribes (usually through Tribal Enterprises) to contract for the timber harvest themselves. Usually, the extra 24 hours is not allowed.	Procedural	Minimal	Low	Minor
Northwest Region Quinault Tribe Makah Field Office	Role	Allotment owners are polled to determine whether or not to offer the term for “Tribes right to meet high-bid”	Procedural	Does not appear to be in conformance with regulations. [§ 163.15 Advertisement of sales. (a)...The advertisement may limit sales of Indian forest products to Indian forest enterprises, members of the Tribe, or may grant to Indian forest enterprises and/or members of the Tribe who submitted bids the right to meet the higher bid of a non-member.]	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Northwest Region Quinault Tribe	Process Description	The Quinault Tribe pays Forest Management Deductions (FMDs) on a quarterly basis.	Procedural; Workload	Does not appear to be in conformance with regulations. [§ 163.25 Forest management deductions. (a) Pursuant to the provisions of 25 U.S.C. 413 and 25 U.S.C. 3105, a forest management deduction shall be withheld from the gross proceeds of sales of forest products harvested from Indian forest land as described in this section.]	Low	Minor
Northwest Region Quinault Tribe Makah Field Office	Process Description	These locations obtain Beneficiary Consent to contract forest stand prior to evaluation of stands for Harvest.	Procedural; Workload	Minimal	Low	Minor
Northwest Region Yakama Agency	Process Description	Does not get Regulatory Agency Approvals prior to environmental assessment of “Finding of No Significant Impact” (FONSI)	Procedural Workload	Does not appear to be in conformance with Case Law	Medium	Major



**Table 4.3.5.2- 6 Eastern Oklahoma Region Forest Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Eastern Oklahoma Region	Process Description	There are no advertised timber sales in the region.	Workload	Decreases workload	High	Medium

**Table 4.3.5.2- 7 Southern Plains Region Forest Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
None						

**Table 4.3.5.2- 8 Rocky Mountain Region Forest Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Rocky Mountain Region	Process Description	The Direct Pay agreement provides no written verification that all required deposits, payments and distributions have been accomplished.	Procedural	Does not appear to be in conformance with regulations [§ 163.22 Payment for forest products. (c) The format must allow the Secretary to maintain trust responsibility through written verification that all required deposits, payments, and	High	Minor





Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				disbursements have been made.]		
Rocky Mountain Region Rocky Boy's Field Office	Process Description	Forest Management Deductions (FMDs) are sometimes collected on forest product sale amounts less than \$5,001. FMD not sent to OST/OTFM. Used directly by Tribal Forestry.	Procedural	Does not appear to be in conformance with regulations. [§163.25 Forest management deductions. (c) Forest management deductions shall not be withheld where the total consideration furnished under a contract, permit or other document for the sale of forest products is less than \$5,001.]	High	Minor
Rocky Mountain Region Rocky Boy's Field Office	Process Description	The Tribal Governing body determines which local (non-Enterprise) operators receive timber sales.	Procedural	Does not appear to be in conformance with regulations. [§ 163.15 Advertisement of sales. (Except as provided in §§ 163.13, 163.14, 163.16, and 163.26 of this part, sales of forest products shall be made only after advertising.	Medium	Minor



**Table 4.3.5.2- 9 Navajo Region Forest Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Navajo Region	All	The Navajo Regional Office provides Forestry services for the Agencies.	Procedural Staffing	The Regional Office has more forestry people and is more involved on a day-today basis.	Medium	Medium
Navajo Tribe	Role	Tribal Forester approves permits	Procedural	Does not appear to be in conformance with regulations. [§ 163.26 Forest product harvesting permits. (a)...To be valid, permits must be approved by the Secretary.]	High	Minor

**Table 4.3.5.2- 10 Southwest Region Forest Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
None						



**Table 4.3.5.2- 11 Western Region Forest Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Western Region Ft. Apache Tribe	Role	Ft Apache Tribe has refused to sign their Forest Management Plan.	Procedural	Inconsistent with policy.	Medium	Minor
Western Region Ft. Apache Tribe	Process Description	Ft Apache uses a “Ratio Royalty” system of payment. Timber is paid for, after being sold by the Tribal mill, (Ft. Apache Timber Company FATCO)	Procedural	Minimal	Low	Low
Western Region Hualapai Tribe	Process Description	The Hualapai Tribe does not have their Reports of Timber Cut approved by the BIA	Procedural	Inconsistent with policy.	Medium	Minor

**Table 4.3.5.2- 12 Pacific Region Forest Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Pacific Region Tule River Round Valley	Process Description	Tule River Tribe has increased their Forest Management Deductions to 25%. Round Valley has increased their Forest Management Deductions to 18%	Lack of Funding	Enhances total regional forest management resources and provides essential budget dollars to the Tribes for forest management activities	High (positive)	Minor



#### **4.3.5.3 Range Management (L.2)**

The overall process starts with: Develop a reservation range plan.

It ends with: Close grazing permits.

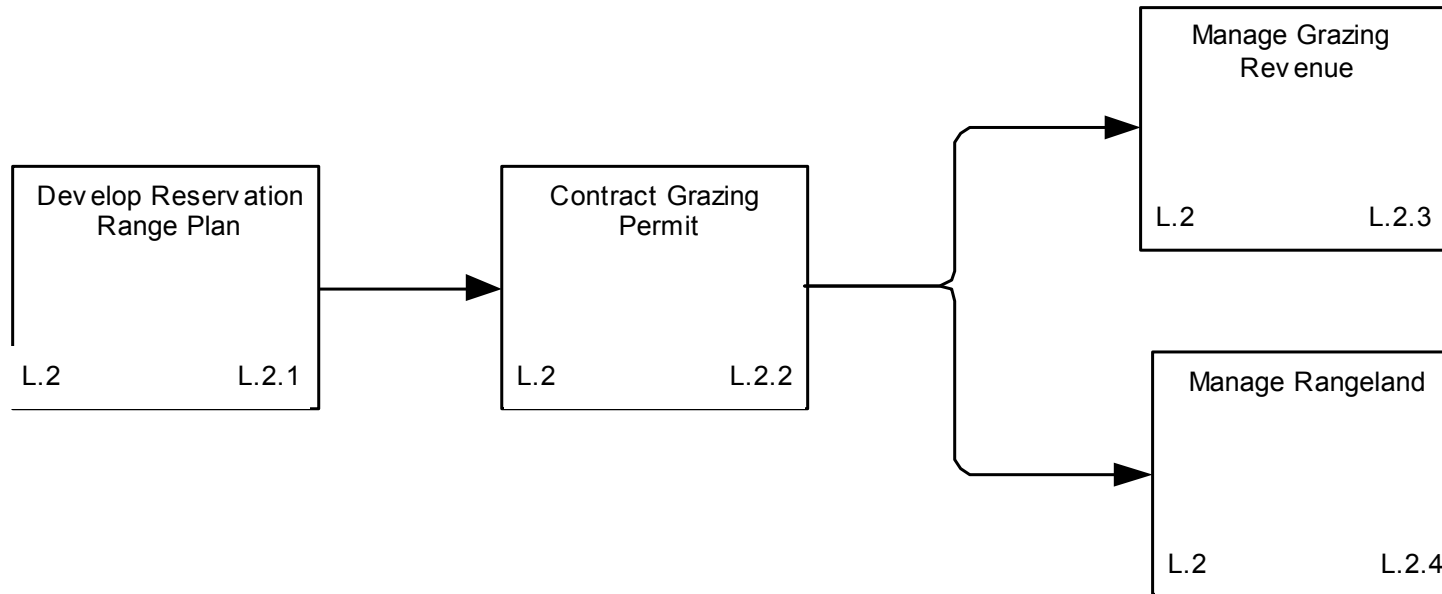
Nationally, grazing is the predominant use of Indian Trust lands in terms of acreage. The Range Management Trust Business Model describes the activities to plan, issue grazing permits, manage revenue, and monitor Indian Trust rangelands.

Trust range resources are principally managed through a permit system codified at 25 CFR 166. This system regulates the management and use of rangelands, the range permitting activities, and compliance monitoring. It also provides procedures for designating range unit operators (ranchers), who are responsible for effective stewardship of the land. Idle or non-permitted rangeland, without responsible care and use, is subject to wastage through a variety of sources including feral animals, noxious weeds, trespass, dumping, and overuse. With proper management and utilization, the land is maintained in a more ecologically sustainable state providing revenue to the Trust beneficiaries.

Range Management activities interface with other trust processes such as Title, Accounting and Appraisal. These interfaces facilitate determination of ownership; establish fair market values for minimum grazing rental rates; and to distribute rental income to beneficiaries.

Range processes and grazing permits do not occur in the following BIA Regions: Alaska, Eastern, Eastern Oklahoma, Midwest, and Southern Plains. While grazing occurs in these regions, it is typically leased as farm/pasture land under 25 CFR 162 regulations, as described in the Agricultural Leasing process, and not through 25 CFR 166 General Grazing regulations.

Range policies and procedures are varied at regional, agency, and Tribal levels to accommodate individual Tribal objectives and land use codes. Some Compacted/Contracted Tribes have developed programs that may better serve the local land characteristics and Tribal priorities.



**Figure 4.3.5.3- 1 Range Management High Level Diagram**



#### 4.3.5.3.1 Develop Reservation Range Plan (L.2.1)

Starts with: Receive a request for changes in grazing policies, or, pending expiration of a Reservation grazing permit period.

Ends with: Adopt formalized refinement of BIA and/or Tribal stipulations, resolutions, and statutes to manage the rangeland over the next planned period of time.

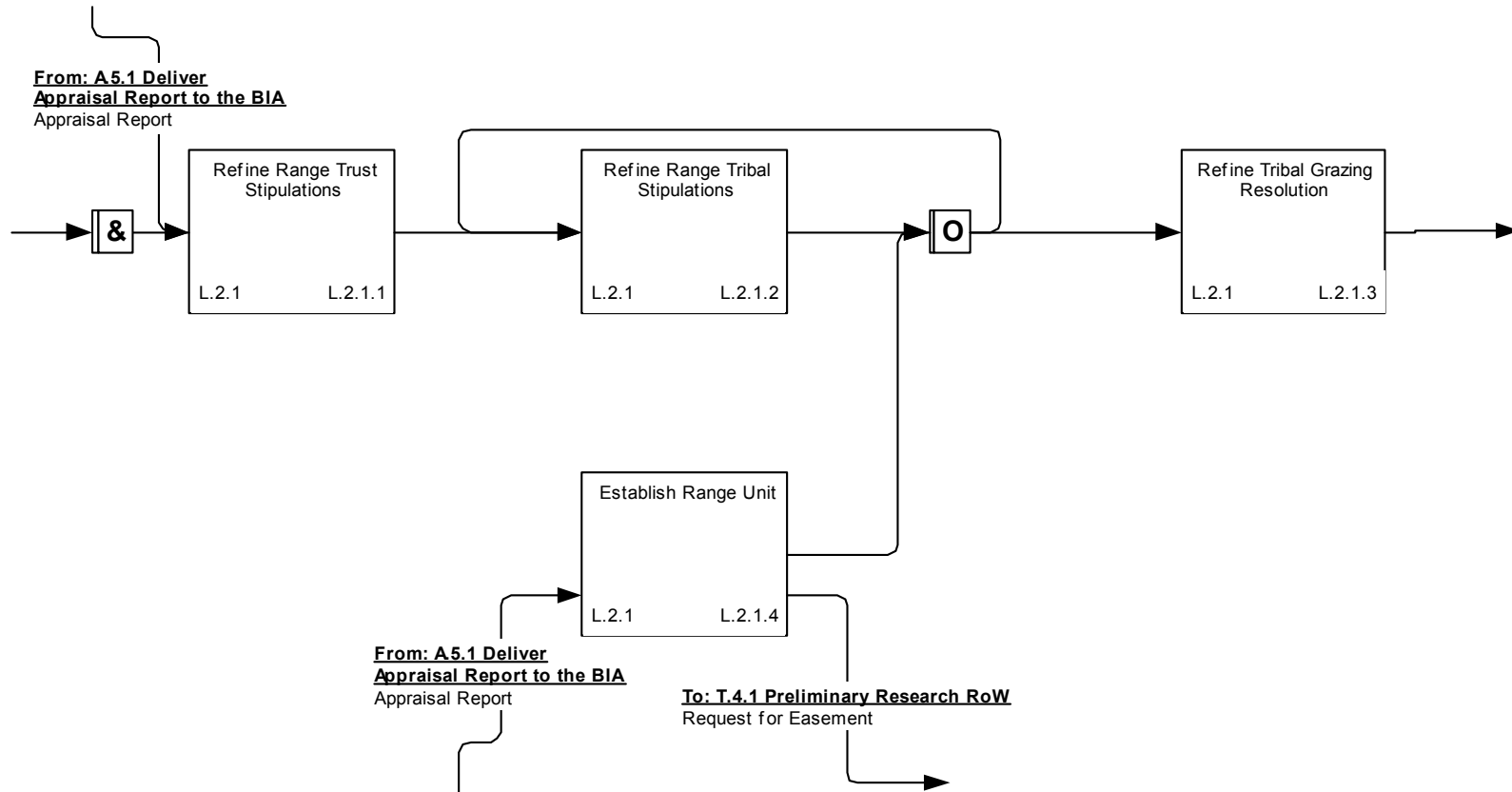
Planning for rangeland is primarily confined to lands utilized under existing grazing permits. Typically, “idle” lands, and lands not permitted, are not included in formal planning processes. Planning incorporates Range Units (RU’s), which are “unitized” areas of land permitted to one or several operators. Range Units may comprise a number of tracts of land each with unique ownership. This is done to create an area of land of adequate size to provide for sufficient stocking rates of commercially viable herds of livestock, and support effective land use practices, such as rotating of animals between fenced pastures within the unit to prevent over-grazing.

Most Reservations with large, contiguous areas of rangeland have synchronized their grazing permits to expire at the same time. BIA Regions with large range operations have worked with Tribes to schedule rotating “blocks” of permits, where one or two Reservations go through the range planning and permitting process each year, with all Reservations in the region completing the process once within a five year rotation schedule (to match the five year duration of most grazing permits). Some Reservations may vary this to shorter periods (e.g. two years), or extend the periods (e.g. 10-year rotations) to match USDA program cycles and other influencing events. Upon expiration, the current permittee must apply to maintain his/her existing permit, with the exception of the Navajo Region. Occasionally, negotiation of a permit is employed to retain the same operator under a new permit.

Typically, the BIA initiates planning, reviewing utilization reports, and receiving an Appraisal Report from the regional OST Appraiser. This appraisal recommends a minimum grazing permit rental rate for the Tribe. The appraisal is established in terms of a price per animal unit month (AUM).

Planning activities review land utilization, assess rangeland condition, set stocking rates, rental minimums, and land suitability prior to commencing the grazing permitting. An Appraisal Report and other recommended grazing changes are forwarded as stipulation recommendations to Tribes for review. Most Tribes with significant rangeland may develop their own stipulations to achieve unique Tribal objectives or limitations for grazing. Stipulation recommendations, both BIA and Tribal, are reviewed and formalized by Tribal authorities, usually in Grazing Resolutions, which may also be codified into Tribal Ordinances.

Upon request, new rangeland may be incorporated into the Trust land base for permitting. This activity typically establishes stipulations as part of the environmental land assessment performed in establishing the new Range Unit or Range Management Unit (RMU). Rights of way may be requested to allow appropriate access to the land for grazing use.



**Figure 4.3.5.3- 2 Develop Reservation Range Plan IDEF(3)**



## **Beneficiary Involvement for Reservation Range Plan**

Tribes are heavily involved with range planning and development, and have formalized process steps to guide objectives and preferences for rangeland management. Individual allottees are not typically involved with the development of Reservation plans unless they participate in Tribal discussions or committees in development of Tribal stipulations and preferences.

## **Develop Reservation Range Plan Significant Notes**

- a) A number of Reservations with significant range resources do not have formal permit systems. Frequently, these Tribes provide for Tribal Member use of rangeland based on historical or customary land use and land tenure rights. These grazing rights may be very informal designations, or may be documented by the Tribe in the form of land assignments.
- b) Many locations do not have a complete current range data for stocking rates and carrying capacities (e.g. Navajo). Detailed soil and range surveys, assessments of forage and land carrying capacities (at the district or reservation level) were in many instances last performed between 40 and 70 years ago. There is also a serious lack of trained personnel competent to monitor to determine range condition and stocking rates. Carrying capacity is the maximum number of animals a particular tract can support. It is not meant to be a suggested herd size. Stocking rate is a suggested animal count for a RU. Frequently, carrying capacities were based upon a soil and range inventory.
- c) A large amount of grazing land (estimated around 1 million acres), exists as Public Domain (Indian) Allotments (PDA's). PDA's are tracts of land allotted to individual Indians from public domain land. Most of these tracts are relatively small, in the vicinity of 10 –160 acres, are widely scattered, off-Reservation, and are not being managed or tracked. Most BIA involvement on these tracts is in response to notification of third parties in potential trespass. Existing programs focus on Reservation land managed under current grazing permit systems, and as a result, it is problematic to substantiate and quantify information on the PDA's and the magnitude of the related problems.
- d) 25 CFR 166 requires a Conservation Plan of Operation for each RU, and the American Indian Agriculture Resource Management Act of 1994 (AIARMA) and 30 BIAM Supplement 10 recommend an Integrated Resource Management Plans (IRMP). These obligations and controls have been characterized as “unfunded mandates”, even though funding for performing the activities is available through a grant process. Conservation plans are performed (or updated) primarily when circumstances require it, such as natural catastrophic events, or trespass litigation. When IRMP's are completed, most of these are funded with Tribal resources.





## **Develop Reservation Range Plan Detail Description**

### **Refine Range Trust Stipulations (L.2.1.1)**

Starts with: Receive a request for land use change, or, a pending expiration of a Reservation grazing permit period.

Ends with: Approve a minimum grazing permit rental rate for allotted lands, stocking rates and other recommended stipulations, and forward to relevant Tribal authorities.

Most rangeland under the jurisdiction of BIA is and has been historically and customarily used for the grazing of livestock. Periodic adjustments are needed as to how and when the rangeland is utilized. These are generally refinements and not wholly new approaches to managing the grazing activity.

These periodic adjustments are usually triggered by either a pending expiration of existing grazing permits, or, receipt of a request for land use change. Occasionally, significant natural events such as fires or floods may also initiate this process. Unless otherwise requested or prompted, refinement of stipulations begins about a year before permit expiration.

Based upon available information and knowledge of the rangeland within the region, BIA Range Conservationists make recommendations to adjust the grazing use of the land. Both region-wide changes, and where appropriate, RU or tract-level changes, may be recommended. Conservation Plans, also sometimes referred to as a Plan of Operations, are prepared or refined for a RU, usually commenting on specific changes for that particular piece of land. Common general stipulation updates cover the major characteristics of grazing use:

- a) Class of Livestock (Cattle, sheep, horses, etc.)
- b) Stocking rate – productivity expressed as acres per animal unit months (AUM)
- c) Carrying capacity – the maximum number of animal units (AU's) acceptable for a tract of land. An AU is a pre-defined relationship between the species of animal and its characteristic utilization of forage resources. For example, an AU might be one cow, or an equivalent of four sheep
- d) Season of use
- e) Rental rate
- f) Natural or prescribed constraints of use

Carrying capacities are adjusted based upon surveys. These are surveys which provide information pertinent to the use of the land, not a land or boundary survey. Soil and range surveys are ecological assessments detailing range inventories, soil characteristics, past permit package experience, current forage, environmental factors, and other management factors including water availability, fencing, fire, noxious weeds, and disease risks. They describe appropriate operating adjustments and prevention measures, usually at a tract or sub-tract level. Since budgets for soil and range surveys are very limited (usually performed in 30-70 year cycles), the Refine Trust Stipulations process usually limits assessments for these refinements to a more generic and geographically broader scope, such as reservation or region-wide adjustments to carrying capacities by a percentage factor.



IRMP's are suggested in 30 BIAM Supplement 10, and can provide guidance in developing grazing stipulations which are aligned with the Tribal goals and objectives for land use.

Rangeland is appraised for its rental value on an AUM basis. BIA Regional Directors approve and establish the reserve minimum rental rate for allotted lands at each Agency/Reservation, and forward this information to the appropriate Tribal representatives in their review of establishing tribal rental rates for tribal lands.

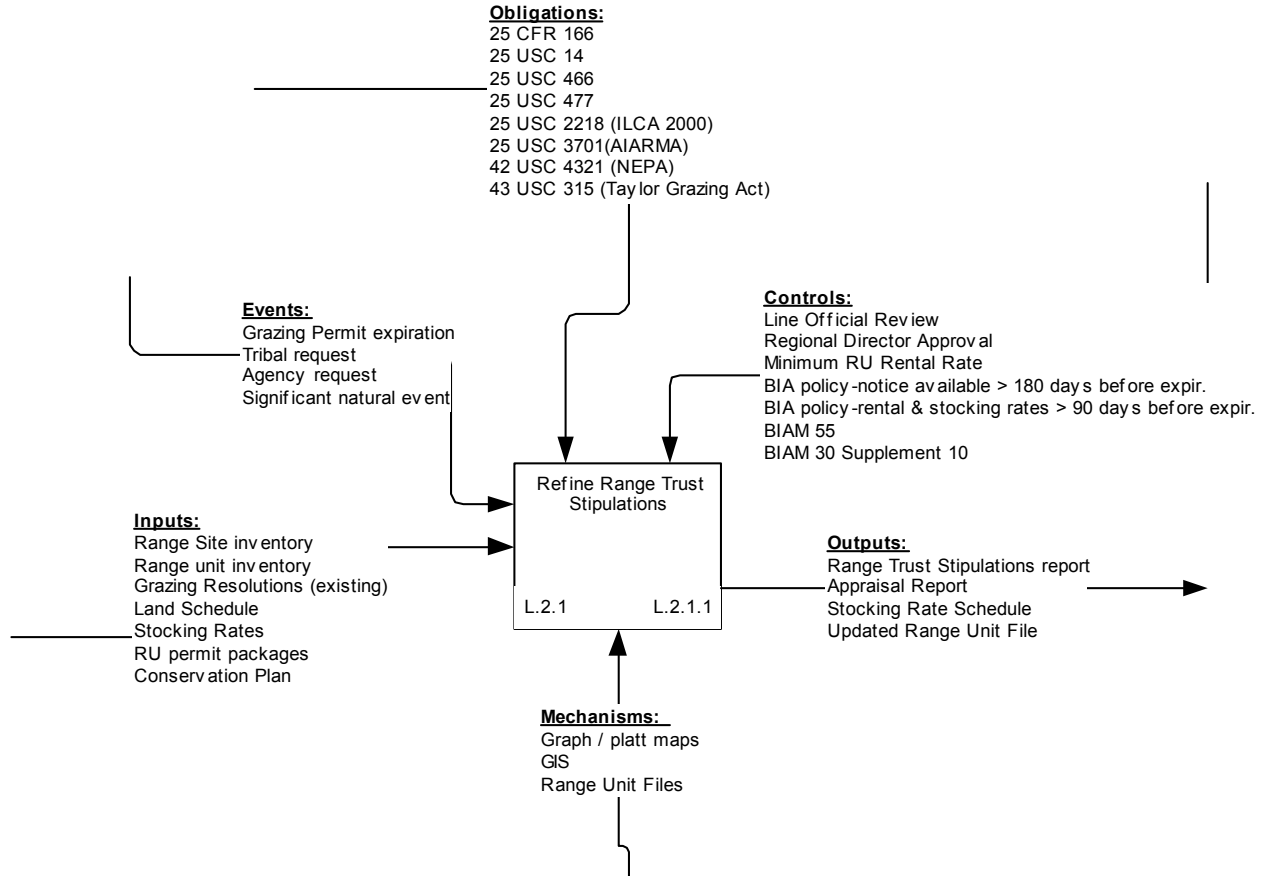


Figure 4.3.5.3- 3 Refine Range Trust Stipulations IDEF(0)



## **Refine Range Tribal Stipulations (L.2.1.2)**

Starts with: Receive BIA Appraisal Report for grazing rate, or, pending expiration of a reservation grazing permit period, or, a cyclic review of tribal allocation requirements.

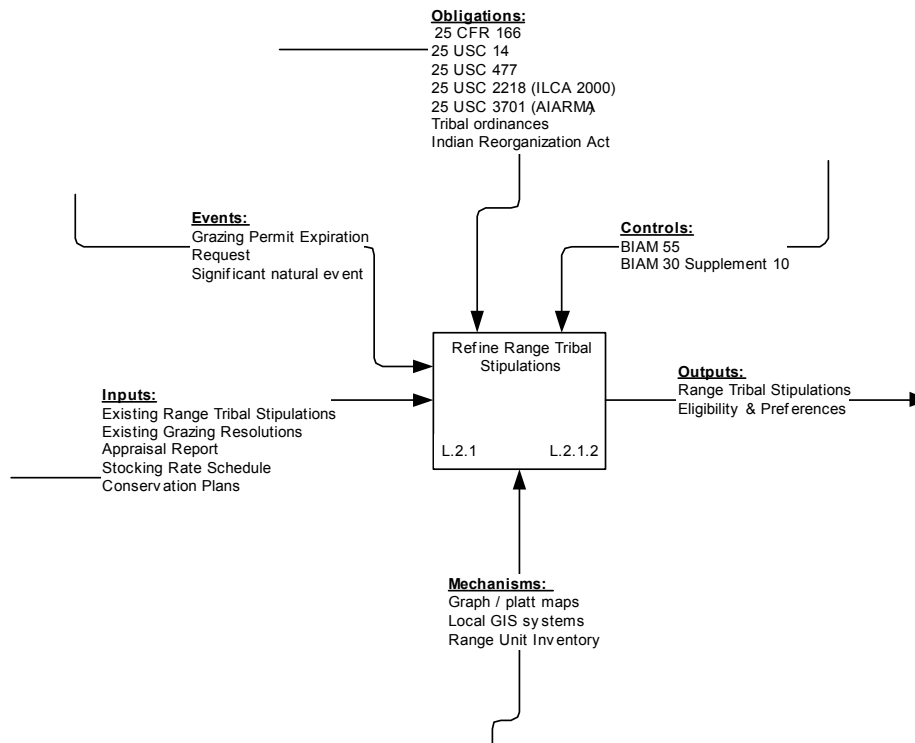
Ends with: Document Tribal stipulations and forward to Tribal authorities for approval.

Tribes frequently desire to modify requirements and preferences upon the use of Tribal Trust land. Tribes usually begin this process in conjunction with the BIA refinement of Trust stipulations. Tribal stipulations may be developed to give preference to Tribal members over the general public for use of Trust lands. Preferences may be for Tribal landowners over non-landowners, historical or cultural use, and support social priorities. They may also put specifications in place relating to the process or bypassing the process of competitive bidding for the use of rangeland. Generally, such ordinances bypass competitive bidding to the public and prioritize allocation of permits if a qualified Indian operator can be found to fulfill acceptable contract permitting terms. Other terms, conditions, permissions, exclusions, and record keeping may be specified, including the capability to assess fees (e.g. right-to-do-business, inspections) and specify the terms and who shall collect such fees (e.g. payment direct to the Tribe, or, BIA serving as collector).

Examples of common Tribal Stipulations are:

- a) Tribal allocation requirements (prerequisites to receive preference in land use).
- b) Tribal allocation preferences (e.g. blood quantum, current land ownership, existing range permit, experience in active livestock management)
- c) Tribal member rental rate, usually lower than appraised fair market value (FMV) rate for Tribal operators on Tribal lands.
- d) Livestock exclusions (types permitted and precluded)
- e) Land management requirements (e.g. fencing, area to be excluded, trespass procedures)
- f) Livestock control responsibilities

Tribal land operations staff finalize the recommended Tribal Stipulations, including any forwarded BIA-developed Trust Stipulations, and forward to the appropriate Tribal authorities for approval. Generally, this is a Tribal District, Council, Chairman, or Governor, for formal approval in the form of a Resolution, and may include codification into Tribal Ordinance.



**Figure 4.3.5.3- 4 Refine Range Tribal Stipulations IDEF(0)**



### Refine Tribal Grazing Resolution (L.2.1.3)

Starts with: Receive Range Trust and Tribal Stipulations.

Ends with: Approve and adopt refined stipulations, Tribal Resolutions, and Tribal Ordinances governing the use of rangeland and management of grazing permits.

Tribal authorities receive recommendations from BIA via an Appraisal Report and, if appropriate, a document of Trust stipulation recommendations. Tribal land operations resources review the BIA input and develop Tribal recommendations.

Initial approvals usually include Tribal Range Specialists and a Range or Land Committee, followed by review in other related Tribal departments or committees with approval through a Tribal Council Resolution. Many Resolutions or Ordinances then require a final approval by the Tribal Chairman or Governor.

Some Tribes also request the BIA line official (e.g. Agency Superintendent, or Regional Director) to concur with the Tribal Resolution or Ordinance. This may take place as informal review and consultation, or may be requested in a formal signature of concurrence. BIA involvement is dependent upon the working relationship between the local BIA representatives and the Tribe. The need for such concurrence frequently depends upon the Tribal Constitution, and the level to which unitized tracts (RU's) consist of both Tribal and allotted lands, where BIA approval of stipulations governing allotted lands is mandated. Most Tribal Grazing Resolutions have beginning and ending dates to aid in keeping the rules governing the land use current with existing land and market conditions.

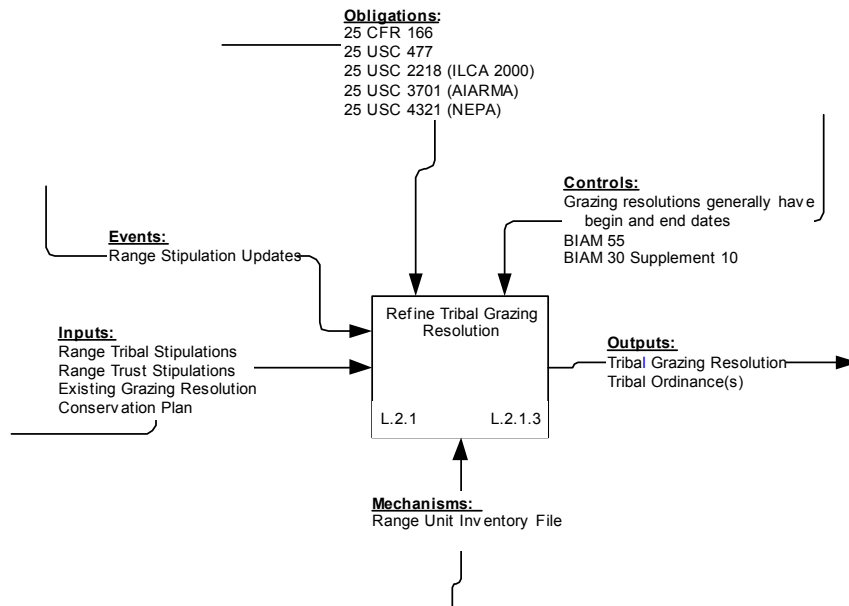


Figure 4.3.5.3- 5 Refine Tribal Grazing Resolution IDEF(0)



### **Establish Range Unit (L.2.1.4)**

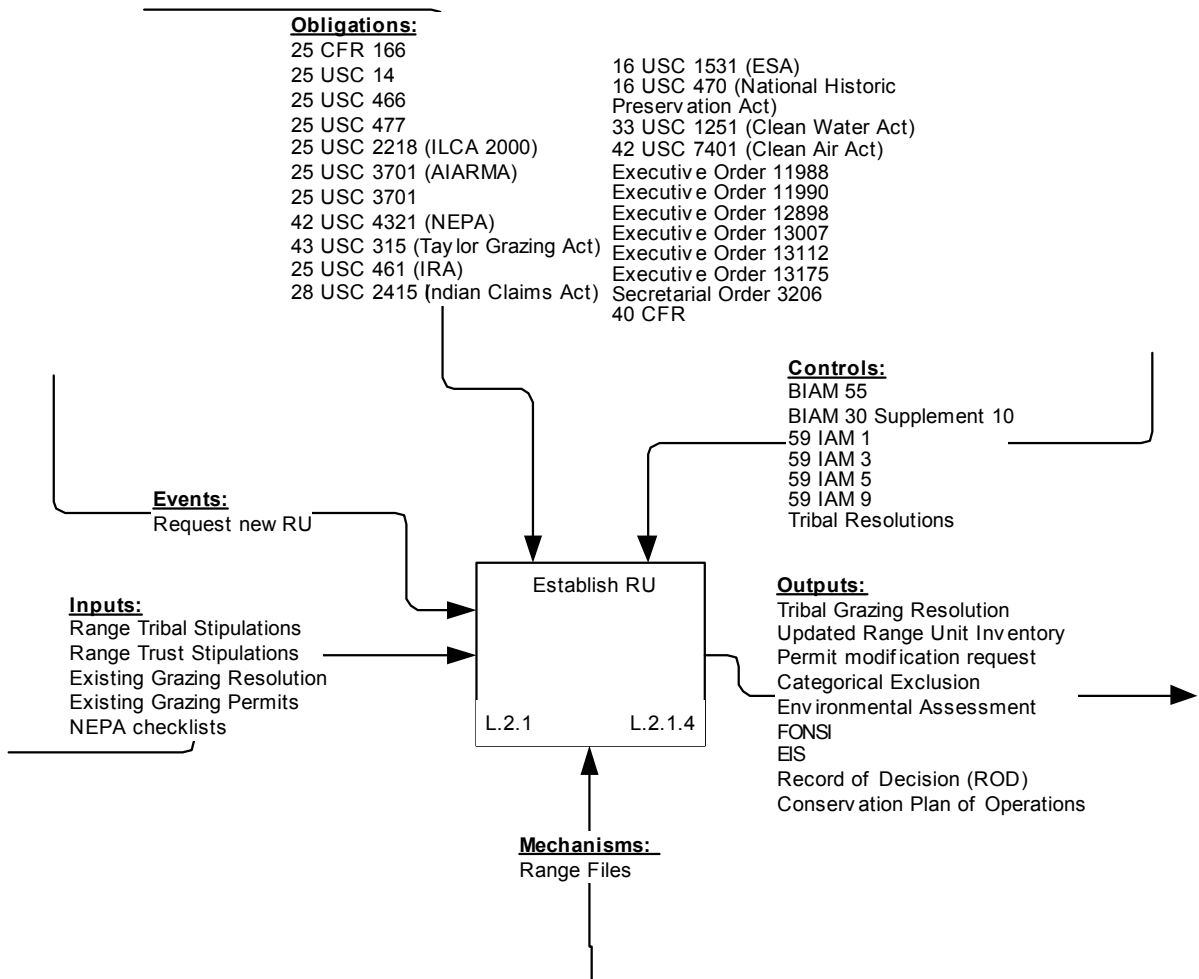
Starts with: Receive request to establish a new RU/RMU or range management application.  
Ends with: Document Environmental Assessment and decision on land use request.

Three primary situations establish Range Units. First, many Tribes have recently developed sources of revenue and have targeted land acquisition as a priority. They buy existing ranches close to the reservation, bring the land into Trust status, and use it to provide opportunities for Tribal member operators. Second, a few Tribes, notably the Navajo, still have vast sections of open range where existing grazing permittees may apply to establish a fenced management unit. Third, a range management application to install a range conservation measure such as reseeding or brush control may require significant environmental and administrative reviews.

Upon receipt of the request, the Tribal Committee (Grazing/Land/Natural Resource) works with the local BIA office to gather relevant information. The Committee initiates a Tribal review inclusive of NEPA compliance processes, and may request BIA participation.

Any proposed activity or change in land use with potential impact (e.g. breaking the surface) requires a NEPA process to assess the impact, and may include the following:

- a) Impacts to Endangered Species
- b) Cultural impacts
- c) Archeological impacts - defined by National Historic Preservation Act (NHPA section 106)
- d) Soil, water, air quality impacts
- e) A Categorical Exclusion determination (CatEx) on minor projects or activities to eliminate the need for an environmental assessment.



**Figure 4.3.5.3- 6 Establish Range Unit IDEF(0)**



#### 4.3.5.3.2 Contract Grazing Permit (L.2.2)

Starts with: Prepare draft schedule of range units available for grazing permits.

Ends with: Approve grazing permit.

The inventory of rangeland is reviewed, and a schedule is prepared of land available for grazing permits. Expirations of existing permits, idle or currently non-permitted lands, newly acquired rangeland, and requests for grazing are included in this review. Studies may be performed for any new rangeland or requests to change or improve existing RU's, to assess environmental conditions and impacts. For any fractionated-ownership lands (any lands not 100% Tribally owned), BIA secures consent or exercises authority to grant grazing permits.

BIA agencies, in conjunction with Tribal consultation and interested allotment ownership-interests, sets an appropriate priority sequence of activities for selection of a grazing permittee. A plan is developed for each Tribal reservation, with unique culture, social, land base characteristics, along with current market conditions, to ascertain which selection process is most appropriate for various RU's. Processes include:

- a) Tribal allocation
- b) Negotiated settlement
- c) Open-market bidding
- d) Owner-use

For Tribal lands, the Tribe itself generally performs an allocation process to grant grazing rights to Tribal members. Where for any reason the Tribe is unable to select a qualified operator from Tribal member applicants, the Tribe may request the BIA to assist through either negotiated or bid process to select a permittee.

Once a permittee has been selected, pre-permit payments are collected, approvals are authorized, and the permit is signed and approved. Collections are forwarded or deposited, to FFS for non-Trust funds, and OST/OTFM for Trust monies.



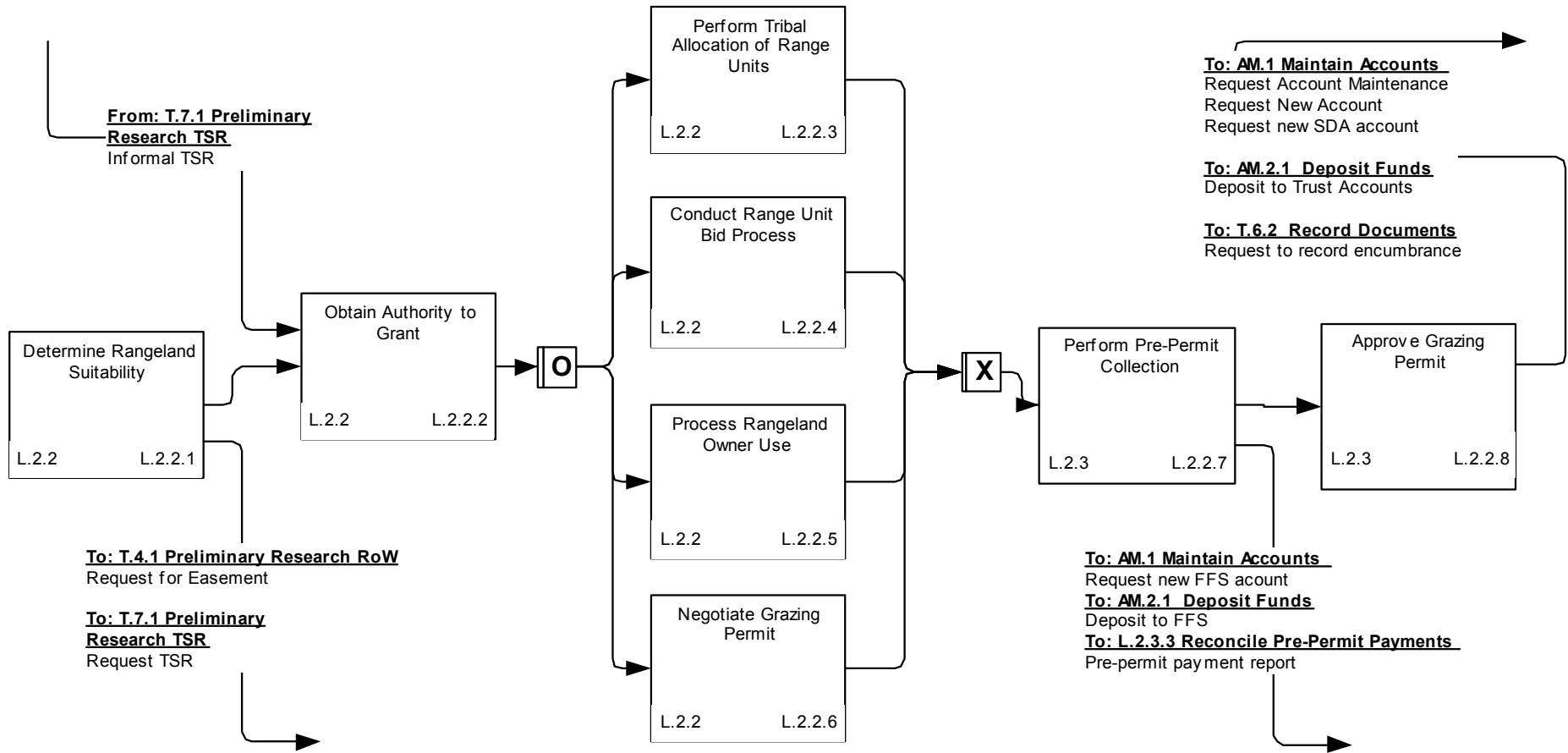


Figure 4.3.5.3- 7 Contract Grazing Permit High Level IDEF(3)



### **Beneficiary Involvement for Contract Grazing Permit**

Discussions are held with Tribes regarding grazing policies. Tribal IRMP's, Resolutions, and Ordinances frequently provide both guidance and limitations as to the land utilization as well as the permitting processes and procedures.

Allotted landowner involvement occurs when their consent is sought through an Authority to Grant notice. This process generally takes place during a period approximately 180 days before the expiration of the grazing permits for the reservation. If majority of ownership-interest consent is not received from the ownership-base, the BIA Line Official is authorized to sign consent for those ownership-interests who have not responded and for those who's whereabouts are unknown

### **Contract Grazing Permit Significant Notes**

- a) There are many combinations of how permittees are selected, and how permits are processed, depending on Tribal land codes, historical land tenure rights and objectives of the Tribe. Some Tribes also have authority through Self Determination Contracts or Self-Governance Compacts to conduct their own permitting or grazing rights processes, which may differ from what is described here.
- b) In many cases, Tribes may confer additional land tenure rights, which may be through a permit, through a Tribal Resolution, or through informal historical-use understandings. This may include rights to prevent other land uses, rights for grazing rights compensation, rights for probating the permit, and rights to sell or transfer permits to other parties.
- c) Direct payments and signing bonuses are a common occurrence between grazing permittees and Trust landowners. These are not described as part of the baseline process depicted here. Such direct interaction bypasses BIA resources, and is frequently untracked. For further detail, see Chapter 5 discussion on direct payment.



## **Contract Grazing Permit Detail Description**

### **Determine Rangeland Suitability (L.2.2.1)**

Starts with: Confirm availability of land for grazing use.

Ends with: Plan permittee selection process, and request Title Status Report (TSR) (see T.7.1).

A suitability assessment is triggered by an Idle Lands report, a utilization report, an expiring grazing permit, a new or refined Grazing Resolution, or a request to graze livestock on the land. The initial activity is to confirm the availability of the land in question. The purpose is to assess the availability and capability of the land for permitting.

The activity includes confirmation of all aspects of the land availability and suitability prerequisite to drafting a grazing permit contract, including title, ownership-interests, land characteristics, estimated value, timing of availability, easements required for access, and development of a Conservation Plan (plan of operations).

BIA staff may perform a field survey to assess current conditions and specify stipulations and terms for the proposed permit. As assessments are completed, RU's are then planned for appropriate permittee selection processes (e.g. negotiate, bid, allocation), TSR's and any required easements are requested from the Title process.

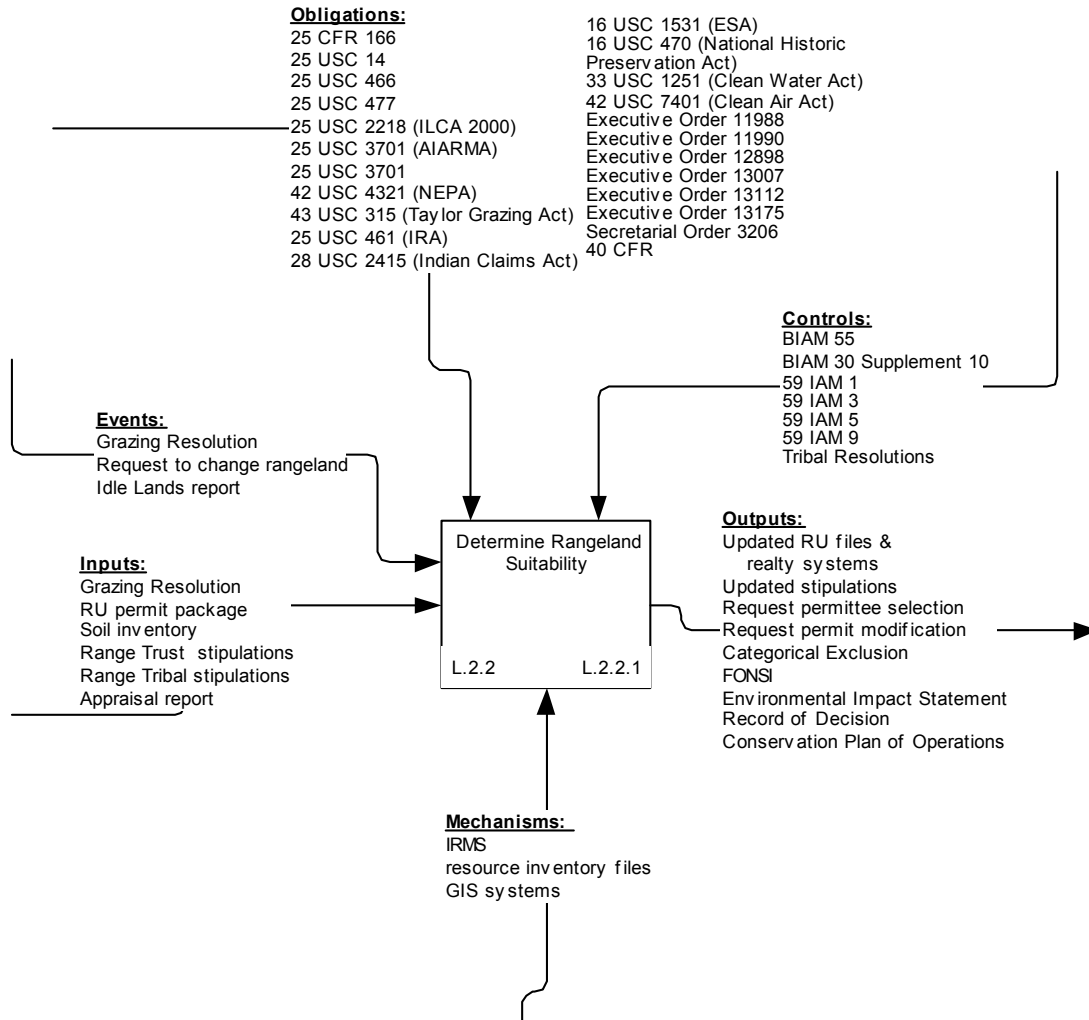


Figure 4.3.5.3- 8 Determine Rangeland Suitability IDEF(0)



## **Obtain Authority to Grant (L.2.2.2)**

Starts with: Issue 90-day Authority to Grant notices to allottees.

Ends with: Prepare land schedule for grazing.

Authority to Grant seeks beneficiary approval allowing the BIA to grant grazing permits on the land in which they have ownership. This is performed for RU's and RMU's containing allotted land ownership-interests. Land 100% Tribally owned bypasses this process.

Land title ownership information is used to determine the proper recipients of the notice. Since many of the tracts included in these RU's have fractionated ownership, this may generate a large volume of workload. For example, it is not uncommon for a single reservation with significant rangeland to mail 8-10,000 notices or consent letters in a permit-expiration year.

Response rates to the notices are generally quite low. This creates additional steps to gain the proper majority ownership consent to authorize the BIA granting of permits. Diligent agencies may send notices up to three times to individual owner-interests, and follow up with telephone calls. Workload is heavily dependent upon the level of fractionation of the ownership interests and the stability of their home addresses.

BIA Agencies frequently have devised their own procedures to accommodate this. Many have created their own "consent forms" with language which passively grants authority to BIA unless response is received to the contrary. Others recognize an original Authority to Grant which may have been sent to owner-interests decades ago, unless a formal request to withdraw the tract from the RU is made.

The following criteria are specified by 25 USC 2218 (ILCA 2000) for BIA to recognize adequate consent to grant grazing privileges:

- a) If less than six owners, 100% of the ownership-interest must provide consent
- b) If 6-10 owners, 80% of the ownership-interest
- c) If 11-19 owners, 60% of the ownership-interest
- d) If 20 or more owners, then a simple majority of ownership-interest

Although the USC specifies the ownership-interest required as detailed above, many agencies still use a simple majority of ownership-interest. Ownership-interest is the cumulative percentage of ownership in the land to be permitted, not the percentage of owners.

Agency Superintendents provide consent for those legally unable to grant authority (e.g. minors) or whose whereabouts unknown and a list of lands are compiled of which consent is secured or more often implied authority to permit is granted by the BIA Line Official.

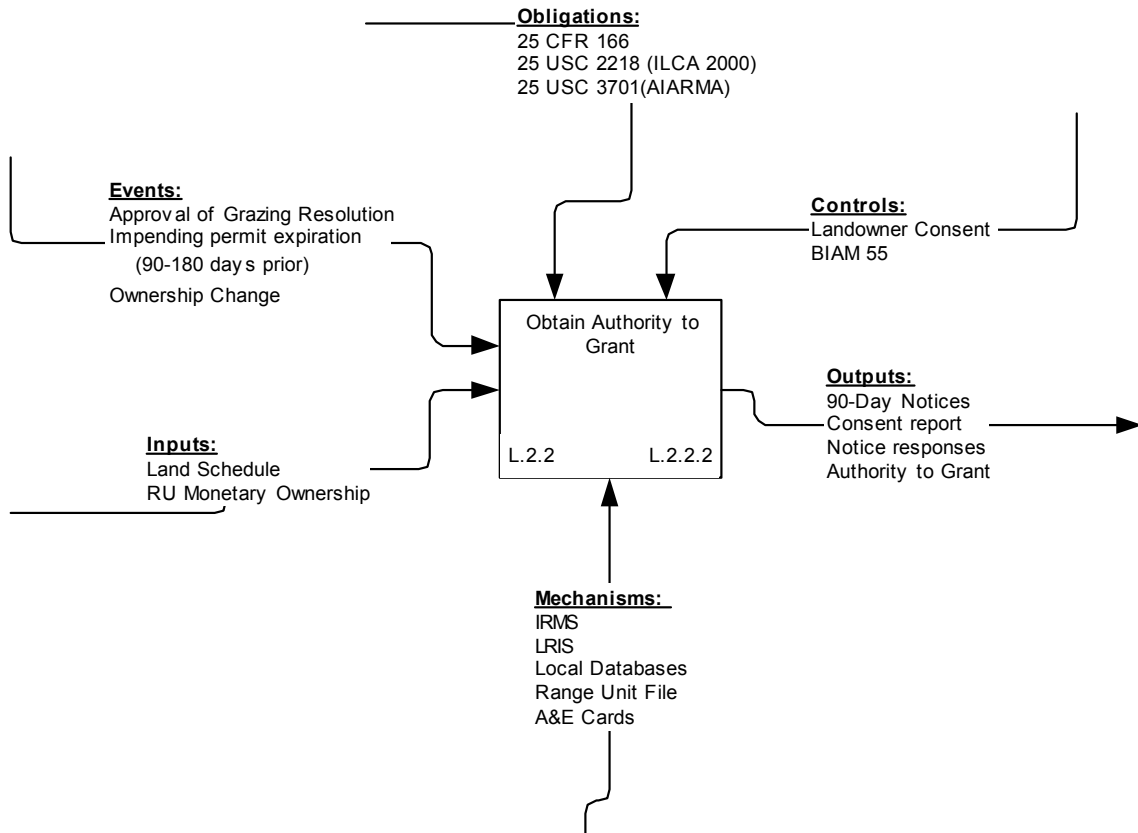


Figure 4.3.5.3- 9 Obtain Authority To Grant IDEF(0)

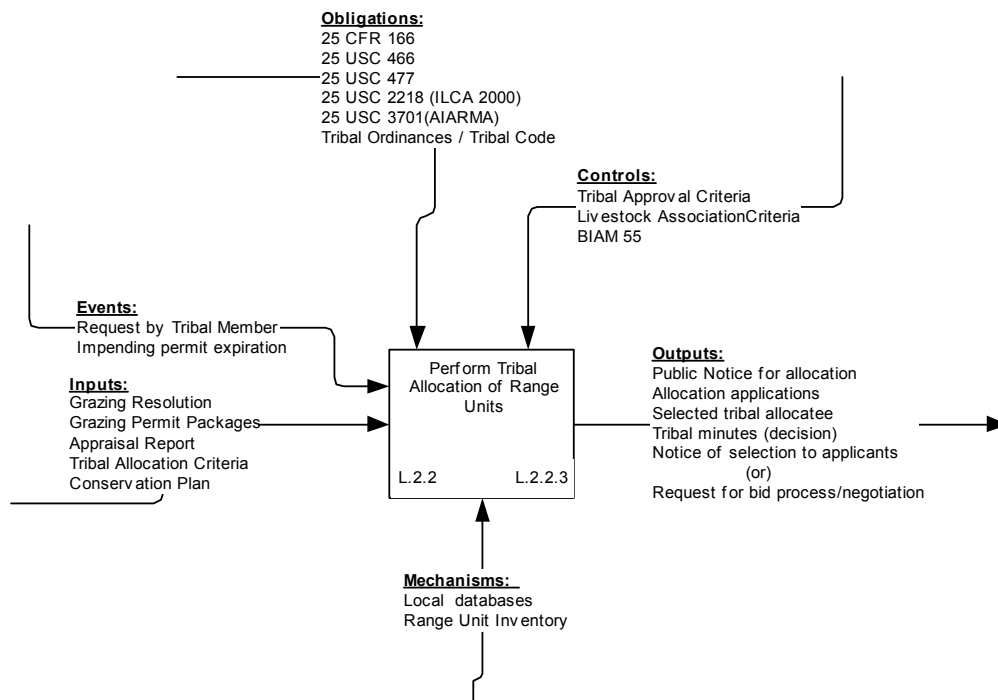
## Perform Tribal Allocation of Range Units (L.2.2.3)

Starts with: New grazing resolution of tribal allocation requirements for the new permit period.  
Ends with: Document allocation decisions.

Allocation is performed on RU's with Tribal and allotted ownership. As current grazing rights approach expiration, or when Tribal members request grazing privileges, Tribes may initiate this process. Typically, allocation is the preferred method of distributing grazing privileges and usually a Tribal Grazing/Resource Committee, or Livestock Association performs this process.

Public notice is given, soliciting applications for allocation of RU's or other specified Tribal land for the use of grazing. Allocation applications are received and reviewed for acceptance criteria. Allocation decisions are made according to the Tribe's Grazing Resolution or related Ordinance or Land Code. Specified Tribal preferences and selection criteria are used to decide on which Tribal members receive which RU's. Once the decision is approved, minutes of the Tribal Resource Committee, Tribal Council or other authorized body are forwarded to the BIA Agency Superintendent.

Tribal allocation decisions may also result in not awarding any of the allocation applicants a specified RU, usually based upon lack of a qualified operator. In this instance, the Tribal authority making the decision may determine to allow the land to go idle, or may make a request to BIA to proceed with either a negotiation process or a bid process to select a RU operator.



**Figure 4.3.5.3- 10 Perform Tribal Allocation of Range Units IDEF(0)**



### Conduct Range Unit Bid Process (L.2.2.4)

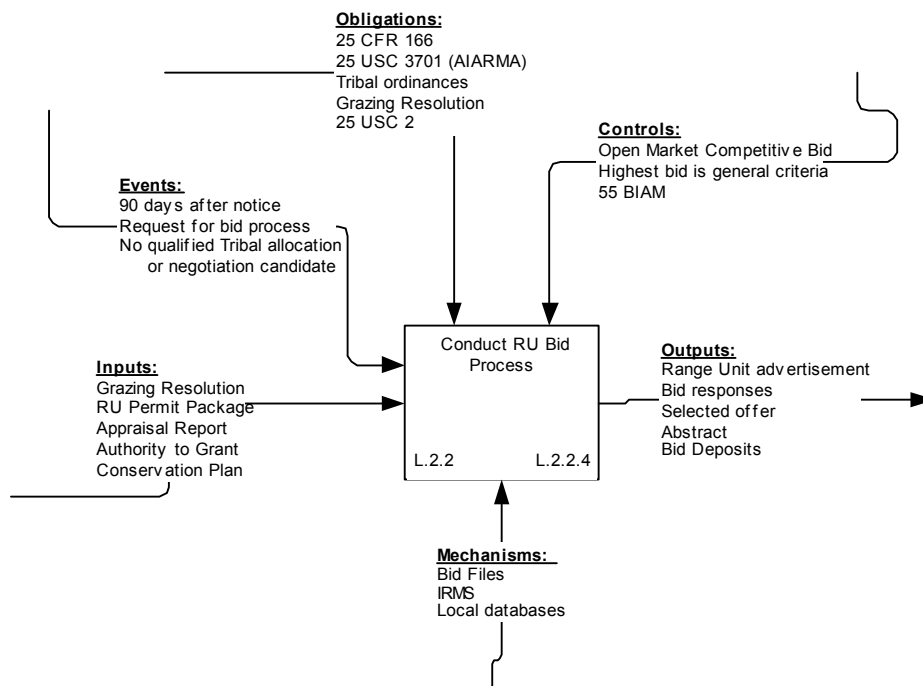
Starts with: The completion of an allocation process where surplus range units are available for sale of grazing privileges.

Ends with: Document an Abstract describing the Bid Process and rationale for selecting the permittee.

The Bid Process is frequently conducted for those tracts or RU's remaining after allocation and negotiation processes have been performed. Additionally, existing permits may be terminated for cause, e.g. nonpayment, and bidding is frequently an appropriate method of selecting a new operator for such property. At this point, it has been determined that open market bidding is the best method of obtaining either a qualified permittee, or obtaining the best grazing rental rate from qualified operators.

Information is compiled from previous suitability and monitoring activities to provide adequate descriptions and create an advertisement. Most advertisements aggregate all RU's to be put up for bid that year on a specific reservation or by a BIA Agency. Public notice and advertisements are distributed, and bid responses are collected. Bid deposits and performance bonds may be required as part of this bid response. A bid opening is held, and a successful bidder is selected. An Abstract is prepared by BIA, documenting the process and rationale to select the winning offer. This may include descriptions of Tribal and owner consultations, criteria employed in selecting the permittee, criteria used in determining acceptable rental rates, etc.

Occasionally, no acceptable bids are received, and BIA may determine to hold another bid process, or to initiate a negotiation process with a known qualified ranch operator to minimize the "idle" time for the RU.



**Figure 4.3.5.3- 11 Conduct Range Unit Bid Process IDEF(0)**





### **Process Grazing Owner Use (L.2.2.5)**

Starts with: Receive complaint, or, receive owner notification.

Ends with: Update range files, realty, billing and collection records.

Most owner use is identified when BIA receives a complaint or notification of trespass. To a lesser extent, the process is triggered when an owner provides notice of intent to use his or her allotment-interest. Although some owners may be a 100% interest owner, the most frequent situation is usage by one of several co-owners in allotted land.

BIA and the owner intending to use the land contact other co-owners, and request consent to grant usage. Unique forms may be utilized, but the consent criteria are the same as documented under the Obtain Authority to Grant process (see L.2.2.2). Majority consent is obtained, or consent is solicited and there is no objection to owner use. The owner applies to BIA for withdrawal of the land from the RU and any other permitting or usage. BIA Agency Superintendent approves the land withdrawal. If co-owners determine that usage is allowed but a rental payment is required, the requesting owner then elects to either:

- a) Put the tract into Reserve Status, providing for direct payment of rental income to the co-owners, or
- b) Request BIA to process contractual billing and collection with a grazing permit

If no payment is required, BIA records status of the unit as Grazing Exempt from Permit and performs no billing or collection.

Although 25 USC 2218 (ILCA 2000) regulations describe levels of consent required based upon the number of co-owners, the common criteria most commonly used are as follows:

- a) The consent of a simple majority of co-owners
- b) Unanimous consent, if the owner desired to use the allotment without a permit or payment, or
- c) Permit and use by the owner without any documented objection from co-owners

BIA resources then update the range files, realty, and billing/collection records with the appropriate information.

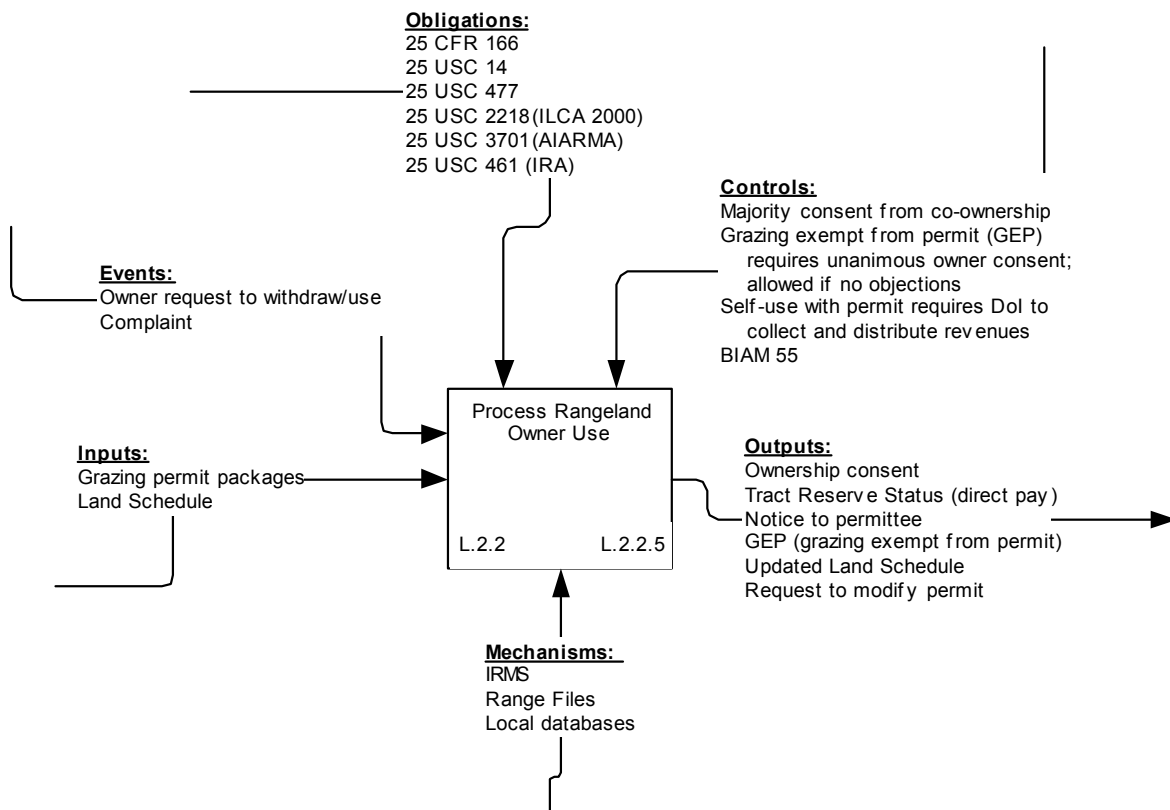


Figure 4.3.5.3- 12 Process Grazing Owner Use IDEF(0)



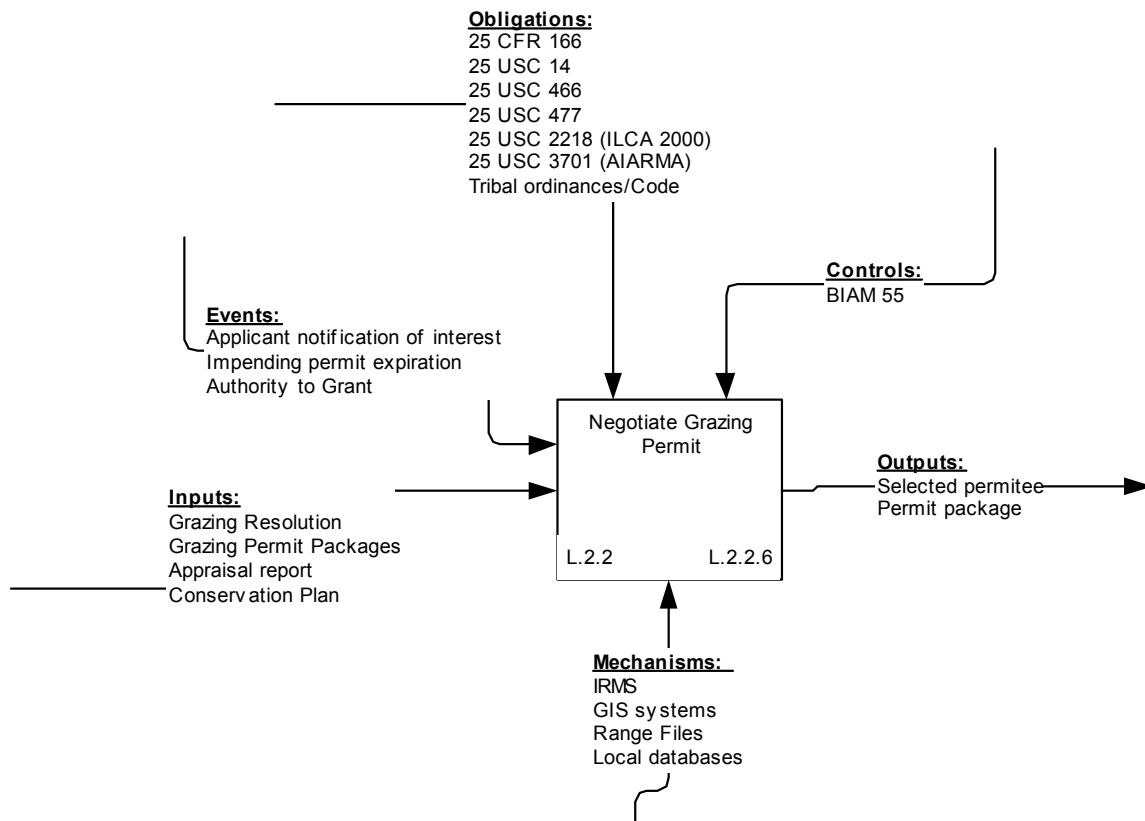
### **Negotiate Grazing Permit (L.2.2.6)**

Starts with: Receive application for grazing permit.

Ends with: Update range files, realty, billing and collection records.

Negotiation is planned in priority sequence to select a permittee during the Determine Rangeland Suitability process. At this point, it has been determined that negotiation is the best method of obtaining the most qualified permittee at the best grazing rental rate.

Most RU's processed through this activity are negotiations with the existing operator to continue ranch operations through another permit period but this varies greatly from Tribe to Tribe. Permittee renewal rates frequently approach 80+%, and provide a consistent relationship with a known operator. For the remainder, BIA Agency Range Specialists seek out candidates and negotiate the best terms possible, with inputs from the Appraisal Report, the BIA Regional Director's minimum Animal Unit Month rental rate, and any existing Range File information and Conservation Plans.



**Figure 4.3.5.3- 13 Negotiate Grazing Permit IDEF(0)**



## **Perform Pre-Permit Collection (L.2.2.7)**

Starts with: Receive pre-payment from permittee.

Ends with: Forward deposits to FFS.

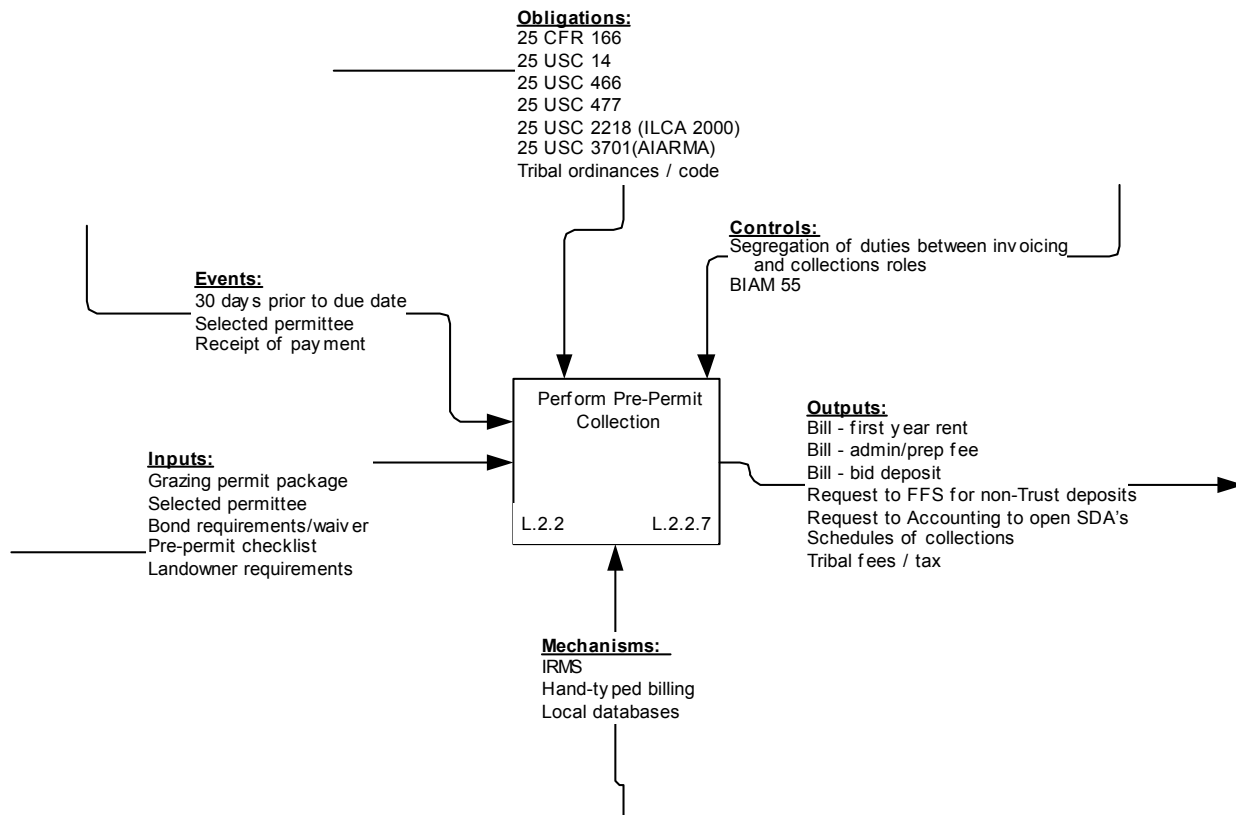
Generally, collection of pre-permit payments overlaps with the following activity, Approve Grazing Permit, since many permittees physically come to the BIA Agency Office and submit payment at the same time they sign the Grazing Permit. Pre-permit collection may also overlap with the permittee selection activities, specifically if the Conduct RU Bid Process has been performed, where bid deposits and performance bonds may be received. Payments are also received through other mechanisms such as the mail.

Requests may be sent to the Accounting process to create new suspense or Special Deposit Accounts (SDA's). SDA's are used for funds collected which are not Trust monies, or which are collected far enough in advance of permit approval that they need to be kept segregated from any Trust monies available for distribution to beneficiaries. Bills for Collection are prepared and a copy is given to the permittee. The bills may be created 30-60 days ahead of payment due date, as an invoice to the permittee, or they may be created after payment has been made, as a receipt.

Receipts are recorded in a mail and/or collections log. Where adequate staff allow, both a Mail Clerk and a Collections Specialist log the payment, both segregated in duties from the person performing billing. Payments are recorded into appropriate realty, billing and collection systems, and may include receipts for any of the following charges:

- a) First year rental fees
- b) Preparation and administrative fees
- c) Bid deposits
- d) Performance bonds
- e) Tribal fees and taxes

Once the permit is approved, the program specialist prepares deposit and distribution advice. Distribution advice is calculated from whatever ownership percentage records the specialist has currently available. Deposits of non-Trust monies (e.g. bid deposits, cash bonds) are forwarded to FFS with deposit advice. Surety bonds and non-cash items are generally retained in a BIA Agency safe.



**Figure 4.3.5.3- 14 Perform Pre-Permit Collection IDEF(0)**



### Approve Grazing Permit (L.2.2.8)

Starts with: Confirm completion of pre-permit checklist.

Ends with: Forward Trust money deposits and distribution advice to Accounting process.

Each Grazing Permit package utilizes a pre-permit checklist, including where appropriate, specific terms and conditions which must be completed prior to approval of the permit. Examples include, but are not limited to:

- a) Payment of pre-permit rentals and/or fees and bonds if applicable
- b) Agreements on range control stipulations and conservation plans

The Grazing Permit package is finalized and assembled. Authorized parties conduct review and approval of the package. This is normally limited to the permittee, the Range Specialist and BIA Agency Superintendent. Copies of the permit are signed and approved. All realty, billing, and collection systems are updated with final permit information.

Payments of Trust monies are forwarded to Accounting for deposit with the distribution advice prepared during Perform Pre-Permit Collections. If funds have been collected and deposited in either a SDA or deposited to FFS, then the distribution advice is accompanied by a transfer request to Accounting for transfer of the funds from the suspense accounts or FFS accounts to OST/OTFM accounts. Requests may also be sent to Accounting to set up appropriate accounts for future operational billing and collection.

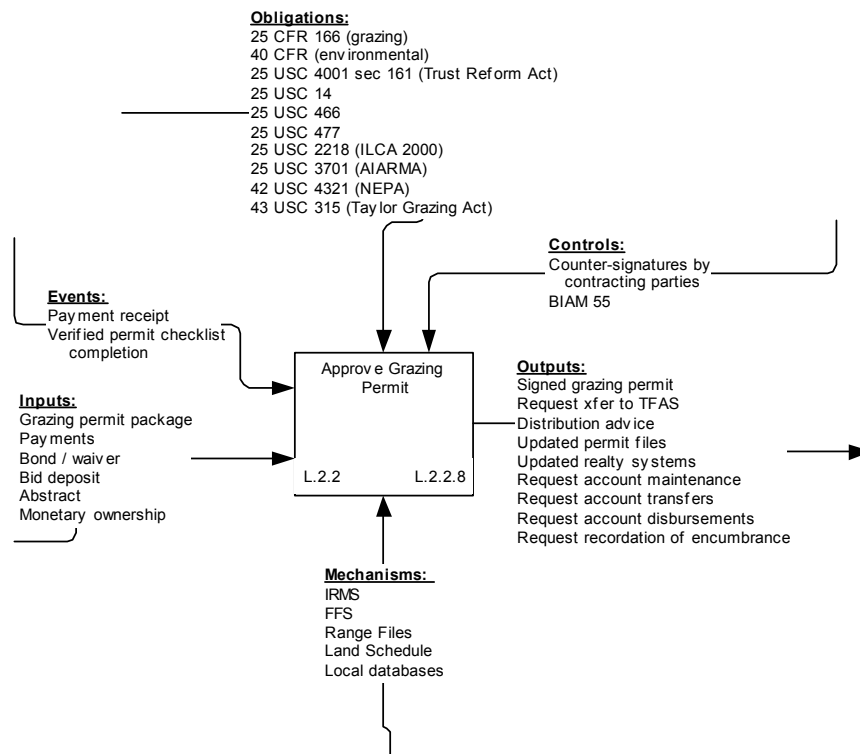


Figure 4.3.5.3- 15 Approve Grazing Permit IDEF(0)



#### **4.3.5.3.3 Manage Grazing Revenue (L.2.3)**

Starts with: Perform annual billing and collection for grazing permit payments.  
Ends with: Reconcile distribution advice errors and undistributed funds.

Annual billing invoices are sent to permittees, and payments are collected for grazing rentals.

Periodic reviews of collected but undisbursed payments are reconciled. This may include monies such as unreturned bid deposits, cash bonds for performance guarantees, and grazing rental payments not yet deposited to Accounting processes for distribution.

Regular reviews and reconciliations are also performed during the annual billing collection cycle. Reviews typically cover a single quarter (three month period) of the year, reviewing for errors encountered in deposit and distribution advices forwarded with the rental payments. The BIA Agencies collect the payments and usually prepare the distribution advice from different information sources other than the OST/OTFM Accounting system, which result in errors and transactional rejections. Such payment transfer interface inconsistencies need to be researched and resolved for the monies to be deposited to the correct beneficiary accounts and eventually distributed.

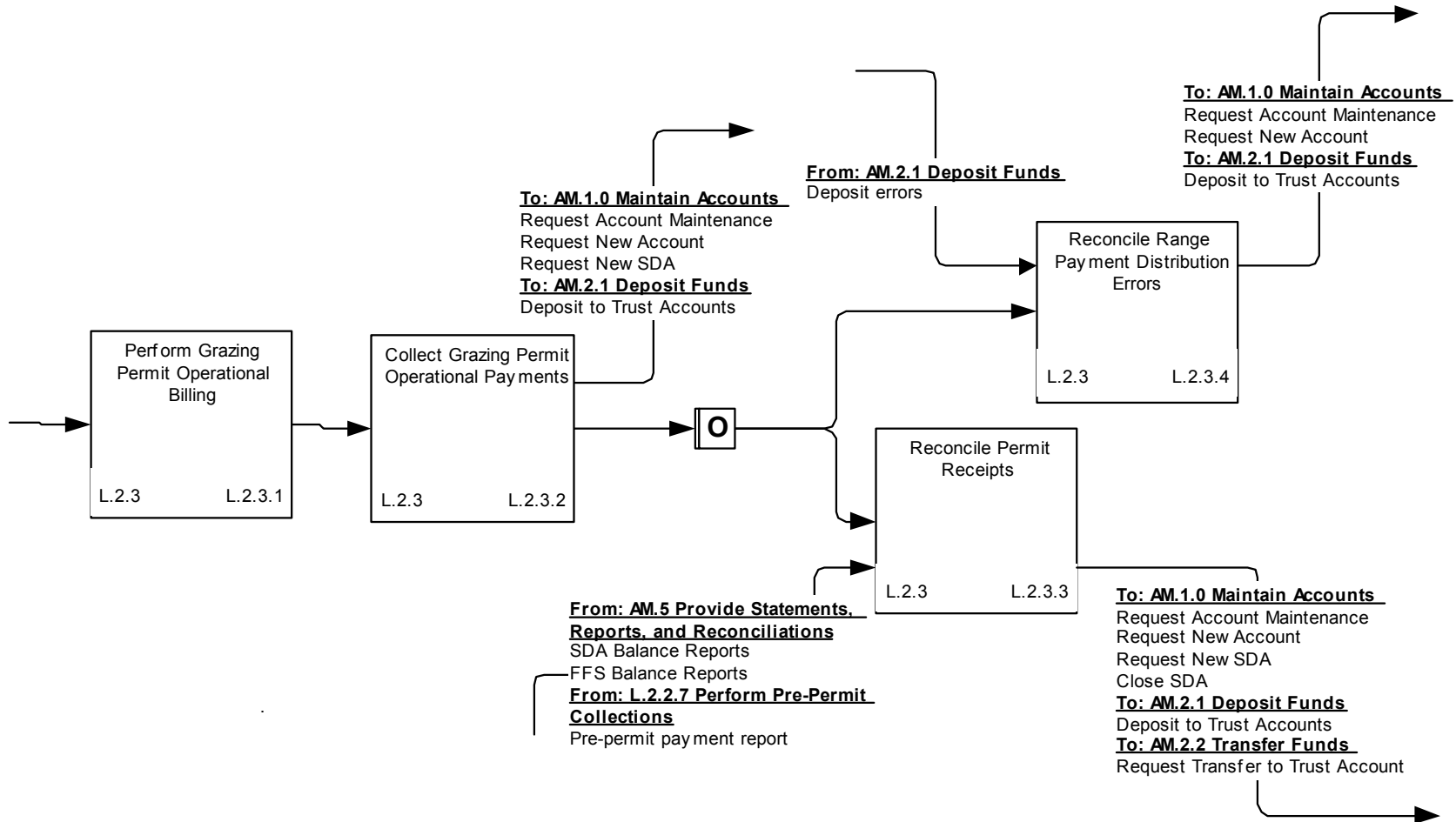


Figure 4.3.5.3- 16 Manage Grazing Revenue IDEF(3)





## **Beneficiary Involvement for Manage Grazing Revenue**

The beneficiaries are involved only to the extent they may receive grazing rentals. As described in the variance tables, direct payments from grazing permittees to landowner-interests frequently do occur and involve direct receipt of funds by the beneficiaries.

## **Manage Grazing Revenue Significant Notes**

- a) Large suspense account or SDA balances exist at some of the BIA offices. Various payments of bid deposits, cash bonds, administrative fees, and grazing rental payments are received, usually by BIA Agencies, and deposited into an SDA or suspense account. A time lag may occur until these funds are disbursed. Bid deposits cannot be returned until after bid opening and permittee selection. Rental payments cannot be forwarded to OST/OTFM until a distribution advice has been prepared which is accepted by OST/OTFM systems. As a result, balances of Trust and non-Trust funds accumulate.
- b) Changes in OST/OTFM policies and procedures regarding payment collection, recordation, preparation of distribution advice, and deposit have changed several times within the last 18 months.
- c) BIA Field Offices and Agencies, Tribes under 638 contracts, or Tribes under Self-Governance authority all may perform collections for grazing permits involving allotted land interests. Most of these resources do not have access to ownership records or the distribution information necessary to prepare accurate distribution advices.
- d) Distribution advices frequently have error rates described at approximately 2-5% on a remittance/ ownership-interest line item basis, which commonly translates to approximately 15-20% when aggregated to all line items for a beneficiary distribution. For example, a beneficiary may have ownership-interests in six tracts of land. Distribution advices are prepared for each RU/tract/ownership-interest. If 3% of the RU/tract/ownership-interest distribution amounts are in error, then the beneficiary may have an 18% chance of an error (six tracts x 3% = 18). Most errors result in a delay in processing the distribution to the beneficiary. Some result in an actual payment in error, either to the wrong beneficiary, or a wrong amount to the correct beneficiaries. [See the Reconcile Range Payment Distribution Errors process description and Chapter 5 discussion on distribution errors for more detail.]



## Manage Grazing Revenue Detail Description

### Perform Grazing Operational Billing (L.2.3.1)

Starts with: Generate invoice 30 days prior to permit payment due date.  
Ends with: Invoices are issued.

Most agencies issue separate invoices, one for the annual grazing permit rental payment, and another for any administrative/preparation fees where such fees are charged annually.

Invoices are delivered via mail, certified mail, or in person, to the permittee as determined by the BIA Line Official.

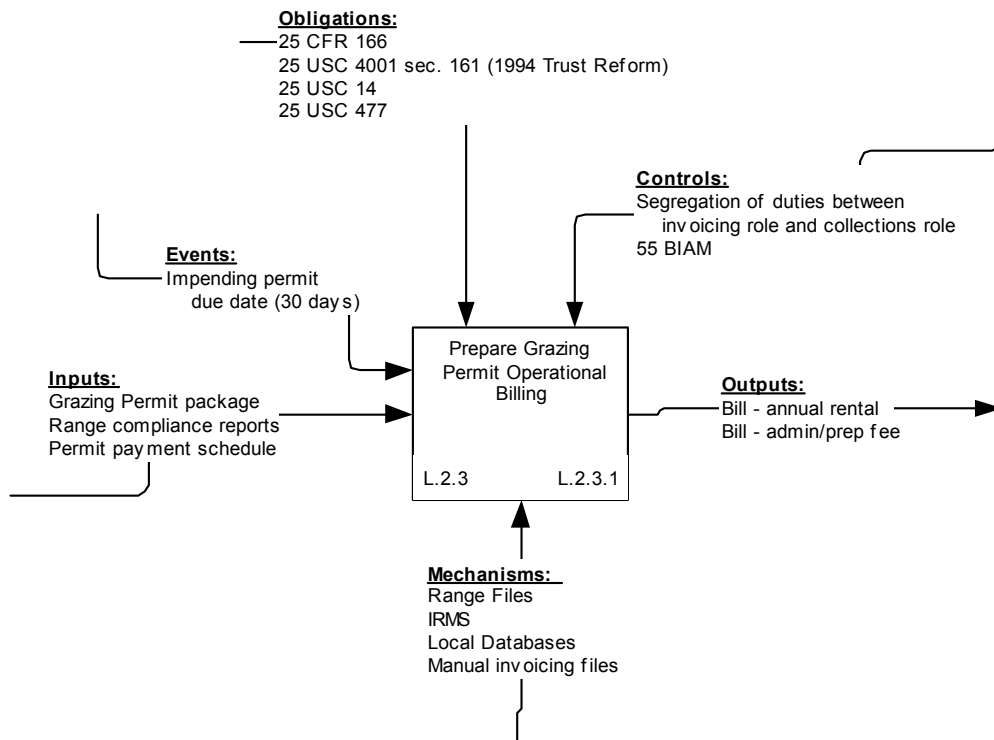


Figure 4.3.5.3- 17 Prepare Grazing Permit Operational Billing IDEF(0)



### **Collect Grazing Permit Operational Payments (L.2.3.2)**

Starts with: Receive payment, or, record no payment by annual grazing permit due date.

Ends with: Forward Trust money deposits and distribution advice to Accounting process.

All payments received by BIA are logged, recorded, and deposited. Permittees may also submit a “proof of direct payment” (e.g. in the form of a copy of a cancelled check). When no payment is received, payment is not in full, or if payment does not arrive on a timely basis, a set of collection processes are initiated (see Monitor Range Unit L.2.4.1, and Perform Range Unit Enforcement L.2.4.2).

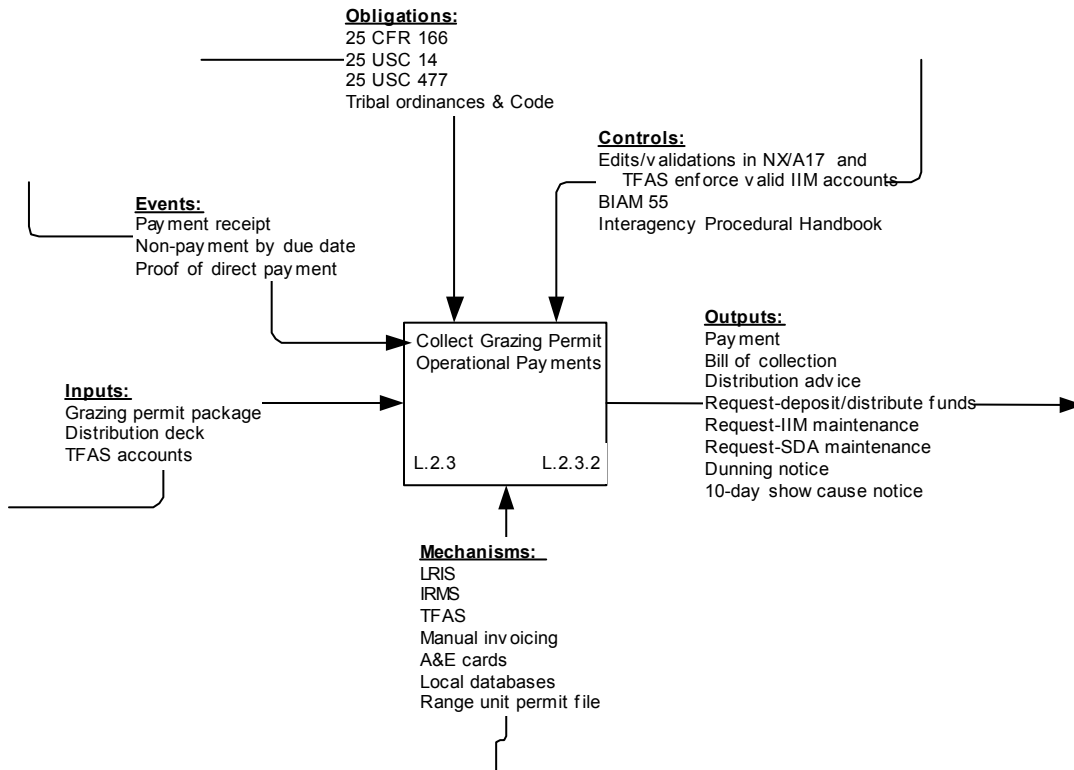
Bills for Collection are created after payment has been logged, and forwarded to the permittee as a receipt.

Payments are recorded in a mail and/or collections log. Where adequate staff allow, a Mail Clerk and a Collections Specialist each log the payment, both segregated in duties from the person performing billing. Payments are recorded into appropriate realty, billing and collection systems, and may include receipts for any of the following charges:

- a) Annual rental fees
- b) Preparation and administrative fees
- c) Tribal fees and taxes

The program specialist prepares deposit and distribution advice. Distribution advices are calculated from whatever ownership percentage records the specialist has available currently.

Payments of Trust monies are forwarded to Accounting for deposit with the distribution advice prepared during Perform Pre-Permit Collections. If funds have been collected and deposited in either an SDA or deposited to FFS, then the distribution advice is accompanied by a transfer request to Accounting for transfer of the funds from the suspense accounts or FFS accounts to OST/OTFM accounts. Requests may also be sent to Accounting to set up appropriate accounts for future operational billing and collection.



**Figure 4.3.5.3- 18 Collect Grazing Permit Operational Payments IDEF(0)**



### **Reconcile Permit Collection Balances (L.2.3.3)**

Starts with: Receive request to reconcile undistributed payments.

Ends with: Request Accounting transfer or distribution of funds, and, prepare reconciliation report.

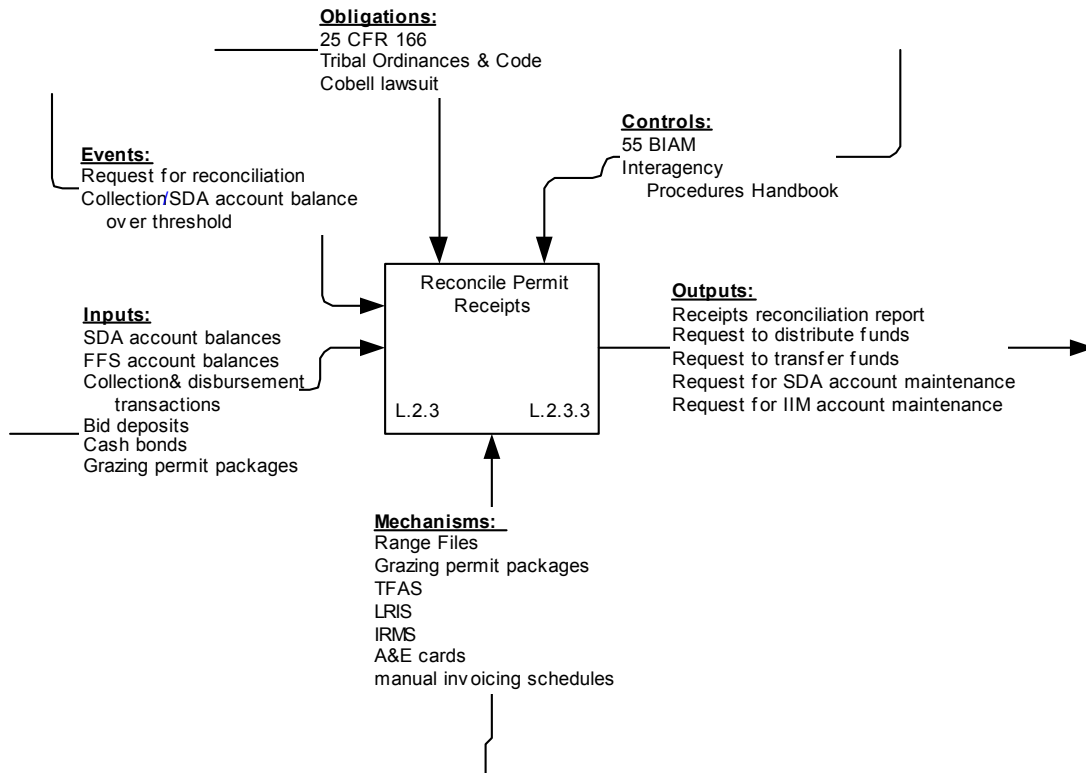
Funds accumulate in suspense or SDA accounts from payments received during Contract Grazing Permit, or Manage Grazing Revenue processes. Sources include both non-Trust and Trust monies, and the Trust monies include revenue distributable to beneficiaries as well as administrative/preparation fees and Tribal fees or taxes. For example, SDA's may have a balance accumulated from bid deposits from a previous year's permitting, cash bonds deposited from a permit currently in force, and current grazing rental payments not yet transferred to an OST/OTFM account for distribution.

Accumulated SDA balances exist for many reasons. Accounting in the OST/OTFM organization has requested that agencies not accept funds as Trust monies until a valid contract exists (e.g. lease, permit). SDA's, as permitting activities require some payments to be collected one to six months prior to the permit award. Accounting policies also require certain accounts to accrue interest, while others are prohibited from accrual. Accounting and range processes may not calculate the same amounts, resulting in a balance remaining in suspense until equivalency is achieved and amounts can be transferred between the processes.

Balances are researched and reconciled. Certain balances are reduced via refund to depositors (e.g. for bid deposits on permits which have been awarded to other operators), or via transfer of funds to IIM accounts. Some balances (e.g. current year payments in process of developing distribution advices) must be retained until adequate information is obtained to accurately resolve the rightful disbursement.

Once reconciled, requests are made to the Accounting process to correct any inconsistencies and return, or transfer and distribute the funds. These requests can take the form of:

- a) Account maintenance
- b) New accounts
- c) New SDA's
- d) Close SDA's
- e) Deposit funds to Trust accounts
- f) Transfer funds to Trust accounts (e.g. from an SDA or FFS to an OST/OTFM account)



**Figure 4.3.5.3- 19 Reconcile Permit Receipts IDEF(0)**



## **Reconcile Range Payment Distribution Errors (L.2.3.4)**

Starts with: Receive error notification from Accounting process.

Ends with: Request Accounting transfer or distribution of funds, and, prepare reconciliation report.

Distribution advices are prepared during billing and collection activities as described in Approve Grazing Permit (L.2.2.8) and Collect Grazing Permit Operational Payments (L.2.3.2). The sources of information for the preparation of the distribution advices are based upon the ownership-interest information available in the field office or agency where the advices are created. This information may not be consistent with the information utilized by OST/OTFM for the transfer, deposit to a Beneficiary account, and eventual distribution.

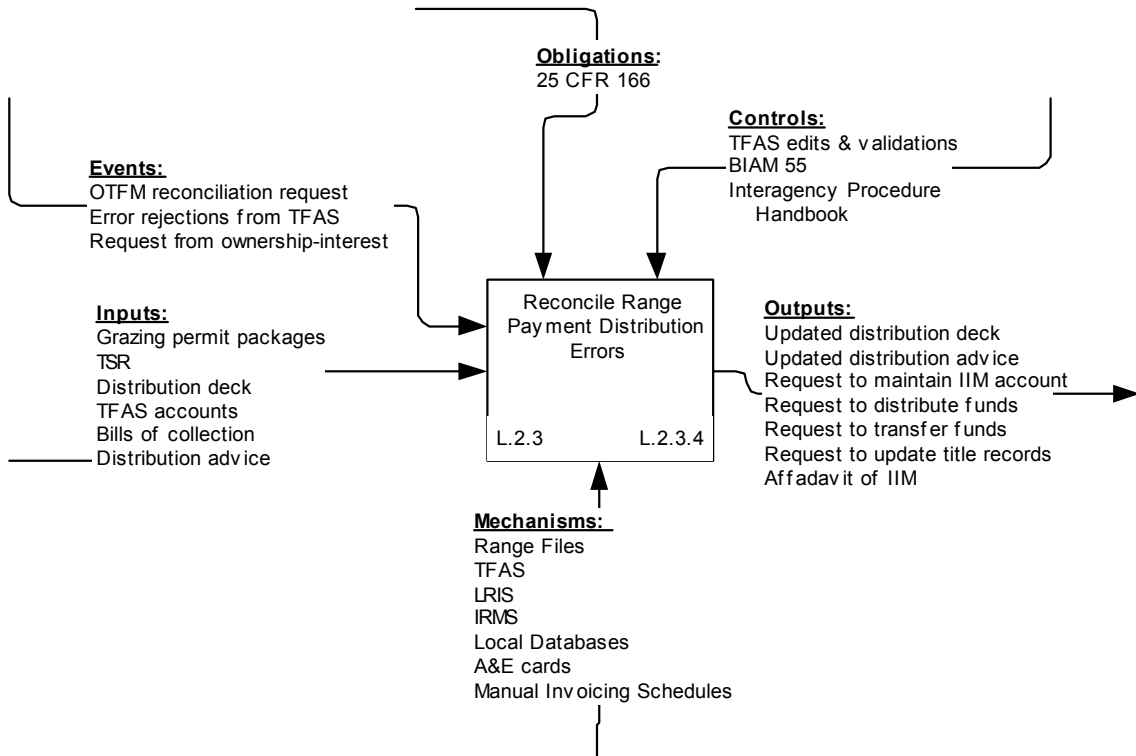
When inconsistencies are encountered, the transactions cannot be processed. The activities performed in this process include reconciliation and correction of errors and rejections encountered in the Accounting processes. [See the "Significant Notes" above, or Chapter 5 discussion of distribution errors for further detail.]

Manual transfers of a check and distribution advice encounter similar problems as those agencies or regions performing an electronic transfer of the distribution advice. Edit and validation activity occurs during overnight, batch transfers or voucher transfer entry as part of the Accounting process. Fund collections are reported in local agency systems, usually local or regional in their design and operation. The records of individual Indian accounts in these systems are frequently not identical to the records used by the OST/OTFM headquarters in TFAS. Distribution advice information is first processed through an A17 system which provides a front-end edit, validation and common interface into TFAS. Inconsistencies may exist between each of these three systems (agency, A17, TFAS). Hence, an inconsistency may be found in the A17 system, researched, and corrected only to find an additional error rejection found at time of attempted posting to TFAS. Errors are researched, and various agencies, regions and headquarters are contacted to collect the reconciling information. Corrections are then made and submitted for resolution.

Many sources of errors exist, but prevalent examples include:

- a) Inconsistent spelling of name
- b) Inconsistent enrollment number
- c) Inconsistent calculation of interest accruals
- d) Ownership interests on a specific collection payment's distribution advice not totaling 100%
- e) Youpee corrections in TFAS may not be consistent with local ownership records
- f) Probate ownership updates may be recorded at different times in the different systems (e.g. Accounts may already be closed for distribution, yet the distribution advice indicates the deceased.)

Uncertified TSR's may be requested from the Title process to reconcile the errors regarding ownership. Corrections are made to bring the processes and systems into alignment, and the funds transfers and deposits are reprocessed.



**Figure 4.3.5.3- 20 Reconcile Range Payment Distribution Errors IDEF(0)**





#### **4.3.5.3.4 Manage Rangeland (L.2.4)**

Starts with: Monitor RU's for compliance.

Ends with: Close grazing permit and request final funds distribution.

Range utilization, precipitation; livestock counts; trespass; and financial compliance are all monitored as part of this process. When complaints are received or non-compliance is observed, enforcement activities are initiated. Requests for changes may be reviewed and approved, resulting in modifications of existing permits. However, when the violations are of sufficient magnitude, permits may be terminated for cause. Most typical terminations are for non-payment.

Periodic inspections, both of the land, the livestock, and financial compliance, are performed. Inspections may be formal and scheduled in nature, such as turn-in and turn-out dates (when livestock are moved on or off the property), or they may be informal in nature, such as "drive-by" casual sight inspections to ensure there are no flagrant breaches of permit terms or material changes to the condition of the land. Concurrently, rangeland is monitored from a biological perspective to tract range health and productivity. Adjustments to the stocking rates are based on annual range utilization studies and livestock counts.

Upon closure of the permit, requests are made to transfer and distribute funds as appropriate. If non-compliance has caused damage, a request may be made to transfer performance and surety bonds, or deposits in FFS to the Trust funds to compensate for the damages incurred. Otherwise, requests are made to return such deposits to the permittee.

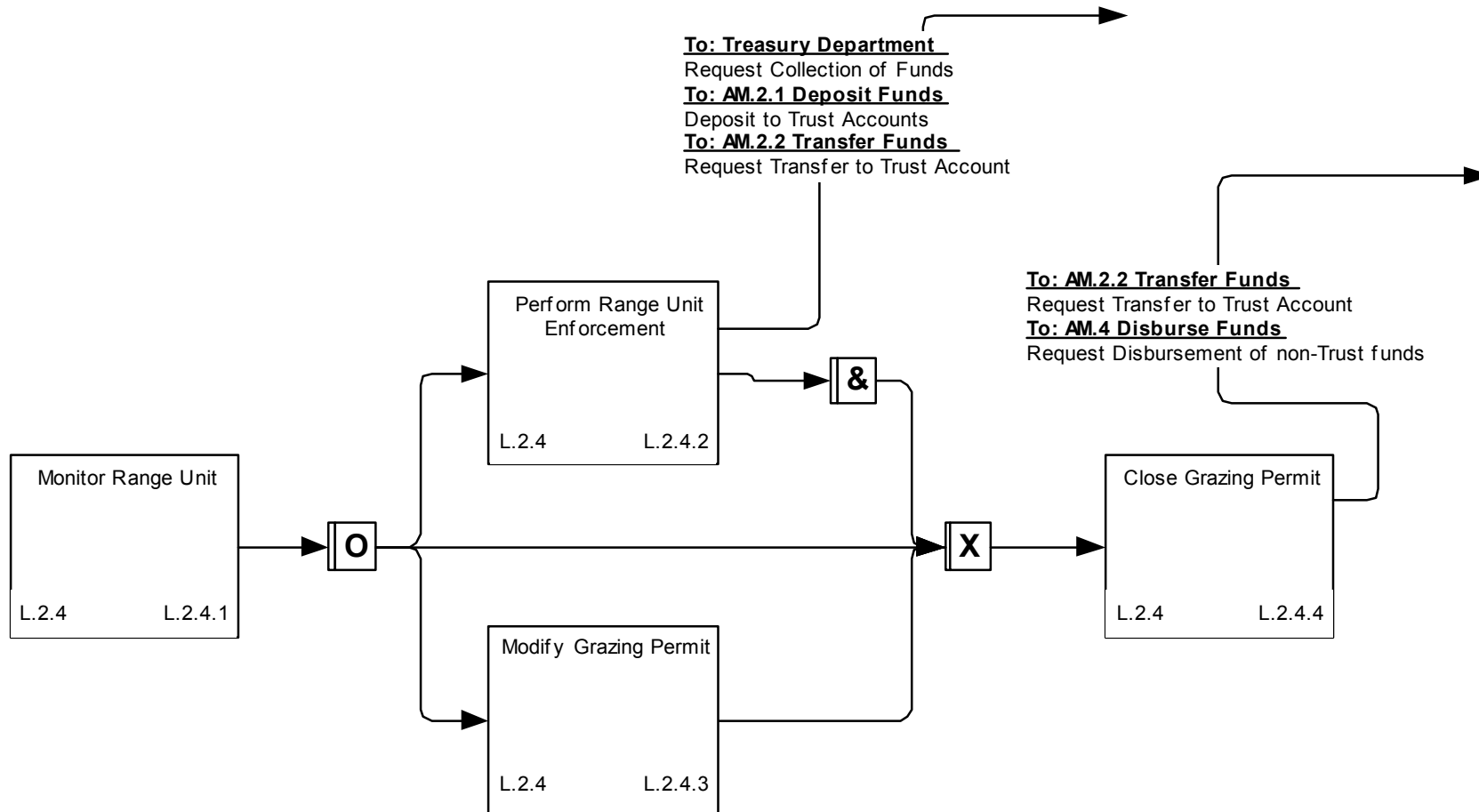


Figure 4.3.5.3- 21 Manage Rangeland IDEF(3)



### **Beneficiary Involvement for Manage Rangeland**

Individual landowners or allotted-owner-interests are involved to the extent they monitor their own tract areas and report complaints to either BIA or Tribal authorities for resolution. This is the primary method of identifying non-compliance on rangeland.

Tribes, especially those with 638 contracts or Self-Governance compacts, frequently have funds provided to staff range technician and/or law enforcement roles, and may perform their own monitoring and enforcement.

### **Manage Rangeland Significant Notes**

- a) Most of the Trust rangeland experiences minimal inspection and compliance monitoring, with workload and inadequate staff as the primary limiting factors. It is common to encounter BIA Agencies where 5-10% of the RU's are inspected on an annual basis, and rely primarily upon owner or operator complaints. Most Agencies report they have experienced reductions of 50% to 90% in range program staffing over the last 30 years.
- b) Where inspections are performed, there is a high incidence of non-compliance. Many agencies described 70-90% non-compliance rates when a formal inspection and RU monitoring report were completed.
- c) Many BIA Agencies have split the responsibilities for the Manage Rangeland process between BIA, Tribal range and law enforcement officers, and public law enforcement agencies.
- d) Reservation and PDA's where Public Law 280 is in effect have great difficulty in engaging management and enforcement activities by BIA/Tribal officials. Local law enforcement authorities are reluctant to prosecute trespass, due to the high threshold of damages required for action, and due to other priorities and demands.
- e) Programmatic reviews of self-governance Tribes occur once per year. However, they are limited to documentation review and often do not include on-site assessment of range program operations and land conditions.



## **Manage Rangeland Detail Description**

### **Monitor RU (L.2.4.1)**

Starts with: Receive a complaint of non-compliance, schedule range data collection or compliance inspection of RU.

Ends with: Prepare inspection report or range survey documents and, may request appropriate enforcement actions.

Numerous events or changes may trigger compliance monitoring. Although some formal, scheduled monitoring activities take place resulting in a report, most are triggered by informal activities or passive notifications:

- a) Notice of complaint or compliance issue
- b) Non-payment of annual permit fees
- c) Livestock violations (fences down, with livestock trespassing)
- d) Asset changes (natural events e.g. flood, fire, drought)

Most monitoring is based on seasonal schedules, events, and the availability of resources. For example, spring movement of cattle onto RU's or fall movement of herds off RU's (turn-in and turn-out) are key times to perform inspections and animal counts. An inspection may also gather information on other permits in adjacent areas.

An inspection report is completed noting the dates, conditions, and compliance characteristics observed. Information collected includes the recording of land conditions and usage to determination of permit compliance.

Scheduled monitoring and range condition surveys of the land are performed to ensure sustainable yield management is maintained. This includes annual range forage utilization surveys, noxious and invasive weed surveys, precipitation data gathering and livestock counts.

Very little inspection is performed for non-leased land, whether listed as idle tracts available to be leased/permitted, or unused. This is due primarily to lack of funding or staff to perform adequate compliance monitoring. This frequently results in trespass, dumping, and other non-compliant activity on these lands.

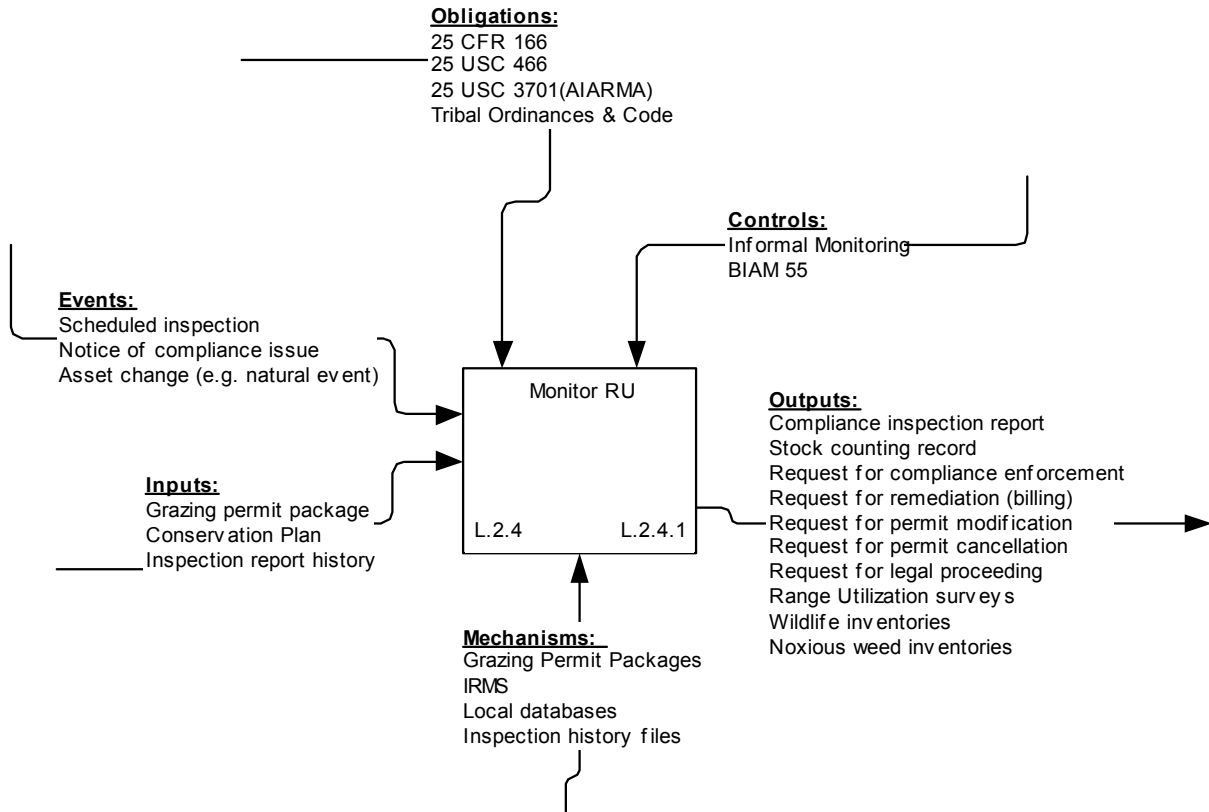


Figure 4.3.5.3- 22 Monitor Range Unit IDEF(0)



## Perform RU Enforcement (L.2.4.2)

Starts with: Receive request for enforcement, or have identified a compliance problem from monitoring activities.

Ends with: Mediate acceptable resolution, or, request termination of permit for cause.

Most enforcement is performed with a guiding principle of retaining a viable working relationship with landowners, Tribes, grazing permit operators, and any other interested parties. Typically, initial interactions for enforcement regarding a noncompliant event are verbal, informational warnings with request to resolve the issue. If the item remains unresolved, a 10-day show-cause notice is issued, giving the offending party 10 days to show justifiable cause or resolve and eliminate the issue. Left unresolved, the agency specialist may confer with the BIA Superintendent or BIA Regional Director to determine appropriate actions. Results may include billing for damages, referring the matter to Tribal law enforcement, or requesting permit termination for cause.

Approximately 10-15% of inspections yield enforcement actions, after informal resolution efforts. Most of this is seasonal, during the June-September timeframe, due to seasonality of grazing during the summer, and that the remainder of the year is mostly consumed by contract administration, billing, and collection activities. Financial non-payment may be turned over to the Treasury Department for collection via a Request for Collection of Funds.

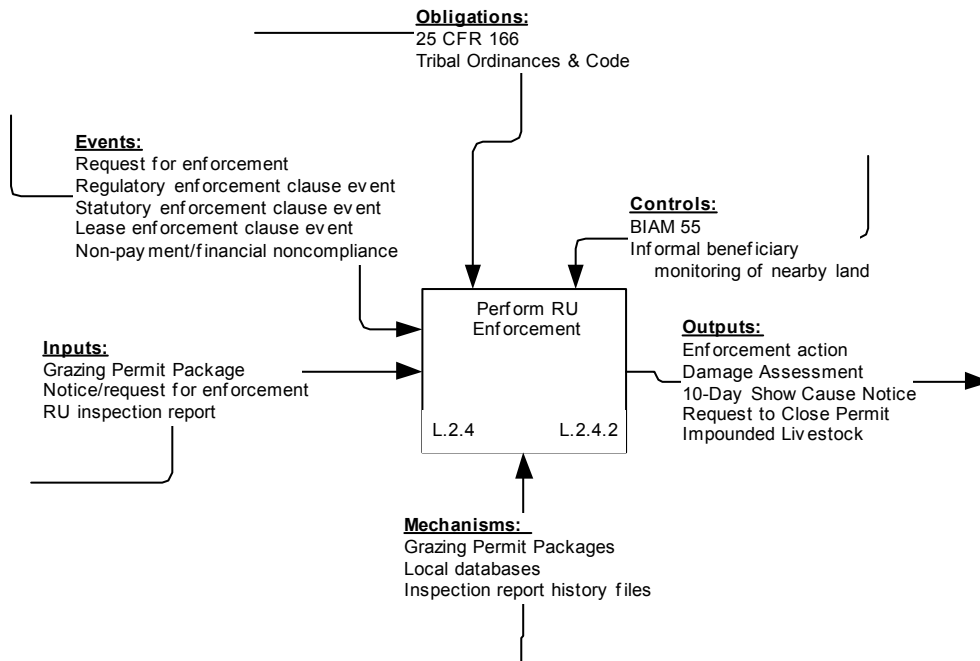


Figure 4.3.5.3- 23 Perform RU Enforcement IDEF(0)



### **Modify Grazing Permit (L.2.4.3)**

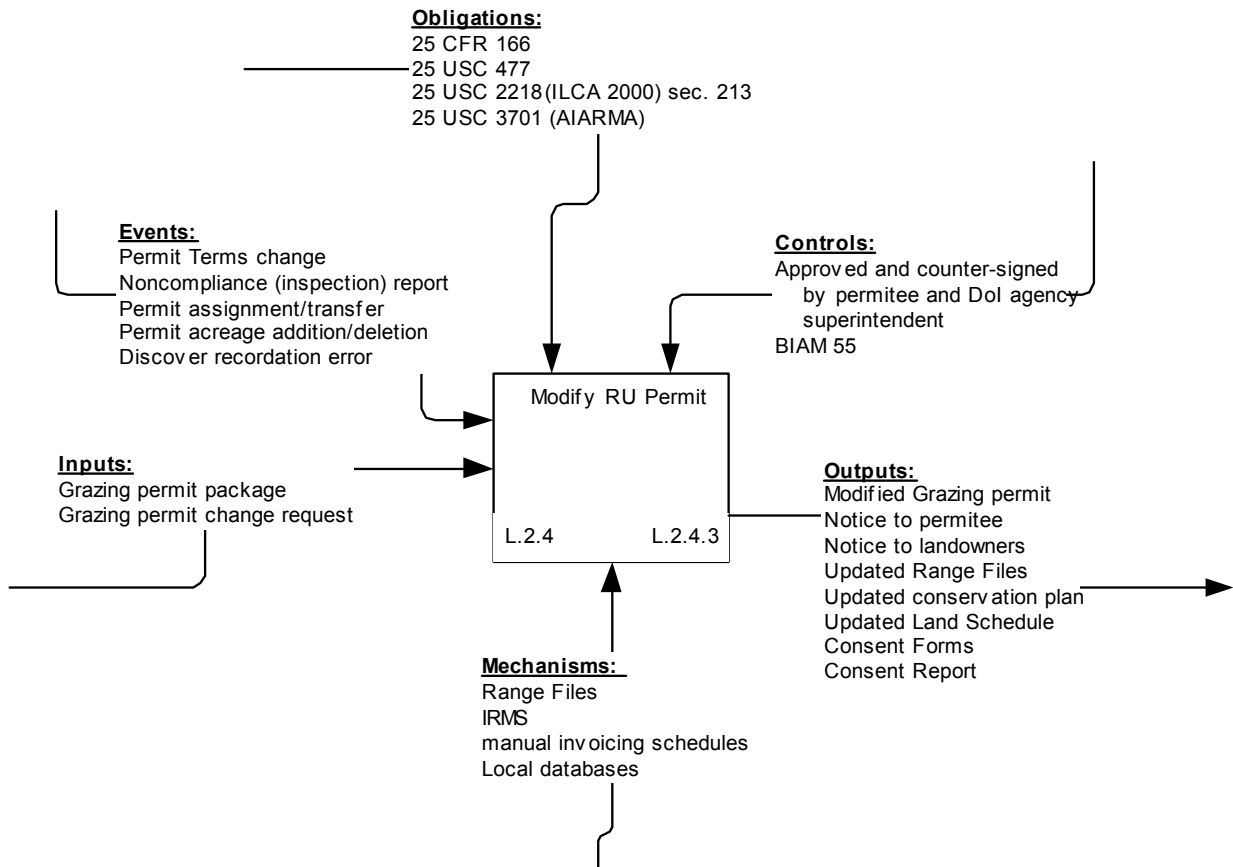
Starts with: Receive request to change grazing permit.

Ends with: Sign modified contract by all contracting parties.

Various events may trigger the request to change a Grazing Permit. Examples include:

- a) Change to a rental rate
- b) Additions or deletions of land to the area covered by the permit
- c) Change to the season or dates of use
- d) Change to the breeds, sex or types of animals allowed
- e) Requests for assignment, transfer, or joint-tenancy of rights
- f) Advance payment requests
- g) Clerical mistakes in the compilation of the original permit

The request is reviewed by the range or realty specialist and approved by the BIA Superintendent. If approved, both permittee and BIA Superintendent sign and approve the modification. Most clerical mistakes are corrected and modified without signature. Landowners may be notified if there are changes impacting the rental rates, and their expected distributions.



**Figure 4.3.5.3- 24 Modify RU Permit IDEF(0)**



### Close Grazing Permit (L.2.4.4)

Starts with: Record expiration of permit period, or, receive termination request for cause.  
Ends with: Request transfer and disbursement of funds.

Grazing permits are typically closed through passive expiration of the permit period. Early termination of the permit is rare. If deposits or performance bonds have been collected from the permittee, a final compliance check is performed, reviewing the last inspection report and financial status on the permit, before requesting the funds to be returned. If the permit is closed for cause and/or damages are found in need of recovery at the closure, the damage value up to the face amount of the bond may be collected for compensation via a Request to Transfer Funds. This initiates an Accounting process to transfer the funds into Trust accounts, which then can be used to recompense the damages.

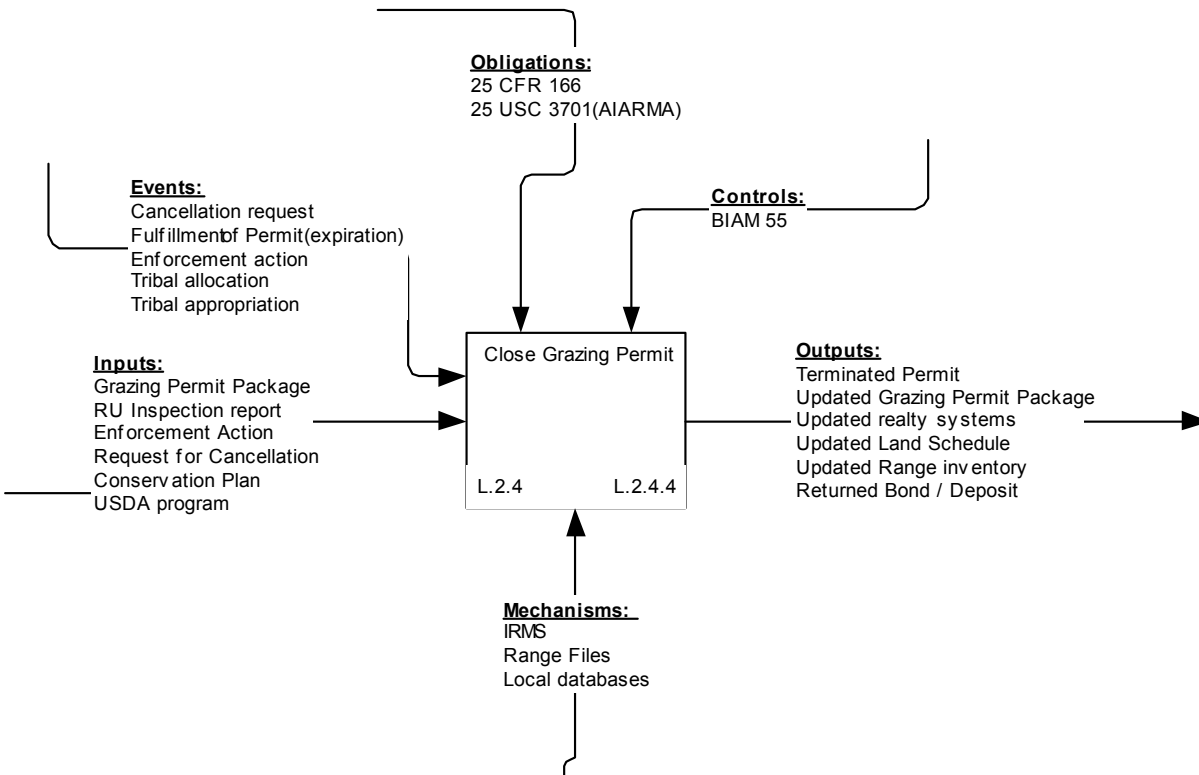


Figure 4.3.5.3- 25 Close Grazing Permit IDEF(0)





#### 4.4.5.3.5 Range Unit Management 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 4.3.5.3- 1 Great Plains Region Range Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Great Plains Region BIA Regional office	Obligation Mechanism Output Process	Distribution advice calculations vary permit to permit. Payment distribution policies/calculations do not resolve all ambiguities. Rules to allocate a single payment for a Range Unit down to differing values per tract and then to each owner-interest do not address all situational requirements. There also is no standard for calculating the allocation between allotted-owner-interests FMV and Tribal amounts when both Tribal and allotted land exist in a single RU. The 25 CFR 166 defines regulatory guidelines for payments that are supplemented by regional rules and calculations for distribution advices programmed into the MAD system.	Federal Regulation Federal Law Procedural	Beneficiaries receive differing levels of payment distributions for similar grazing permit dollars.	Medium	High



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Great Plains Region BIA Regional and Agency offices	Mechanism Process Role	It takes anywhere from 1 to 3 months to correct most errors in the Distribution Reconciliation process, due to the large number of owner-interests for each Range Unit permit. Current suspense errors totaled \$3 million as of July 2002. Systems are not integrated, and have inconsistent data, resulting in elongated reconciliation for distribution advice problems.	Fractionation System constraints	Long elapsed times for permit payment distribution to Beneficiaries.	High	Medium
Great Plains Region BIA Agency offices	Process Obligation Outputs	Positive landowner consent is not always obtained to grant permits on Range Units with allotted lands. BIA Superintendents, in some instances, chose to permit the land anyway. IBIA Case Law has supported this judgment when it prevents wastage or degradation of the land.	IBIA Case Law	BIA line officials feel at risk even when supported by case law. As a result, they must perform extra workload to document legally supportive rationale, or, choose to allow the land to go "idle".	Medium	Low
Great Plains Region BIA Regional office	Mechanism Process Roles	Great Plains agencies use the MAD system to automatically issue 90-Day Notices for Authority to Grant. This requires additional roles for MAD computer system specialists to perform programming and/or set appropriate parameters for the	Mechanism	Large reduction in workload compared to other agencies where notices are hand-typed, or generated from a common PC form and spreadsheet. Impacts are directly proportionate to the number	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		generation of the notices.		of landowner-interests.		
Great Plains Region BIA Regional office	Mechanism Process	Great Plains uses the MAD system to perform all billing, record collections, and nightly electronically transfer of the deposit and distribution advice to OST/OTFM.	Mechanism	Substantial effort reduction is achieved in billing, since the system is automated, and consolidates multiple permit invoices to a single mailing per permittee. Substantial reduction of effort and elapsed time is achieved in preparation of the distribution advices.	Medium	Medium
Great Plains Region BIA Agency offices	Inputs Outputs Process	Agencies allow landowners to select ability to receive direct payments, but frequently do not receive notice of direct payments (from permittee to landowner-interests).	Procedural	Limited controls exist to ensure the correct landowners are receiving the correct payments per the grazing permit contract. Beneficiaries may receive incorrect W-2 statements from the Trust.	High	High
BIA Standing Rock Agency	Process	Requests an SDA account by permit / lessee / range unit.	Procedural	Difficulty in reconciling payments and deposits between BIA and OST/OTFM organizations.	High	Low
BIA Cheyenne River Agency	Process	Requests a new SDA account for each new permit or each permit renewal (one for each signed contract)	Procedural	Difficulty in reconciling payments and deposits between BIA and OST/OTFM organizations.	High	Low



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
BIA Rosebud Agency	Process	Requests an SDA for each lessee and type of use (for example, an SDA for a lessee's Range Unit, and a separate SDA for the same lessee's farm/pasture unit).	Procedural	Difficulty in reconciling payments and deposits between BIA and OST/OTFM organizations.	High	Low
BIA Pine Ridge Agency	Process	Requested an SDA for each type of land use, through the year 2001. For example, one SDA for range, one for farm/pasture, one for irrigation. Starting in year 2002, they request an SDA for each permit.	Procedural	Difficulty in reconciling payments and deposits between BIA and OST/OTFM organizations.	High	Low
Great Plains Region BIA Agency offices	Process	Great Plains allows its other agencies to request SDA's at the level of summary or detail based upon their discretion and choice. Current aggregated regional suspense and SDA balance at July, 2002 was over \$17 million.	Procedural	Difficulty in reconciling payments and deposits between BIA and OST/OTFM organizations.	High	Low
Great Plains Region BIA Agency offices	Process	Title Status Reports (TSR's) are not requested for Range Management processes. As probates or other title recordation changes occur, they are entered into the MAD system, to be available for land operation activity needs.	Procedural System constraints	This substantially reduces the time and clerical efforts to synchronize ownership information for the issuance of 90-day notices, and preparation of distribution advices.	Medium	Medium
BIA Rosebud Agency	Process	Rosebud Tribe may terminate	Tribal law	Impact is twofold: higher	Low	Low



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		BIA-agency-approved permits for economic development reasons purposes, with 10-day notice.		and better use of the Trust land, and, economic loss to the permittee.		
Great Plains Region – approximately 7 Tribes in the region, and related BIA Agency offices	Process Roles	BIA agency Superintendent approves Tribal Grazing Resolution stipulations governing allotted lands, and concurs with the stipulations governing Tribal land.	Tribal policy	Increased workload on BIA Range staff and superintendent to work with Tribes to achieve agreement on stipulations and policies. Where applied, it increases common understanding and easier resolution to operational grazing conflicts.	Low	Low
Great Plains Region BIA Agency offices	Output Process	Some agencies perform collections for Tribally allocated and Tribally billed grazing lands.	Tribal policy	Workload increase for agency staff.	Low	Medium

**Table 4.3.5.3- 2 Midwest Region Range Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Midwest Region	Process Obligation	Midwest Region has no aggregations of land tracts for primary use as grazing land.	Federal regulation  Land characteristics	Midwest region manages no Range Units and performs no grazing permitting using 25 CFR 166. All livestock grazing is managed and contracted	Low	High



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				under farm/pasture leases utilizing 25 CFR 162.		

**Table 4.3.5.3- 3 Eastern Region Range Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Eastern Region	Process Obligation	Eastern Region has no aggregations of land tracts for primary use as grazing land.	Federal regulation  Land characteristics	Eastern region manages no Range Units and performs no grazing permitting using 25 CFR 166. All livestock grazing is managed through farm / pasture leases using 25 CFR 162.	Low	High

**Table 4.3.5.3- 4 Alaska Region Range Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Alaska Region	Process Obligation	Alaska Region has no aggregations of land tracts for primary use as grazing land.	Federal regulation  Land characteristics	Alaska region manages no Range Units and performs no grazing permitting using 25 CFR 166. All livestock grazing is managed and contracted through farm / pasture leases utilizing 25	Low	High



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				CFR 162.		

**Table 4.3.5.3- 5 Northwest Region Range Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
BIA Fort Hall Agency	Roles	Fort Hall BIA agency performs all Range activities after refinement of Grazing Resolution(s). There is limited or no Tribal or landowner participation in following activities.	Policy	Increases efficacy of procedures, minimizes workloads of fractionated interests, and reduces cycle time with fewer parties involved in decisions. However, it also reduces Beneficiary involvement and empowerment in self-determination of their land use.	High	Low
Northwest Region BIA offices	Organization Roles	Regional OST appraiser approves FMV minimum grazing rental rate instead of BIA regional director.	Policy Procedure	Minimal	Low	Low
Northwest Region BIA Agency offices	Process	Bidding Process is rarely used to select a permittee. The only identified use is for 1-2% of Yakama reservation Range Units where there is either commercially unattractive rangeland or no qualified	Policy Procedural	This reduces workload and complexities of conducting advertisements, public bidding, and bid openings.	Low	Low



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		applicant for allocation or negotiation processes.				
Northwest Region BIA Regional and Agency offices	Process	Performance bonds are not collected in the region. Elsewhere, bonds are frequently used to provide surety as to lack of performing on contract terms, or as adequate coverage for any idle time should the selected applicant not be approved for permit, or should there be damages to the land or land improvements. The Northwest region deems collection of the first year rental payment as adequate protection.	Policy Procedural	Minimal	Low	Low
Northwest Region BIA Regional and Agency offices	Process Mechanism	All invoicing for annual operational billing of grazing permit fees is performed manually in the region.	Procedural System constraint	This creates additional workload burden, but is due to lack of any common system with accurate enough information to utilize an automated approach. The relatively low volume of permits at any one agency has led management to conclude that manual efforts are less than the effort and funds needed to create a	Medium	High





Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				comprehensive, automated system at an agency or regional level.		
Northwest Region BIA Regional and Agency offices	Process Mechanism	The distribution advice is generally updated from IRMS printouts, and TSRs are not requested in the Northwest region.	Procedural	This significantly reduces elapsed time to complete the required work and speeds payment distributions to the ownership-interests, since TSR wait time in many places may range from 3 months to a year. However, it may reduce the accuracy of the distribution advice, since IRMS information does not always agree with the Title plant's information.	Medium	Low
BIA Warm Springs Agency	Process	The Warm Springs Agency does not issue or approve grazing permits, and performs no Range Management activities. A Cattlemen's Association performs an informal allocation process similar to a blend between Tribal Allocation (L.2.2.3), and Owner Use (L.2.2.5). The rangeland is scattered allotted tracts (no 100% Tribal land), and allocation is	Social Tradition	It is difficult to ascertain an impact, but appears that allotted landowners may not receive FMV compensation for the use of their land, unless they are an authorized ranch operator through the Cattlemen's Association. The BIA has no participation or visibility to	High	High



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		based upon previous history of use value at \$1/AU/year payable to the Association, with no documented permit. No Tribal Grazing Resolution governs this. There have been anecdotal indications of dissatisfaction, but no formal complaints have been lodged with the BIA.		planning, permitting, revenue distribution, or compliance monitoring of the land.		
Northwest Region BIA Regional and Agency offices	Mechanism	Different agencies use either IRMS or MAD or local spreadsheets and manual files to record land ownership, Range Files, and permit package information.	System constraints Procedural	Severe difficulties result in obtaining comprehensive, accurate ownership information, or, any aggregated reporting of Range operations.	High	High
BIA Yakama Agency	Obligation	The Yakama Tribe specifies a civil fine for trespass.	Tribal law	This significantly aids Range monitoring and compliance enforcement, since the Tribe takes a definitive stand in supporting active compliance and disciplinary actions for non-compliance.	High	Low
BIA Yakama Agency	Obligation	The Yakama Tribe precludes grazing activity from specified culturally and historically sensitive sites.	Tribal law	Minimal	Low	High
BIA Colville Agency	Process	The Obtain Authority to Grant	Workload	This eliminates a large	High	Low



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
BIA Northern Idaho Agency BIA Olympic Peninsula Agency BIA Spokane Agency BIA Umatilla Agency BIA Warm Springs Agency		process is not performed at these agencies. Agencies had done this in the past, but developed a consensus that low response rate and few complaints when the process was terminated, did not merit the effort to perform it. The agencies assume that proper authority exists on file from previous notice, and continues in perpetuity unless there are specific, documented objections from a majority of current owner-interests. Lack of complaint is regarded as implied consent.		workload, paperwork and mail flow. It eliminates a process step of landowner involvement, as well as any method of determining their consent or rejection of less-than-FMV grazing rates. Regulations allow for such objecting allottee-interests to receive FMV even if the permit is contracted at less than a FMV rate. For example, not sending 90-day notices eliminates 8-10,000 mailings per reservation with a Range program.		

**Table 4.3.5.3- 6 Eastern Oklahoma Region Range Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Eastern Oklahoma Region	Process Obligation	Eastern Oklahoma Region has no aggregations of land tracts for primary use as grazing land.	Federal regulation  Land characteristics	Eastern Oklahoma region manages no Range Units and performs no grazing permitting under 25 CFR 166. All livestock grazing is managed and contracted	High	High



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				under farm / pasture leases utilizing 25 CFR 162.		

**Table 4.3.5.3- 7 Southern Plains Region Range Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Eastern Oklahoma Region	Process Obligation	Eastern Oklahoma Region has no aggregations of land tracts for primary use as grazing land.	Federal regulation  Land characteristics	Eastern Oklahoma region manages no Range Units and performs no grazing permitting under 25 CFR 166. All livestock grazing is managed and contracted under farm / pasture leases utilizing 25 CFR 162.	Low	High

**Table 4.3.5.3- 8 Rocky Mountain Region Range Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
BIA Rocky Boys Field Office	Obligation Roles Process	Rocky Boys is a Compacted Tribe, performing all program processes. The BIA field office signs the few permit approvals, since land is 100% Tribal, with most grazing under assignments	Compact Tribal Law  Tribal Resolution  Federal	Minimizes BIA workload, maximizes Tribal member operation of rangeland. Replaces authority for process activities with 23CFR.	High	High



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		to individual Tribal members. Rocky Boys also has a Grazing Resolution to provide preference to any enrolled member permittee. Collections go via direct pay to the Tribally enrolled members. An additional \$1/AUM is billed as an execution fee to be used for RU improvements. Most RU's on Rocky Boy's participate in the USDA program, with the Tribe paying 100% of the up front capital, and collecting after completion (e.g. additional fencing, spring developments, etc.). Rocky Boys bills at a \$2.50/AUM rate for all enrolled member permittees. The Tribe performs billing and collection with no BIA or OST/OTFM involvement.	Statute			
BIA Flathead Field Office		Although a Self-Governance Tribe, the Flathead require the BIA Superintendent signature of concurrence on their Tribal Resolutions for land use, providing a 10-day review period by Agency Superintendent. They similarly request a signed	Compact Tribal Resolution	Minimal	Low	Low



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		approval on permits.				
BIA Fort Peck Agency	Roles Process	The Chippewa-Cree Tribe has contracted the Range program, and performs most activities with the exception of realty work. They focus mostly on Range Unit (RU) administration and compliance. The Fort Peck Agency still assists in soil analysis, conservation plans, establishing AUM rates and minimum rental rates, and final approval.	Contract	Minimizes BIA workload, and places Agency resources in advisory roles rather than direct program procedural and administrative roles.	High	High
BIA Crow Agency	Obligation	The Crow are a non-Indian Reorganization Act Tribe. They require contract provisions, under the Crow Competency Lease Act, which allow for direct permitting of allotments by owners.	Federal Statute Tribal Law	The BIA has less visibility to Crow direct contracts, including what lands are in use, and under what terms the land is contracted. Trespass, non-compliance, and land utilization issues are magnified.	High	High
Rocky Mountain Region BIA Regional and Agency offices	Process	The BOR, BLM, and BIA have initiated a cooperative effort to develop a new comprehensive range site inventory for RU's with soil inventories pre-dating 1975. This covers 4.9 million acres in the Rocky Mountain	Funding Policy	Generates higher workload for range staff to participate in soil surveys, and to input the information into systems to help manage the rangeland. More current soil surveys help identify risks and stop degradation	High	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		region.		of the land, and aid in developing better carrying capacities.		
BIA Rocky Mountain Region offices	Mechanism	TAAMS is the primary system of record for ownership and realty information.	Policy System Constraint	Significant improvements in information consistency between the different BIA processes and functions.	High	Medium
BIA Rocky Mountain Region offices	Process Outputs	Performance bonds are not collected in the region. Elsewhere, bonds are frequently used to provide surety as to lack of performing on contract terms, or as adequate coverage for any idle time should the selected applicant not be approved for permit, or should there be damages to the land or land improvements. The Northwest region deems collection of the first year rental payment as adequate protection.	Policy Procedural	Minimal	Low	Low
BIA Wind River Agency	Process Roles	Wind River Agency usually does not mail follow-up collection notices or enforcement correspondence. A separate full-time resource is used to hand deliver them, doing this for any invoices or bills to known	Policy Procedural	Eliminates permittees and allotted landowners from claiming they never received the correspondence. Unique collection approaches have been developed to substantially reduce	Medium	Low



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		problem operators.		uncollected receivables and reduce enforcement cycle times.		
BIA Rocky Mountain Agencies	Process Outputs	Agencies forward permits to Title Plant for recordation as encumbrances.	Policy	Increases workload and backlog at Title Plant, and increases cycle time on TSR requests.	Medium	Low
Rocky Mountain Region BIA Regional and Agency offices	Process	Most regions develop a blended AUM rate for a RU, and base payments upon the blended AUM rate. Rocky Mountain develops an AUM rate by tract, and aggregates this to an RU for permittee invoicing. Disbursement advice for each tract owner in the RU is calculated based upon (the percentage of their ownership interest in their tract) x ((their tract AUM rate) x (their tract carrying capacity)) / (the permit rental) x (the RU carrying capacity).	Procedural	This creates a substantially higher workload for the range program, but it is believed to give a much more accurate remuneration to each landowner-interest.	High	High
BIA Rocky Mountain Region Agency offices	Process Outputs	Rocky Mtn. current practices for collection escalation include 3 separate demand letters, followed by the 10-day show cause, followed by a cancellation notice and appeals rights letters,	Procedural	Increases workload and cycle time to proceed to enforcement escalation activities. Offloads low-probability outstanding collection to another	Low	Low





Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		followed by referral to the Dept. of the Treasury for collection follow-up.		Federal Government department.		
BIA Wind River Agency	Obligation Process	Wind River Tribal Resolution subsidizes enrolled Tribal member permittees, billed at a rate of \$1/AUM. 25CFR166 requires allottees to receive fair market value (FMV), and Wind River Agency adherence to this is a variance. They use the current appraised rate of \$11/AUM. The Agency deposits the fees into an SDA, and calculates the FMV distribution to allottee-interests based upon the current appraised rate multiplied by the carrying capacity of those tracts. 85% of the remaining SDA balance is distributed to Eastern Shoshone and Northern Arapahoe Tribal members, the remaining 15% is distributed to Tribal businesses. Approximately 1/2 of the Wind River tracts have allotted lands.	Tribal Law Tribal Resolution Federal Regulation	Significant workload increase for the Agency program resources to perform these additional steps in creating distribution advice. It also typifies an example where the Agency has worked with the Tribes to develop a stronger working relationship, and a greater involvement by the Tribes in determining land use and financial policies for Range Management.	Medium	Medium
BIA Northern Cheyenne Agency	Obligation Process	Northern Cheyenne Tribe has a Tribal Grazing Ordinance similar to the above Wind River Resolution. It subsidizes Tribal	Tribal Law	Significant workload increase for the Agency program resources to perform these additional	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		<p>permittee operation of RU's. The RU permit billing is done at a blended rate, and the stipulations set the FMV minimum rental rate at \$12.50/AUM. Undivided allotted land interests in a tract receive the \$12.50. Tribally acquired land (from fee status) is set at \$7.23/AUM billing rate, and Tribal land is set at \$6.25/AUM billing rate. The weighted average of these over all tracts over the entire reservation results in a blended rate of \$8.05/AUM. Tribally enrolled permittees are billed at this blended rate of \$8.05, with the Tribe ensuring funding for distributions exceeding these collections. Approximately 75% of RU tracts on N.Cheyenne are Tribal, and approximately 25% are allottee-interest-owned.</p>		<p>steps in creating distribution advice. It also typifies an example where the Agency has worked with the Tribes to develop a stronger working relationship, and a greater involvement by the Tribes in determining land use and financial policies for Range Management.</p>		
BIA Blackfeet Agency	Process	<p>Blackfeet Tribe stipulations authorize 10-year permits with a 5-year rental review and adjustment.</p>	<p>Tribal Law Tribal Resolutions Federal Funding</p>	<p>Reduces BIA Agency workload by doubling the interval for permitting administration. Improves working relationship with ranch operators. Matches permit duration with USDA</p>	Medium	Low



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
			programs	programs to aid in permittee obtaining and maximizing the use of federal land improvement programs.		
BIA Wind River Agency	Obligation Process	The Tribal Grazing Resolution requires a ¼ blood quantum, residency over 1 year, and age greater than 18 to qualify as a preferred permittee for allocation and preferential grazing rates.	Tribal Resolution	Minimal	Low	High
BIA Wind River Agency	Process Role	Wind River Tribe requires a permit for Tribal Enterprise use of RU's. The Tribe determines the land and develops the terms and conditions for usage for the Tribal Enterprise, but the BIA agency creates and signs the permit.	Tribal Resolution	Minimal	Low	Low
BIA Northern Cheyenne Agency	Process	Northern Cheyenne has 2 rounds of allocation. The first round advertisement is in December and the Tribal board meets the last week of the year or the first week of the new year to determine enrolled member selection for permittees. The second round is after Feb. 15 <sup>th</sup> for any RU's not yet paid or bid for allocation, with any applicants who didn't pay for	Tribal Resolution	Increases workload for permit administration on Range Units going through Tribal Allocation process.	Low	Low



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		the first round eliminated from participation in the second round.				

**Table 4.3.5.3- 9 Navajo Region Range Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
“Big Navajo”	Obligation	<p>Following are unique obligations governing “Big Navajo”:</p> <p>25CFR167</p> <p>Navajo Grazing Code, Regulations, and Handbook</p> <p>1994 Memorandum of Agreement (Describes responsibilities and authorities to be shared between Navajo Nation and BIA Navajo Regional Office, especially for the Eastern agency).</p> <p>Navajo Tribal Resources Committee Resolution of 3/15/1966 (Provides additional clarifications for authority and responsibility for policies, procedures governing Tribal land).</p>	<p>Federal Regulation</p> <p>Social Customs</p>	Open range management without fencing; multiple permittees or allocates utilizing the same land area and intermingling animals; inheritance of traditional, customary or historical use areas; subletting; and, sale of grazing permits. Range Management plans, control, and compliance enforcement become more time-consuming and difficult.	High	High



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Navajo Region "Navajo Partitioned Lands"	Obligation	Navajo Partitioned Lands (NPL) is a land area disputed between Navajo and Hopi Tribes. A portion of land was designated to the Hopi (HPL), and a portion to Navajo (NPL).	Executive Order Federal Law	The land designated as Navajo (NPL) has no regulations or procedures in effect to manage and administer this land. A draft of grazing regulations is pending approval.	High	High
Navajo Region Off-Reservation Lands	Obligations	<p>A number of lands which are not within or contiguous to the Navajo reservation are part of the Navajo Nation and BIA Region, particularly several satellite Reservations, and a number of ranches which were acquired in fee and brought into the Trust. Following are unique obligations governing these lands (in addition to other general and Navajo obligations):</p> <p>Navajo Grazing Code, Regulations and Handbook</p> <p>Executive Order 3663 (Delegates authority for management of Off-Reservation lands to Off-Reservation Land Boards and the BIA)</p> <p>Ramah Memo of Agreement (Describes responsibilities and</p>	Executive Order Tribal Code Tribal Resolutions	<p>Many obligations result in conflicts or inconsistencies which increase workload and cycle time to accomplish activities. The numerous obligations also result in higher review and error correction rates. Documents and decisions must be coordinated with many Tribal and government organizations.</p> <p>Resolution of compliance and enforcement issues are more cumbersome and non-compliant operators have many avenues of delay.</p>	Medium	High



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		<p>authorities to be shared between Navajo Tribe and the BIA for managing the Navajo satellite reservation of Ramah).</p> <p>Navajo Nation Code Title 3 Chapter 5 subchapter 7 sections 930-950 (Provides an “Off-Reservation Grazing Code” that details rules and processes for stipulations, grazing permits, and compliance for off-reservation lands).</p> <p>Navajo Tribal Council Resolution CD-59-64 (Applies Navajo Range Code to Off-Reservation lands).</p>				
Navajo Region “Navajo New Lands”	Obligation	Navajo New Lands area is administered by the Navajo Hopi Relocation Commission	Federal Law	This is newly recognized land, authorized by Congress to re-settle Navajos who had been relocated. No regulations or procedures are defined to manage and administer this land.	High	High
Navajo Region areas for BIA Chinle Agency, Fort Defiance Agency, Shiprock Agency, and Western Navajo Agency	Obligation	The areas of land Chinle, Fort Defiance, Shiprock, and Western Navajo Agencies assist in administering comprise what is commonly called “Big Navajo”.	Federal Regulation	These grazing regulations were established in the 1940’s and have had little updating since. Lack of clear operating procedures	High	High



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
(hereafter referred to as “Big Navajo”)		This land is governed by 25CFR167, the Navajo Grazing Regulations. Rangeland is not permitted, and is allocated by the Tribe based on “customary and historical use” to enrolled members. Most of the land is “open range” without fences, where animals of different allocates intermingle.		and outdated regulatory language hampers effective grazing management and enforcement.		
“Big Navajo”	Obligation Process	Approximately 1100 allotments exist in the “Big Navajo” area governed by 25CFR167. The allottee-interests are not formally addressed by any Tribal procedures, their land may be included in allocations for grazing use, and they receive no remuneration for such use.	Federal Regulations Tribal Regulations Tribal Code	Allotted interests on “Big Navajo” do not participate in Range processes or receive payments, in the same manner as Range programs for Eastern Navajo or other BIA regions.	High	High
BIA Eastern Navajo Agency	Obligation	Eastern Navajo is heavily checkerboarded and contains allotted, BLM, State, and Tribal lands. Obligations governing the land unique to Eastern Navajo as opposed to “Big Navajo” include: 25CFR166 (grazing regulations) ILCA 2000 section 213 (consent) Executive Order of 12/16/1882	Federal Regulations Federal Statutes Executive Orders Tribal Code State Law	Many obligations result in conflicts or inconsistencies which increase workload and cycle time to accomplish activities. Within the Eastern Navajo Agency, 25CFR166 is applied to all land but District 15, which supplants it with 25CFR167. The	High	High



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		<p>(Eastern Navajo allottee rights)</p> <p>Navajo Grazing Code, Regulations and Handbook</p> <p>Taylor Grazing Act (Provides for BLM leasing of unreserved public domain lands to the Navajo Tribe, specifically in the Eastern Navajo “checkerboarded” areas)</p> <p>Executive Order 2198 (Provides for public lands given to railroads to be reconveyed to BLM and authorizes the BIA to manage the lands where appropriate)</p> <p>1994 Memorandum of Agreement (Describes responsibilities and authorities to be shared between Navajo Nation and BIA Navajo Regional Office, especially for the Eastern agency).</p> <p>Navajo Nation Code 824 (Provides for grazing and administrative fee assessments for Eastern Navajo)</p> <p>Navajo Tribal Resources Committee Resolution of 3/15/1966 (Provides additional clarifications for authority and</p>		<p>numerous obligations also result in higher review and error correction rates. Documents and decisions must be coordinated with many Tribal and government organizations.</p> <p>Resolution of compliance and enforcement issues are more cumbersome and non-compliant operators have many avenues of delay.</p>		





Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		responsibility for policies, procedures governing Tribal land).				
“Big Navajo” BIA Chinle Agency BIA Fort Defiance Agency BIA Shiprock Agency BIA Western Navajo Agency	Process	This “Big Navajo” land base had original range planning performed from 1935-1938, with documentation of soil inventories, soil maps, carrying capacities, and grazing permits issued. Stocking rates and carrying capacities have not been adjusted since then.	Funding	Overuse, overstocking, overgrazing have diminished and damaged the land.	High	High
Navajo Region	Process	Grazing plans are developed only for RMUs that have been fenced. Grazing permits for open range areas have no plan of operations or conservation plan	Policy	Management plans for effective land utilization and good stewardship are typically effective only when fencing exists to support animal and trespass control. Overuse, overstocking, overgrazing have diminished and damaged the land.	High	High
BIA Eastern Navajo Agency	Process Controls	Distribution deck information is obtained from IRMS, and no TSR is requested. Realty specialists research the ownership interest names, probate cases, census numbers, permit numbers reconcile between realty records	Policy	This degree of research before creating a distribution advice precludes most of the inconsistencies and errors found at other agencies. It takes a large amount of	High	High



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		and TFAS, and prepare encoded hand schedule distributions, that are hand carried to the regional OST/OTFM accountant. The request to transfer to OST/OTFM is normally done via a JV at the regional office OST/OTFM in Gallup, NM.		effort and time to perform.		
BIA Eastern Navajo Agency	Process Controls	<p>No invoicing is performed, and collection occurs only for Eastern Navajo Districts 16, 19, and 20 at \$.07 / acre (no charges are assessed for "Big Navajo"). Monies due BLM and State of New Mexico are paid upfront by the Navajo Nation. Rentals collected from permittees reimburse the Tribe and the Tribe absorbs shortages.</p> <p>If wrong amounts are remitted, they are returned to sender. The First \$37,000 is deposited to an allotment account and the remainder is deposited to the Tribal general fund account. The admin fees are deposited to an FFS account (to the national business center in Denver). At</p>	Policy	Minimal	Low	Low



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		the end of each week, rental funds are forwarded to the collection officer, with the receipt and the rental payments hand-delivered to the regional OST/OTFM accountant in Gallup, NM.				
BIA Navajo Region Regional and Agency offices	Roles Process	BIA Regional Director reviews and signs all appraisals and permits. All superintendents have been eliminated.	Policy	Longer cycle times for review and approval.	Medium	Medium
BIA Eastern Navajo Agency	Controls Process	Obtaining Authority to Grant (ownership consent) is rarely performed. Consent was sought from allottee-owner-interests in Eastern Navajo only on two occasions, once in the 1960's and again in 1999 after a BIA policy memorandum requested it due to the Cobell litigation. Eastern Navajo Agency has considered the one-time request adequate authority to allow the BIA to renew or issue grazing permits in perpetuity. This request was sent to approximately 12,000 owner-interests in the 817 allotments on Eastern Navajo.	Policy	This provides a significant reduction in workload for the agency. However, as a result, the landowner interests have very little input or control regarding the use of their land.	Medium	Medium
BIA Eastern Navajo Agency	Process	Appraisals for Eastern Navajo are performed by the BIA for BLM	Procedural	Infrequent appraisal and change of grazing rental	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		lands; by the county for Tribal fee lands; and by the state for state lands. These are consolidated by the BIA agency to generate a blended range rental rate across all the different land ownerships.		rates. Many areas of Eastern Navajo have not had appraisals or rate changes in 25 years.		
Navajo Region	Roles Obligation Control	The Navajo Region has a unique organizational structure compared to all other BIA regions. Multiple BIA Agencies exist for one Tribe, and the land is also partitioned into Tribal Districts, which have Tribal District Land Boards (also known as District Grazing Committees) who have significant authority to perform or participate in Range processes.	Tribal Code Tribal Regulations	<p>Additional organizations and layers of authority exist for any decision, resulting in longer cycle time, backlogs of approvals, and lower resolution rates.</p> <p>District Land Boards: Develop and draft all stipulations, resolution, or Tribal regulations; Modify and approve any district- or RMU-specific stipulations; Serve as a mediator or arbiter of any grazing disputes; Accept and approve applications or requests for appraisals, permits, creation of new RMUs, etc.;</p> <p>Complete annual tallies of</p>	High	High



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				livestock by holder/operator/owner.		
Navajo Region “Big Navajo”	Controls Obligations	Grazing permits are 12 months duration and are automatically renewed in perpetuity. No action is required for permit renewal. Permits continue until a probate is received or the permittee wishes to sell or gift their permit.	Tribal Policy	Permittees are greatly empowered to utilize the land as they see fit. Stewardship of the land is very inconsistent, due to the lack of oversight, control and enforcement where poor land practices exist.	High	High
Navajo Region	Process Roles	For any land use change or establishment of a new RMU, the proposal must first be researched, reviewed and approved by the Tribal District Land Board. It is then forwarded through a Tribal 164 SAS process for review and approval by all other impacted Tribal departments, before final Tribal Grazing Committee approval.	Tribal Policy	Cycle time to obtain approval is extremely long and difficult to obtain. As a result, very few RMUs are established or land improvements authorized, leaving open range disputes or poor land management practices unresolved.	High	High
Navajo Region “Big Navajo”	Controls Process Roles	Consent is requested from adjacent permittees on Tribal Trust land for any changes in land use, to protect the interests of other neighboring land users in the open range and RMU areas. Examples are fencing, irrigation,	Tribal Resolution Tribal policy	Two distinct impacts result. First, cycle times for obtaining the consent and the approvals are extremely long and difficult to obtain. Second, many such land use changes are conducted	High	High



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		water runoff improvements or access controls, homesite developments, impacting the grazing permits in both RMU and open range areas. The permittee seeking the change is responsible to obtain 100% consent/approval by the adjacent permittees. The Tribal Chapter and the Tribal District Land Board require approval before the specified land use change can be implemented. If the change is a request for a new permit, then BIA approval by the regional director is also required.		without regulatory consent and approval due to the difficulties and time required.		

**Table 4.3.5.3- 10 Southwest Region Range Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
BIA Mescalero Agency		Mescalero Tribe has statutory code for a cattlemen’s association with no fees generated from permits and no sublets. The association owns the livestock collectively, and provides for members to enjoy pro-rata shares		This results in more effort put into Conservation Plan of Operation, minimized workload for permit administration, lower incidence of land use disputes, nominal non-	High	High



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		of profits, much like a Tribal enterprise with shareholders. The Tribe believes that this works very well, and may be a leading practice for other Tribes.		compliance issues or, ownership inconsistencies, and faster distribution of payments to the beneficiaries.		
Southwest Region	Obligation	Indian Claims Act	Federal Law	Provides money and constraints on Tribal abilities to improve & manage rangeland.	High	Medium
Southwest Region	Obligation	Treaty of Guadalupe Hidalgo - Spanish land grants recognized by the U.S. to Pueblos and Spanish citizens	Federal Treaty	Establishes ownerships and usage rights; individual treaty lands are Trust lands but are not under the jurisdiction of Tribes, much like allotted lands.	High	Medium
Southwest Region	Process	There is no region-wide, coordinated range management program across the various Tribes and Reservations. Priorities and Tribal Codes on land usage and revenue-generation vary widely between each Tribe/Pueblo. A majority of the Tribes have range programs. However, some consider grazing a Tribal member right based on customary or historic use. No unitized grazing areas exist in the region (RUs or RMUs).	Policy Tribal Policy	Minimal	Low	Low



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		A number of Tribes are acquiring fee land, converting it into Trust to use as rangeland for grazing permits.				
Southwest Region	Process	Appraisals are generally not requested or performed in the Southwest Region. They are performed only when unusual changes in land base or land use are requested (e.g. purchase of a ranch in fee, then bring it into Trust for grazing permit use to non-Tribal members).	Policy	Minimal	Low	Low
BIA Zuni Agency	Process	Zuni range monitoring consists of measuring forage data within 30 permanent monitoring areas, to determine range utilization and cover. Other inspections are done for reports of overgrazing.	Procedural Funding	This level of inspection and monitoring gives substantial factual data with which better Rangeland Management practices and land utilization decisions can be based.	High	Low
Southwest Region	Mechanism	Virtually no Tribes or BIA Agencies utilize national or regional computer systems (e.g. IRMS, TAAMS, MAD). Almost all use either local spreadsheets or manual files.	System Constraints	Costs and efforts to implement and maintain systems are significantly reduced. However, there is no visibility to other ownership or “leading practices” information when desired. Ute	Low	Low





Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				Mountain is the only Tribe in the region with material allotted-land interests, and might benefit such systems.		
Southwest Region	Process	Most of the SW Reservations are primarily Tribal lands. Few Tribes or Pueblos have a need for policies requiring the collection of fees for permits on allotted lands. Most have resolutions or codes focusing on land use objectives, and rules governing trespass. There are usually no single blocks of begin/end dates for the grazing permits except for Zuni. Most Tribes provide for rangeland permitting to associations, which in turn sub-permit to individual members.	Tribal Code Tribal Resolutions	Elimination of allotted-land interests greatly reduces the number of processes and administration required for Range Management. Tribes and BIA Agencies both have more flexibility for land use planning. As a result, this region had the highest percentage of Tribes who had completed IRMPs. IRMPs provide clearer objectives, with better Tribal support for the controls and procedures to manage the land and enforce compliance.	High	High

**Table 4.3.5.3- 11 Western Region Range Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
BIA Eastern Nevada Agency	Obligation	The BIA agency manages BLM	Executive	Provided for by Executive	Low	High



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		rangeland interspersed with the Duckwater Shoshone reservation.	Order	Order 2198 (Provides for public lands given to railroads to be conveyed to BLM and authorizes the BIA to manage the lands where appropriate).		
BIA Western Nevada Agency	Obligation	Pine Nut public domain allotments (PDA's) are 62,000 acres of individual allotments to Washoe Tribe members derived from previously public fee-title land, heavily checkerboarded, widely scattered, and intermingled with BLM land.	Federal Statute	Planning, permitting, and management practices are extremely difficult to implement given the nature of the land base.  Trespass and poor land stewardship are prevalent.	High	High
BIA Hopi Agency	Procedure	Rental collections for Navajo permittees on Hopi land under accommodation agreement are in arrears and currently in a legal dispute.	Inter-Tribal Conflict	Minimal	Low	High
BIA Western Region Agencies	Process	Starting in 2002, permits are recorded as encumbrances in Title Plant after approval and signature by BIA Agency Superintendent.	Policy	A large backlog of encumbrances exists in Title Plan, and Title Plant backlog precludes Agency request of TSRs for ownership information.	High	Low
BIA Western Region Agencies	Procedure Roles	Most Reservations have a direct pay arrangement to the Tribe for Tribal range unit payments, and	Policy	Lack of controls and assurance that the right beneficiaries are being paid	High	High



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
	Outputs	for some allotted land-interest payments. Proof of payment is inconsistently provided to the BIA.		the right amount on a timely basis.		
BIA Western Region Agencies	Output Process	Several Agencies monitor permitted tracts and perform range condition surveys to collect information to generate annual Natural Resource Information System (NRIS) reports. They summarize monitoring activities such as range condition, utilization, payment summaries, noxious weed inventories, range improvements, livestock inventories and compliance activities.	Policy	NRIS reports have been valuable tools for agencies to assist planning and develop range management recommendations to the Tribes for both stipulation updates and to serve as communication tools. This system is no longer supported, and cannot continue to maintain or provide important information.	High	Medium
Western Region	Process	Western Region doesn't schedule blocks of common permit expirations. Permit end dates vary, unit by unit.	Policy	Minimal (due to relatively low volumes of permits).	Low	Low
BIA Western Region Agencies	Process	Western Region attempts to conduct bidding as the method of permittee selection on all fractionated-ownership range units in order to obtain the highest FMV. The requirement is to use the bidding process unless an authorized justification is made to	Policy	Few of the units are placed in a bidding process due to lack of competitive demand.	Low	Low



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		the regional office to use the negotiation process instead.				
BIA Western Region Agencies	Role Process	Agencies also have a witness sign the approved permit.	Policy	Minimal	Low	Low
BIA Western Region Agencies	Process	Agencies do not issue 90-day notices or perform the Authority to Grant process. The probate processes are backlogged so that frequently heirs have died. Therefore, the agencies do not integrate probate notifications into the consent or authority to grant activities. Primary sources of ownership information are either A&E cards or local spreadsheets and manual files.	Policy Procedural System Constraints	Allotted interests are not afforded the same participation in Range processes. System constraints from the procedures, backlog of transactions, and inconsistent sources of data, do not always ensure correct payment amounts to the correct land ownership-interests.	High	Medium
BIA Western Region Agencies	Process	Agencies utilize different collection policies and procedures that may conflict with OST/OTFM policy. According to 25 CFR 166.416 rentals can be collected 30 days in advance but 25 USC 415 indicates advance payments of a longer period of time. At the Western Nevada agency, the collection officer prepares the bill for collection, receives the payment, and records	Procedural Federal Regulations	Agency staff is confused as to which regulations, policies, and procedures to follow. Inconsistencies in procedure generate errors and reconciliation problems between the BIA and OST/OTFM organizations.	High	Low



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		the collection. San Carlos Agency sends out billing one year in advance.				
BIA Western Nevada Agency Fort McDermitt Paiute-Shoshone Tribe Yomba Shone Tribe	Roles Process Outputs	State-chartered cattlemen's associations have permits on the Fort McDermitt Paiute-Shoshone Tribe and the Yomba Shone Reservations.	State Law	State chartering opens up additional financing and revenue options, such as state or federal program monies, bank financing, and subleasing to non-Tribal member operators. This also opens up taxation of revenues and the ability to perfect liens against incomes from the property.	Low	Medium
Western Region	Mechanism Outputs	Many Western Region Tribes with range programs have developed substantial GIS systems to track stocking rates, forage, water, production, revenue, and the like to better support sustainable yield management practices. Those Tribes noted to have sophisticated GIS capability are Hopi, Fort Apache, and San Carlos.	System Constraints	Most Tribes have found significant limitations in attempting to develop and monitor effective rangeland utilization with the information kept or reported by the BIA. They have developed their own GIS systems and are able to better plan land use and align Tribal objectives with land production.	High	Low
BIA Western Nevada Agency	Procedure	Approximately \$60-70,000 of suspense account money cannot be reconciled. The BIA has	System constraints	Beneficiaries are not receiving their payments.	Medium	Low



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		<p>provided a JV in requested format to OST/OTFM, but the money is not being distributed to IIM accountholders because of complications involving a non-Indian ownership interest in the allotment. While this issue is being resolved, OST/OTFM closed many of the relevant IIM accounts because there has not been activity posted to the accounts. Requests to reopen closed IIM accounts from June of 2001 are still pending.</p>	Procedural			
Western Region	Process Outputs	<p>Tribes in Utah and Nevada typically issue a resolution for every permit. The resolution will list the permittee(s). Some Tribes issue a blanket resolution for all stipulations and preferences in addition to the permit-based resolutions. Resolutions vary widely in duration, some with one year, three-year, or five-year expirations, some with no expiration dates.</p>	Tribal Policy	<p>Vastly differing Tribal approaches to setting criteria for rangeland management, and differing levels of administrative documentation required by each Tribe, result in substantial workload and complexity for BIA Agency Range program resources.</p>	High	High



**Table 4.3.5.3- 12 Pacific Region Range Variances**

<b>Areas Affected by the Variance</b>	<b>Category</b>	<b>Variance Description</b>	<b>Reason for Variance</b>	<b>Business Impact</b>	<b>Degree of Business Impact</b>	<b>Difficulty of Change</b>
BIA Pacific Region	Obligations	Pit River Tribe has significant permitting and owner use. Difficulties stemming from the federal court order to force 11 separate bands to reorganize under a single constitution to become a federally recognized Tribe. Each band has a representative on the Tribal council, but consensus solutions are rare.	Federal Law	Little land planning is done and few permits are issued (3 permits by the Tribe, 3 by the BIA). Most of the land is used by an individual or band deeming it their own, sometimes in conflict with other perceived historical and customary use boundaries. The BIA has little or no visibility to the land use or conflicts.	Medium	High
BIA Pacific Region Agencies	Obligation	Public Law 280 allows the State and Federal marshals jurisdiction to assist in law and compliance enforcement on Indian lands, which is specifically beneficial for the PDA's where the BIA resources are inadequate to monitor and enforce compliance.	Federal Statute	This has little impact, since there is a high threshold of proven damages before such assistance can be requested (\$50,000).	Low	High
Pacific Region	Obligation Controls Process	Public Domain Allotments (PDAs) in the Pacific Region are widely dispersed and external to Reservations. Agencies are unclear whether any or which regulations apply to these	Policy Funding	Tribal involvement is nil since the PDA's are located outside the boundaries of Tribal Reservations and are not Tribal land. BIA agency involvement is nil	High	High



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		properties.		due to priorities and lack of staff. As a result, land planning and compliance enforcement are problematical. There is limited visibility to accurate ownership.		
BIA Central California Agency BIA Southern California Agency	Controls Process	Owner consent/authority to grant notices were last sent out in most cases during the 1970s–1980s. There are approximately 600 heirs on 60-80 tracts.	Policy Procedural System Constraints	Allotted interests have limited participation in Range processes. System constraints from the procedures, backlog of transactions, and inconsistent sources of data, do not consistently ensure correct payment to the correct land ownership.	High	Medium
BIA Northern California Field Office	Inputs Process	The agency uses uncertified TSR reports from 1994 to determine owners for the few allotments they permit.	Policy Procedural System Constraints	System constraints from the procedures, backlog of transactions, and inconsistent sources of data, do not consistently ensure correct payment to the correct land ownership.	High	Medium
BIA Pacific Region Agencies	Controls Process	Appraisals are requested and conducted with wide variation of frequency. Examples: Southern California Agency does not request appraisals. Central	Policy	Lack of appraisals may result in under-charging for land use. Appraisals every year may be performing a workload not	Medium	Low





Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		California Agency requests annual appraisal surveys for grazing rentals. Each permit expiration period is the baseline for most regions.		commensurate with benefit, since rental changes year to year are usually not significant.		
BIA Central California Agency	Process Outputs	The agency forwards all permits to Title Plant for recordation as encumbrances.	Policy	Increases workload and backlog at Title Plant, and increases cycle time on TSR requests.	Medium	Low
BIA Pacific Region Agencies	Inputs Procedure	<p>Procedures vary between agencies as to what source of ownership information is used to develop distribution advice for permits. Examples: Central California Agency requests a certified TSR, but does not receive them in a timely manner from the Title Plant, delaying the approval of permits and leases.</p> <p>Northern California Field Office always requests an uncertified TSR, but does not receive them in a timely manner, so they use the last TSR received on the tract.</p>	Procedural System Constraints	Permits are delayed, or, untimely and inaccurate information is used to prepare distribution advices.	High	Medium
BIA Central California Agency	Process	The last known disbursement based on distribution advices from the Agency was made in 1994. They have been collecting	Procedure	Beneficiaries are not receiving their payments.	High	Low



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		approximately \$4,000.00 per year.				
BIA Central California Agency	Process	The agency has the Livestock Associations collect permit fees. A Realty Collection Officer then logs the receipt and prepares a request for deposit, stores the checks in the agency safe. A Natural Resources specialist then prepares a Schedule of Collections (distribution advice), the Natural Resources specialist then prepares a field receipt for the permittee & the agency office, and also prepares a JV which is forwarded with the check to the regional OST/OTFM accountant.	Procedure	Minimal, although there is a loss of control in having the Association collect the fees before the agency can log the actual receipts.	Low	Low
Hoopla Tribe	Mechanism	Hoopla Tribe uses DocStar, an electronic imaging system to keep all records online and retrievable through multiple index criteria.	System Constraint	Substantial time saving exists in any record retrieval, and inconsistencies are reduced since all indices are required by the system to have integrity.	High	Medium
BIA Central California Agency	Mechanism	Approximately 36 of the 54 Tribes use GIS systems to track the information and complexities of all the California and federal Environmental Assessment	System Constraint	Most Tribes have found significant limitations with the information kept or reported by the BIA. They have developed their own	High	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		requirements.		GIS systems and are able to better plan land use and align Tribal objectives.		
Hoopa Tribe	Controls Process	Hoopa Tribal law requires a consent notice be posted for 30 days.	Tribal Code	All Tribal members and landowners obtain visibility and can influence prospective land uses.	High	Low
BIA Southern California Agency	Obligations	Los Coyotes Tribe passed a Resolution and Ordinance banning cattle grazing.	Tribal Code	Minimal	Low	Low
BIA Central California Agency	Obligations	Tule River Tribe refines its grazing resolution and Tribal grazing code every year.	Tribal Code Tribal Resolutions	Minimal	Low	High
Hoopa Tribe	Obligation	Hoopa is a Compacted Self-Governance Tribe, and exempts itself from a number of the onerous NEPA compliance processes and steps.	Tribal Compact	Self-governance may allow Tribes the ability to reduce cycle times for certain environmental compliance processes and facilitates easier and more time-effective leasing and permitting.	High	High
BIA Northern California Field Office	Controls Process Outputs	Some Tribes (e.g. Round Valley with 30,000 acres rangeland) permit to a Tribal livestock association, which then allocate or sub-permit to operators. Similar distancing of BIA	Tribal Resolutions	BIA has Trust responsibilities, but very little visibility to the actual operators, their land use practices, and payment history.	High	High



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		Agencies from actual permittees exists for Compact Self-Governing and 638 Contract Tribes.				



#### **4.3.5.4 Agricultural Leasing (L.3)**

The overall process starts with: Plan agricultural land use.

Ends with: Close agricultural leases.

The most commonly used terms in BIA Agencies and the field for this type of land use are “farm/pasture” and “Ag”. For future reference in a succinct manner, we will refer to this as Ag, or agricultural land.

A wide variety of land use contracts exist on Trust agricultural lands. “Agricultural Leasing” is the title for the business processes encompassing different types of land use contracts. Those specifically excluded are forestry, range grazing permits, homesite and commercial leasing. Typical land uses included in Agricultural Leasing are:

- a) Farm/pasture leasing
- b) Other longer-term agricultural leasing (e.g. 25 year lease duration for orchards)
- c) Miscellaneous permitting (e.g. hunting, gathering, scientific, archeological, ecological, and cultural permits)
- d) Recreational and lakeshore use permits

Most agricultural land is controlled through a leasing, or where appropriate, permitting system. This system regulates the assessment and planned use of the land; contracted farming, grazing, or miscellaneous use of the land; managing an annual revenue collection process; and, agricultural land management through compliance monitoring.

Most importantly, this system selects and designates the agricultural land operators (usually farmers), who are responsible for effective stewardship of the land within their area of operation. Idle or non-leased agricultural land, without responsible care and use, is subject to wastage through a variety of sources including feral animals, noxious weeds, trespass, dumping, and overuse. With proper fencing and utilization, the land is maintained in an ecologically sustainable state, and used to generate revenue for its ownership base, the Trust beneficiaries.

Agricultural Leasing activities interface with other Trust processes such as Title, Accounting, and Appraisal. These interfaces facilitate determination of ownership interests, fair market values for issuing leases, and distribution of rental income to beneficiaries.

Agricultural leasing and permitting processes occur in every BIA region. This includes two types of contracted grazing activity. The following paragraphs provide brief definitions to explain and distinguish between the two.

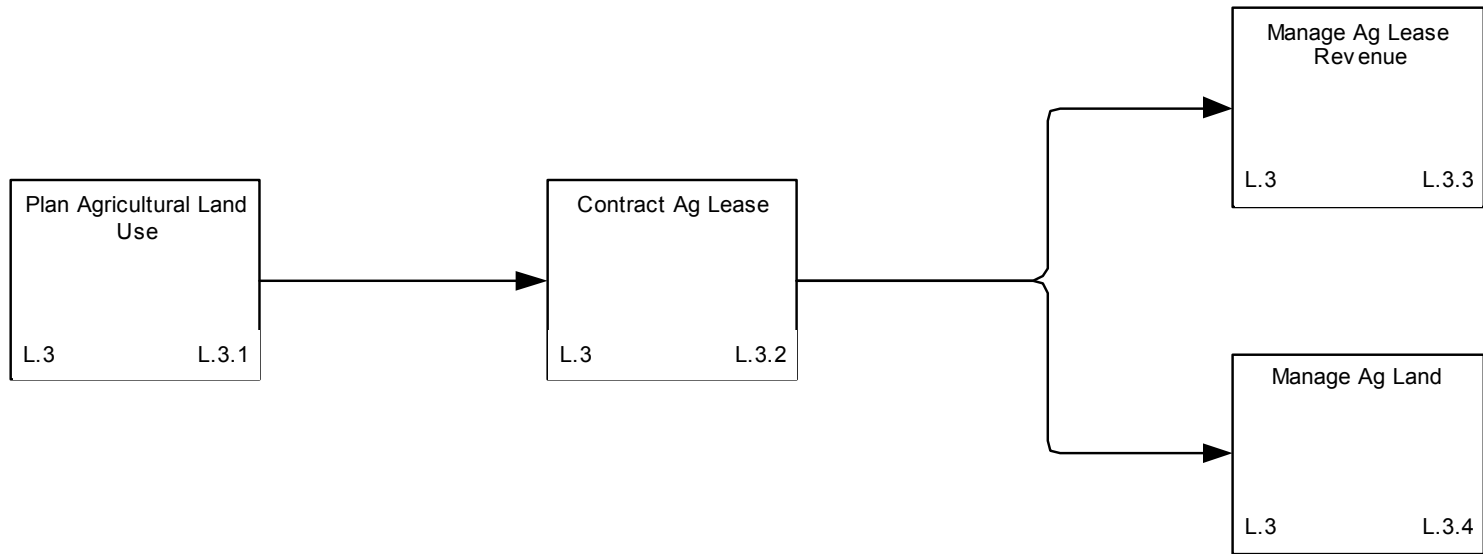
Smaller tracts of land, often 10 to 320 acres in size, and generally multi-purpose in nature, are issued agricultural leases, to allow either or both farming and pasture grazing activities. For example, it is quite common for a farmer to concurrently have cereal crops as well as a few horses or a small herd of dairy or beef cattle. This multiple use of agricultural land is contracted through an agricultural lease covered by 25 CFR 162 regulations, and is described in the Agricultural Leasing process (L.3.1). Where a single use is made of these smaller tracts of agricultural land, say for grazing, the same agricultural lease process and obligations are utilized. This is most notable in Eastern Oklahoma, Midwest, and Southern Plains regions of the BIA, but occasionally occurs in other regions as well.



Range Management is typically performed where tracts of land are aggregated into large, commercially attractive, contiguous blocks of rangeland, frequently thousands or tens of thousands of acres in size, called Range Units (RU's). These activities are covered in the Range Management process (L.3.2), and contracted through single use Grazing Permits covered by 25 CFR 166.

Agricultural policies and procedures are varied at regional, Agency, and Tribal levels to accommodate individual Tribal objectives and land use codes. Some contracted or compacted Tribes have developed programs that may better fit the local land characteristics and Tribal priorities.

Following is a high level diagram of the Agricultural Leasing process:



**Figure 4.3.5.4- 1 Agricultural Leasing High Level Diagram**



#### **4.3.5.4.1 Plan Agricultural Land Use (L.3.1)**

Starts with: Agricultural leases within 1 year of expiring or a request for agricultural land use.

Ends with: Document estimated lease or permit value and stipulations for use.

Several Reservations have planned agricultural leases on synchronized schedules with a common block of lease expirations for all agricultural land tracts within the reservation, where only one or two Reservations in a region have their block of expirations in a given year. Frequently, this is attempted in order to balance the workload for the BIA Regional office, and to match 5 or 10-year lease terms to USDA program and funding cycles. However, due to individual tract ownership changes, unique soil and drainage characteristics, crop rotations, and leasing requirements specific to each tract, lease terms may not align with such “block” approaches, and may vary between 1 to 30 years. With the above-described variations, in practice most Agencies perform agricultural leasing activities every year.

Miscellaneous permitting generally follows the same process flow as farm/pasture leasing, but typically has substantially lower dollar value, is performed less frequently and with greater seasonality, and occasionally skips steps in the process based on materiality of impact. Examples of land use typically controlled through miscellaneous permits include:

- a) Archaeological research & digs
- b) Hunting
- c) Gathering (berry-picking, etc.)
- d) Recreation
- e) Scientific or exploratory research
- f) Easements for seasonal or short-term use

Planning activities include review site potential for production, determine the tracts available for lease, assess agricultural land condition and suitability, determine the need for conservation measures, and ascertain a value for leasing. Appraisals are requested, usually at a tract level and sometimes at the Tribal level, for a specific type of lease.



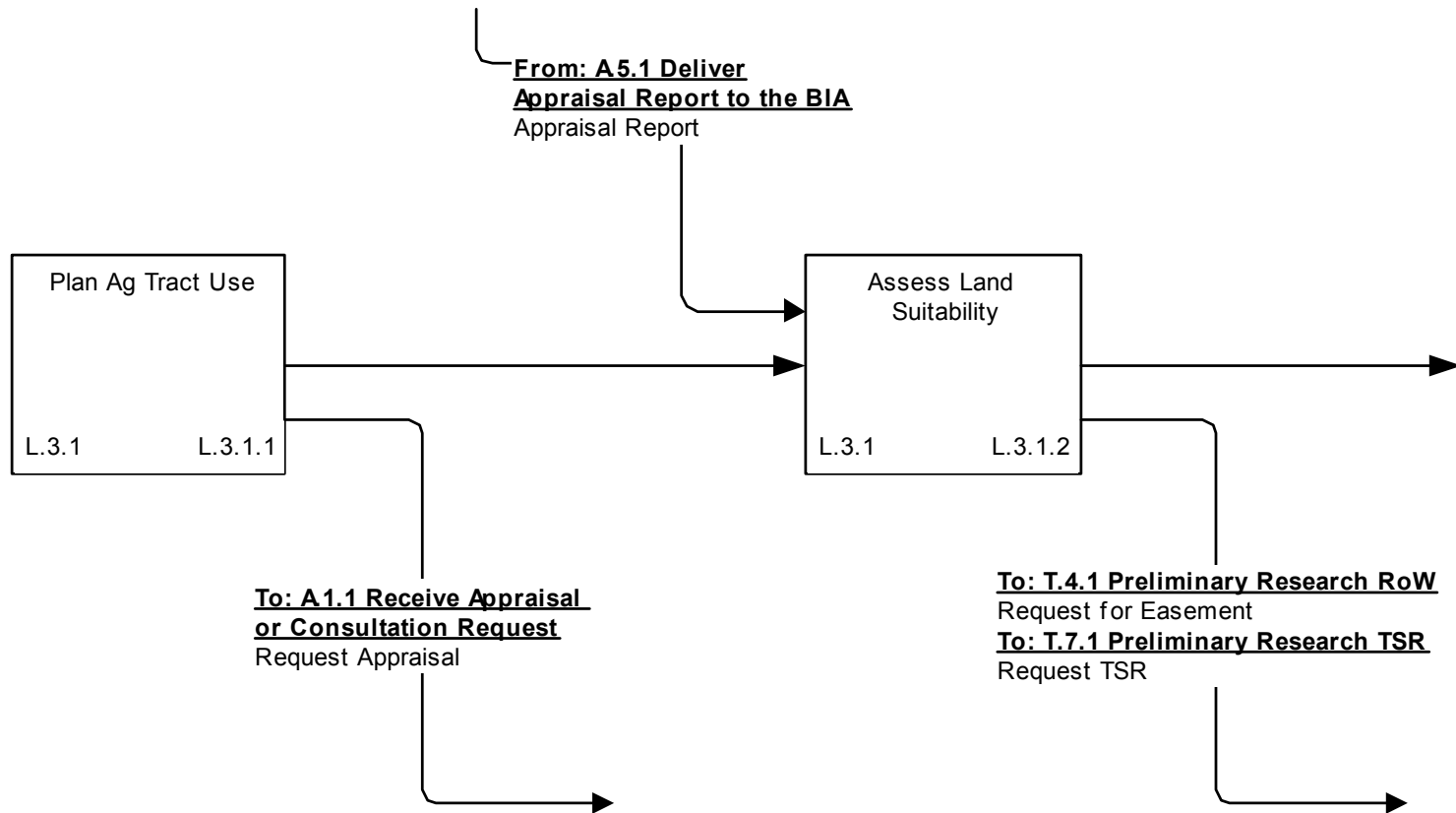


Figure 4.3.5.4- 2 Plan Agricultural Land Use IDEF(3)



## **Beneficiary Involvement for Plan Agricultural Land Use**

Tribes frequently have significant involvement in planning for 100% Tribe-owned agricultural land. They may have Land Use Ordinances and Codes defining Tribal objectives, policies and procedures for agricultural land and agricultural leasing. Where significant agricultural land exists on a reservation, the Tribe usually employs an agricultural or land use committee for this purpose.

Allottees have nominal involvement in planning agricultural land use, especially where fractionated ownership interest exists. There are two exceptions to this. First, landowners may aggressively seek prospective lessees and negotiate the land use themselves, forwarding the applicant and proposal to the relevant BIA office. This is most common where there is a sole owner-interest or fractionation is quite limited. Second, prospective lessees may pursue the use of agricultural land with high commercial value by courting landowners aggressively. The applicant forwards a proposal for use, with landowner-interest approvals, to the relevant BIA office for application to lease.

## **Plan Agricultural Land Use Significant Notes**

- a) A number of BIA regions with significant agricultural land resources report numerous Tribes or Reservations without formal planning or leasing systems. A number of Tribes were also described as performing leasing with nominal participation or notification to the relevant BIA office(s), even when allotted-ownership-interests existed.
- b) A large amount of land (roughly estimated at 1 million acres) exists as Public Domain Allotments (PDA's). PDA's are parcels of land allotted to Individual Indians from public domain land. Most of these tracts are relatively small, in the vicinity of 10-160 acres, are widely scattered, off-reservation, and generally are not being managed or tracked. Many owner-interests are unaware of their rights or location of the land. Those who are knowledgeable frequently report the land as used by third parties in trespass. PDA's were granted over a period of time early in the 20<sup>th</sup> century. Tracking their location and current ownership-interests is highly problematic. For example, many have not been reported to the BIA for probate, and potential heirs may be unaware of their potential ownership, the location and/or current use of the property, and the BIA may not have records of dispositions, leases, or other activities relevant to the property. Most BIA involvement on these tracts is upon notification of third parties in potential trespass. Existing programs focus on Reservation land managed currently under lease. As a result, it is problematic to substantiate and quantify information on the PDAs and the magnitude of the related problems.
- c) 25 CFR 162 requires a Conservation Plan of Operation for each agricultural land tract. Conservation plans are not performed on a regular basis. They are updated primarily when circumstances require it, such as in the event of lease expiration, natural catastrophic events, or escalated trespass issues.
- d) Wide variances exist between agencies which may or may not be involved in miscellaneous permitting. This may preclude visibility to land use, and may not consistently address ownership-interest rights. Where land is more desirable, for example lakeshore and recreationally oriented tracts, this frequently results in increased disputes over land use and rights to receive income from its use.



- e) Lessees normally participate in application, selection, and lease approval processes for each lease period. In practice, there is a high incidence of repeat lessees, in essence amounting to lease renewal rates of 80% or better. Tribes and BIA Agencies desire high renewal rates. . High turnover of lessees substantially increases leasing workload, and increases motivation to maximize land productivity for the single lease period.
- f) Certified or uncertified Title Status Reports may be requested from the Title plant, but most BIA agencies and Tribes produce their own uncertified ownership lists.



## **Plan Agricultural Land Use Detail Description**

### **Plan Agricultural Tract Use (L.3.1.1)**

Starts with: Agricultural leases within 1 year prior to expiring.

Ends with: Complete a conservation plan of operations, and, update stipulations for agricultural lease use.

Activities are initiated primarily by the upcoming expiration of an agricultural lease, approximately one year or so preceding the expiration date. They may also be triggered by an application for tract use, or, by a lease cancellation.

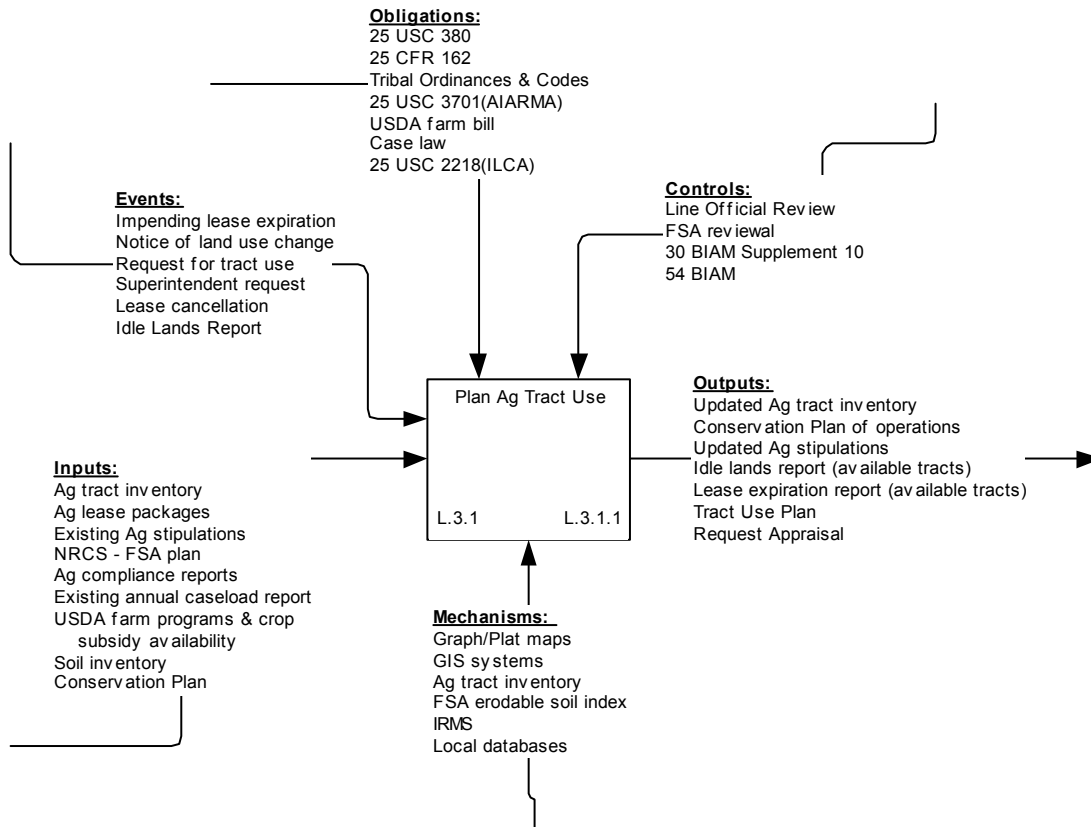
These activities review and plan utilization of agricultural land in the geographic area covered by the local BIA office. The planning period and lease dates vary between geographic areas, primarily dependent upon the types of crops grown, the seasons and number of crop cycles per year, the type of animals pasturing, and the forage seasons dependent upon the weather patterns. For example, winter wheat, cotton, apple/pear orchards and wine grapes all have substantially different growing and harvest times.

Refinements to conservation or land use plans are prepared, and stipulations for land use are reviewed and updated as necessary. Reports are generated as deemed appropriate by the local BIA line official. The two most common are an Idle Lands Report, and an annual caseload report.

The BIA agency may request appraisals upon addition/deletion of land to tracts available for use, or upon change of use. Some agencies may request an annual appraisal valuation for general types of agricultural land use at a reservation level but often request appraisals at the tract level.

Short-term leasing, especially for recreational and lakeshore use permits, may commonly be conducted without significant BIA involvement or awareness. The four major profiles of processing land use contracts for non-commercial-farming are as follows:

- a) Tribes plan and lease property, directly pay owners, with no participation by the BIA.
- b) Tribes plan and lease property, directly pay owners, providing copies to the BIA. This may occur either as post-facto notice, or may be provided for BIA line official approval and signature on the lease.
- c) Tribes plan and lease property, and provide the lease to the BIA for collection and distribution of payments.
- d) Tribes may participate in planning, with the BIA performing leasing, collection and distribution activities.



**Figure 4.3.5.4- 3 Plan Agricultural Tract Use IDEF(0)**



### **Assess Land Suitability (L.3.1.2)**

Starts with: Confirm availability of land for agricultural lease.

Ends with: Plan lessee selection process, and develop Appraisal Report.

A suitability assessment includes confirmation of all aspects of asset availability required as prerequisite to drafting a contract for the land. This includes confirmation of title and ownership, location and condition of the land, estimated volume and value for its use, timing of availability, and easements required to operate it under the Conservation Plan of Operations identified in the Plan Agricultural Tract Use process (L.3.1.1). The purpose is to assess the availability and capability of the land to support farming, pasturing, recreational, or other identified uses.

For agricultural land that has been historically fenced and leased for farm/pasture use, the primary focus of determining land suitability is on idle land, permit expiration timing, crop rotations, water availability and animal stocking rates. Proposed changes in land use, newly created Trust agricultural land, or activity with potential land impact (e.g. breaking the surface), requires a NEPA compliance process to assess the impact. The scope of activities performed and duration of this process vary significantly, dependent upon the scope of the proposed changes. They include but are not limited to the following:

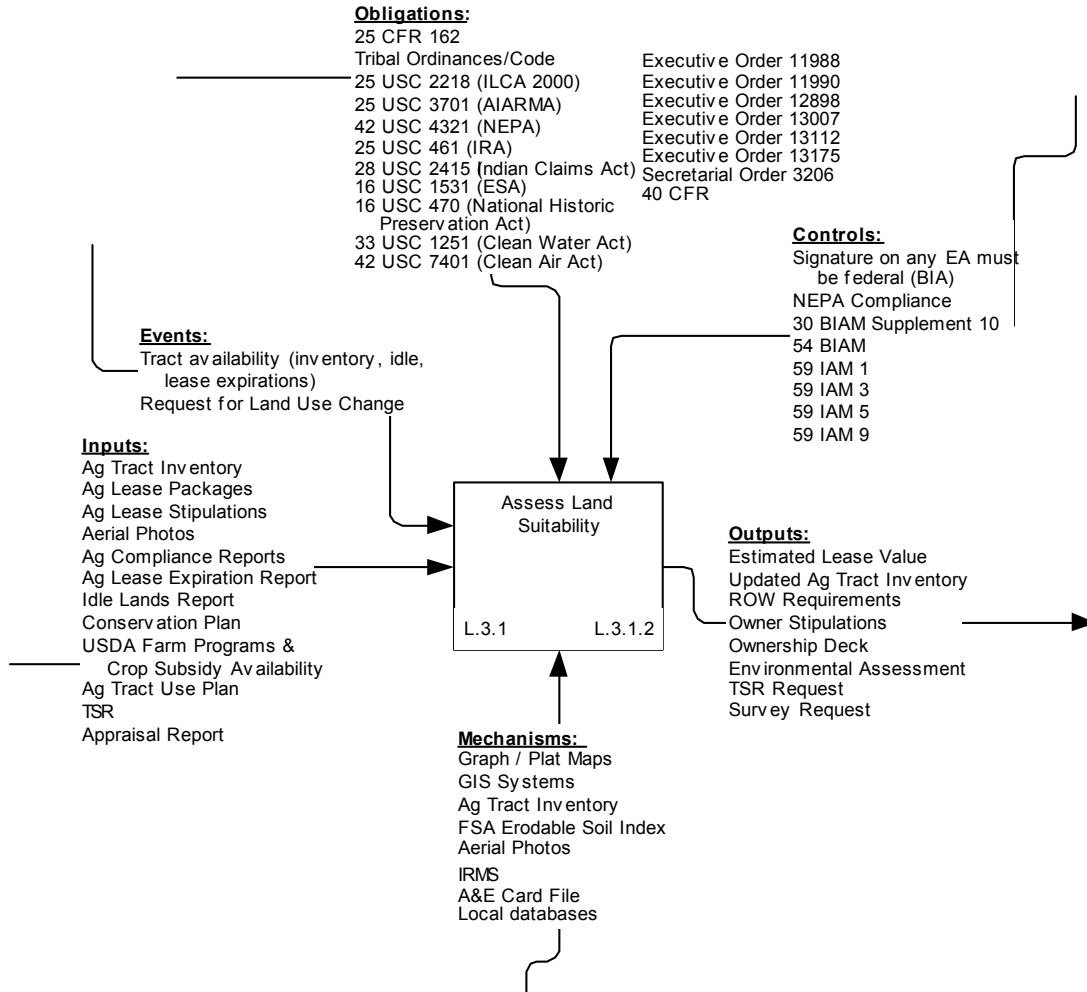
- a) Impacts to other resources (e.g. fish, wildlife, homesite development)
- b) Cultural impacts
- c) Archeological impacts – defined by National Historic Preservation Act (NHPA section 106) for archeologically significant properties
- d) Soil, water, air quality impacts

The output of the NEPA process differs dependent upon the identified impacts. Major types of NEPA reporting are:

- a) Categorical Exclusion (“CatEx”) - if Congressional, statutory conflict, or other circumstances provide the bypass of any detailed assessment
- b) Finding Of No Significant Impact (FONSI) – the proposed use or change will “not significantly” affect the quality of the human environment
- c) Environmental Impact Statement – after the performance of an Environmental Impact Study with review and comment periods for affected groups
- d) A Record of Decision (ROD) – to document the activities performed, choice of report issued, and rationale for the decisions reached

The BIA agency may request appraisals for changes in land use. Formal appraisals produce an Appraisal Report.

A Title Status Report may be requested to determine current ownership, verify location and encumbrances of the property. In some case, the agency may rely on local records to determine ownership interests.



**Figure 4.3.5.4- 4 Assess Agricultural Land Suitability IDEF(0)**



#### **4.3.5.4.2 Contract Agricultural Lease (L.3.2)**

Starts with: Prepare draft schedule of land available for lease.  
Ends with: Approve and sign agricultural lease.

The inventory of agricultural land tracts is reviewed, and a schedule or list is prepared of land available for agricultural leasing. Expirations of existing leases, idle or currently non-leased lands, and requests for agricultural land use are included in this review.

BIA agencies, in conjunction with Tribal consultation and interested allottee interests, set an appropriate priority sequence of activities for selection of agricultural land lessees. A schedule is developed for each reservation, with consideration of unique land base, and market conditions, to ascertain the selection process appropriate for each tract. Processes may include one or several of the following:

- a) Tribal agricultural land use
- b) Negotiated Tribal agricultural lease
- c) Owner use of agricultural land
- d) Negotiate agricultural lease
- e) Conduct agricultural lease bid process

Local land characteristics, social and cultural environments significantly influence the tracts entering the bid process. In some areas, farmers negotiate terms favorable to the beneficiaries on the best land available. The remaining agricultural tracts may be substandard in their soil, water availability, etc. and bidding may be the best way of getting any operator to use the land to prevent it from going idle and resulting in reduced value. Other areas may have lands in high demand, such as riverside or irrigated tracts, where adjacent non-Trust lands are less productive. In these instances, demand may be high enough to utilize the bid process to command premium rental rates above the regionally-appraised rental rates.

Determination of which process to use in selecting the lessee is left to the relevant Tribe and BIA specialist, as they know the characteristics of the specific land, the relative demand for it in the local market, and the background and history of most local candidate lessees, in order to judge which process will provide the best overall value in terms of operator stewardship and rental income.

For Tribal lands, the Tribe itself generally performs a negotiation and assignment process to grant agricultural leases, or rights to utilize agricultural land. Most Tribes limit this to Tribal members, or utilize the tracts for use by a Tribal enterprise. Where the Tribe is unable to select a qualified operator, it may request the BIA to assist through either a negotiated or bid process to select a lessee.

Once a lessee has been selected, if the ownership contains allotment-interests, an owner consent process is performed to obtain approval from a majority of the ownership-interests for specific lease terms. All conditions to be met prior to lease approval are verified, pre-lease payments are collected, approvals are authorized, and the lease is signed and perfected. Collections are forwarded to the correct organization for deposit – the FFS for non-Trust funds, and OST/OTFM for Trust monies. Leases are forwarded to the applicable Title plant for recordation as encumbrances to title.



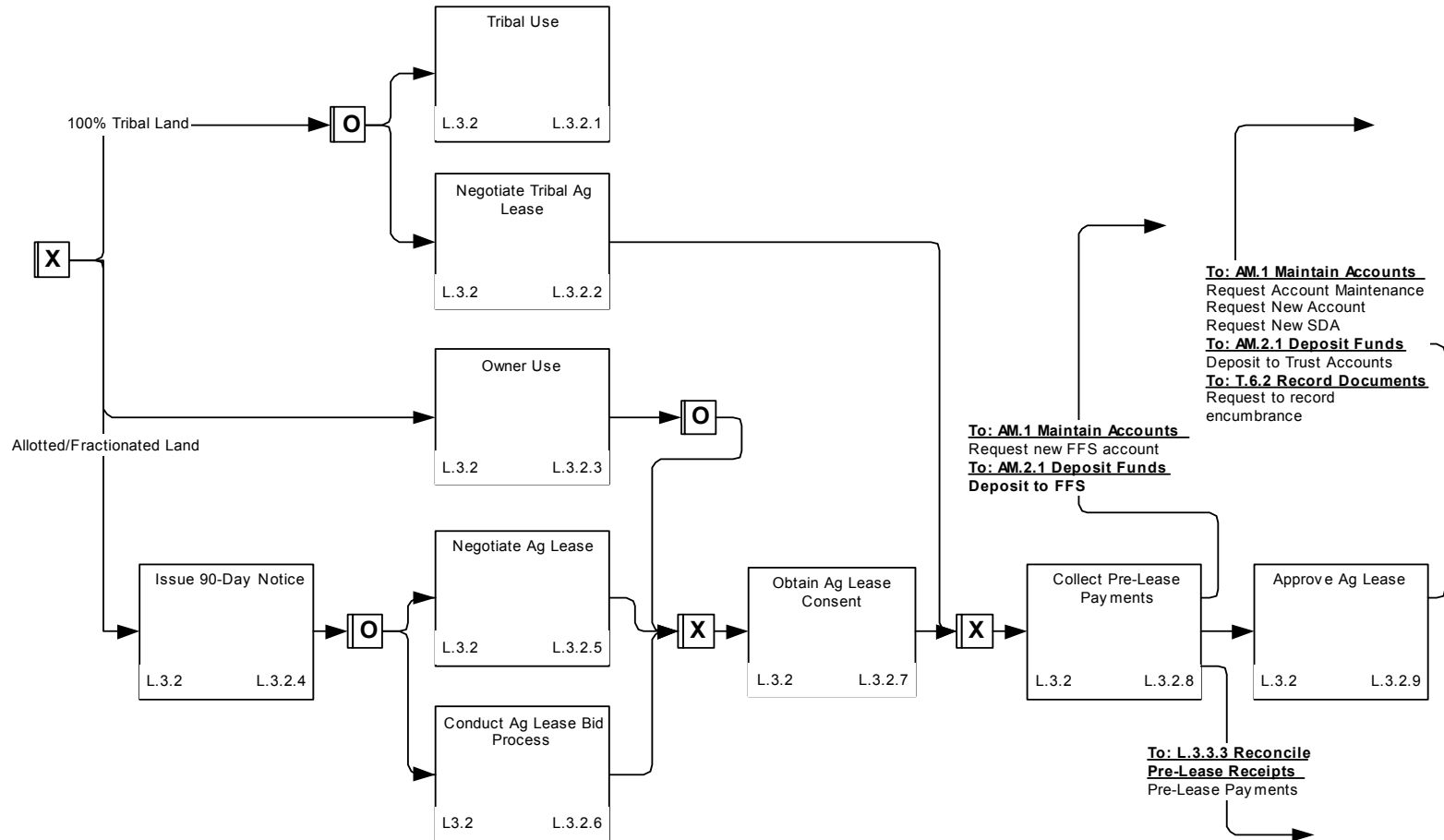


Figure 4.3.5.4- 5 Contract Agricultural Lease IDEF(3)



## **Beneficiary Involvement for Contract Agricultural Lease**

Discussions are held with Tribes regarding the overall land utilization, the priorities and sequence of activities for lessee selection, and any Tribal stipulations or impending leases. Tribal IRMPs, Resolutions, Ordinances, and Codes frequently provide both guidance and limitations as to the land utilization, and the leasing processes.

Allotted landowner involvement is more substantial than the similar process in Range Management (L.2.2). Range Units frequently comprise thousands to tens of thousands of acres across many tracts. By contrast, agricultural tracts for lease are frequently 10–320 acres, and tracts are not usually aggregated together into a single unit for lease.

Individual beneficiaries are involved in two separate activities. First, notification is provided to them of impending availability and intent to lease or use the land. This process generally takes place approximately one-half of a year prior to the existing lease expiration or prospective lease date. BIA agencies utilize this similarly to the Obtain Authority to Grant activity in Range (see L.2.2.2). Second, many BIA agencies, per the new 25 USC 2218 (ILCA 2000), require consent from a majority of the ownership-interests prior to approving an agricultural lease.

## **Contract Agricultural Lease Significant Notes**

- a) BIA line officials use a wide variety of approaches to obtain the authority from fractionated land ownership to lease or permit agricultural land. There is no single approach used by a majority of agencies or field offices. The baseline described above is, perhaps, the most common approach, but many variations exist. Some agencies use an original 90-Day-Notice issued years ago as the authority in virtual perpetuity. Others issue 90-Day-Notices every lease period. Still others obtain an actual majority of ownership-interests' written consent both to authorize negotiations, and after lessee selection/finalization of terms. There is a wide degree of variation in the application of the assumptions and authority provided to BIA line officials in applying their judgment to vote for the non-responding or non-compos metis ownership-interests. Some line officials aggressively exercise the authority to keep land leased and operated, while others are more reluctant to act without obtaining a positive majority response.
- b) There are many combinations of how lessees are selected, how leases are processed, all significantly influenced by Tribal land codes, historical land tenure rights, and objectives of the Tribe. Some Tribes also have authority through Self Determination Contracts or Self Governance Compacts to conduct their own agricultural leasing or agricultural land use rights processes, which may differ from what is described here.
- c) Often, all requirements in the pre-lease checklist, as described in Process L.3.2.9, Approve Ag Lease, may not be completed in a timely manner and jeopardize the ability to perfect the contract as desired by both lessee applicant and the beneficiaries. This results in a relatively wide variation of approaches to resolve the lease requirements, especially NEPA compliance clearance, and a Title Status Report (TSR). For example, the line official may develop an informal policy for the program staff or realty specialist to research any locally available documentation to prepare an uncertified TSR; e.g., from A&E cards, or local databases, which may be inconsistent with the Title Plant's relevant records. In other cases, particularly involving NEPA compliance, the lack of formal clearances delays or precludes the lease.



- d) In many cases, Tribes confer agricultural land use rights and land tenure rights, sometimes through an agricultural lease, sometimes through Tribal Resolution and/or Tribal land assignments, or through informal historical-use understandings.
- e) Direct payments and signing bonuses are a common occurrence between agricultural land lessees and individual beneficiaries. These are not described as part of the baseline process depicted here. Such direct interaction bypasses BIA resources, and is frequently untracked and known only through anecdotal reference. For further detail, see Chapter 5 discussion on direct payment.
- f) A wide variety of policies and procedures exist to collect funds related to agricultural leasing and forward it to the OST/OTFM organization for accounting and distribution to the beneficiaries. Line officials use different approaches to resolve the problem of what to do with funds collected prior to knowing which funds are Trust, which are non-Trust, and prior to the ability of the local BIA resources to properly provide a distribution advice with the funds and forward to OST/OTFM. This frequently results in untimely and error-prone tracking of the funds.
- g) Awareness and recordation for owner use of fractionated-interest land is meager at best, most frequently triggered when the BIA is notified by complaint of a co-owner's use of land without consent of the remaining co-owners. BIA resolution of contentious disputes is limited, since resources are not empowered to process trespass against an agricultural land operator who has ownership-interest in the property.



## Contract Agricultural Lease Detail Description

### Tribal Agricultural Land Use (L.3.2.1)

Starts with: Receive notification from Tribe of intent to use land for agriculture.  
Ends with: Update agricultural tract inventory.

This process is initiated and performed primarily by Tribes, on agricultural land that is 100% Tribally-owned. Typically, Tribal agricultural or land use committees develop plans for the Tribe or a Tribal Enterprise to use agricultural land, as provided for by 25 USC 477. Formal documentation and agricultural Leases for Tribal use are rare, and typically only issued when the Tribe requires a legal document to secure financing for equipment or land improvements related to agricultural land operations.

The BIA is informally notified of Tribal intent to use agricultural land. Local resources update the BIA agricultural tract inventory with pertinent information provided by the Tribe.

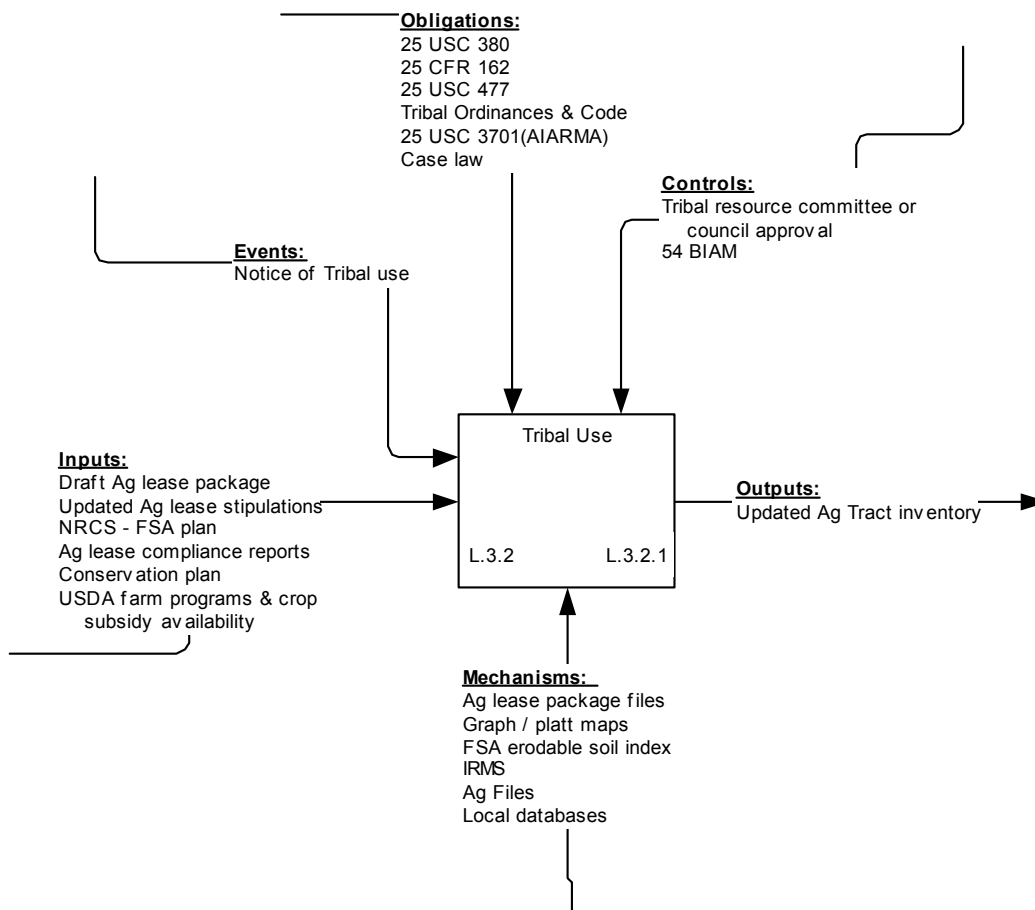


Figure 4.3.5.4- 6 Tribal Agricultural Land Use IDEF(0)



### Negotiate Tribal Agricultural Lease (L.3.2.2)

Starts with: Tribe receives applicant request for negotiation.  
Ends with: Select lessee, and draft lease package.

This process is performed primarily by the Tribe to select an individual operator of agricultural land for 100% Tribally-owned property. Tribal culture, Land Codes, social customs and historical patterns of land use guide the Tribe’s discretion in selection of the operator, and whether the operator is required to record an agricultural lease, or whether a Tribal Resolution, land assignment, or informal agreement is sufficient to guide the terms and conditions of the land use.

Various Tribes grant land assignments to individual enrolled members. This typically has the same effect as granting a revocable life estate. This type of use cannot be encumbered (e.g. cannot be used as mortgage collateral, or, have liens attached to it, or be appropriated by a non-Tribal member for debts). Usually, where land assignments have been granted, no agricultural lease is recorded, and the Tribe may or may not forward the assignment information to the BIA for recordation in its realty systems.

Other Tribes may require the formal documentation of an agricultural lease, or may not find enrolled members who qualify for land assignment or operation of agricultural land and hence lease to a non-Tribal-member. Candidates are solicited and may or may not be Tribal members. Negotiations are conducted. When a candidate meets leasing requirements and acceptable terms, a selection is made. The Tribe may also request BIA participation in the negotiation, drafting, or approval of the agricultural lease package. The drafted lease package is then forwarded to the BIA for recordation.

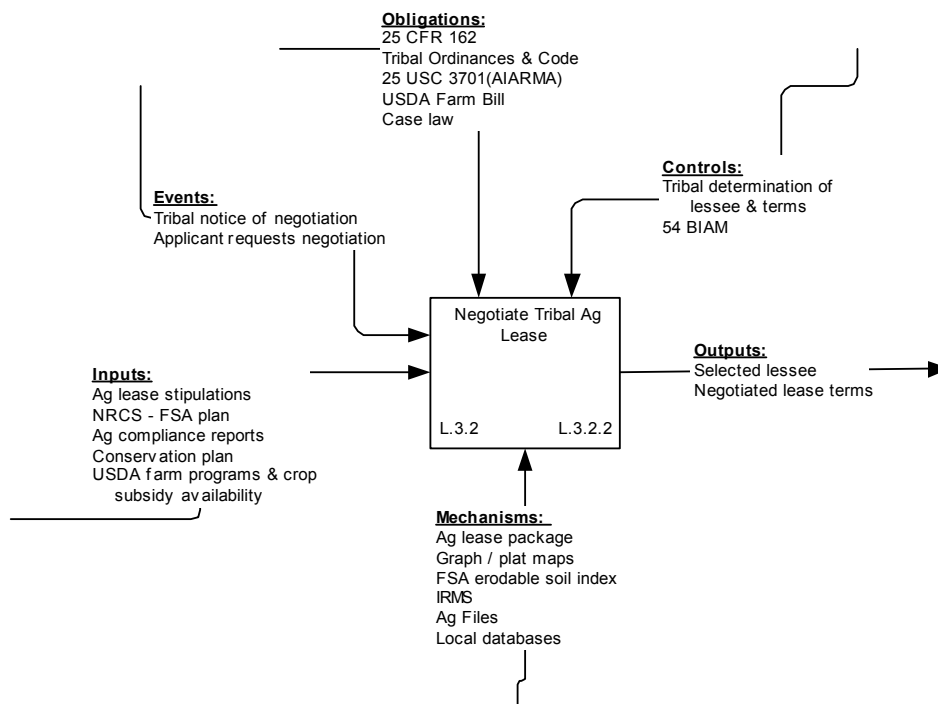


Figure 4.3.5.4- 7 Negotiate Tribal Agricultural Lease IDEF(0)



### **Owner Use of Agricultural land(L.3.2.3)**

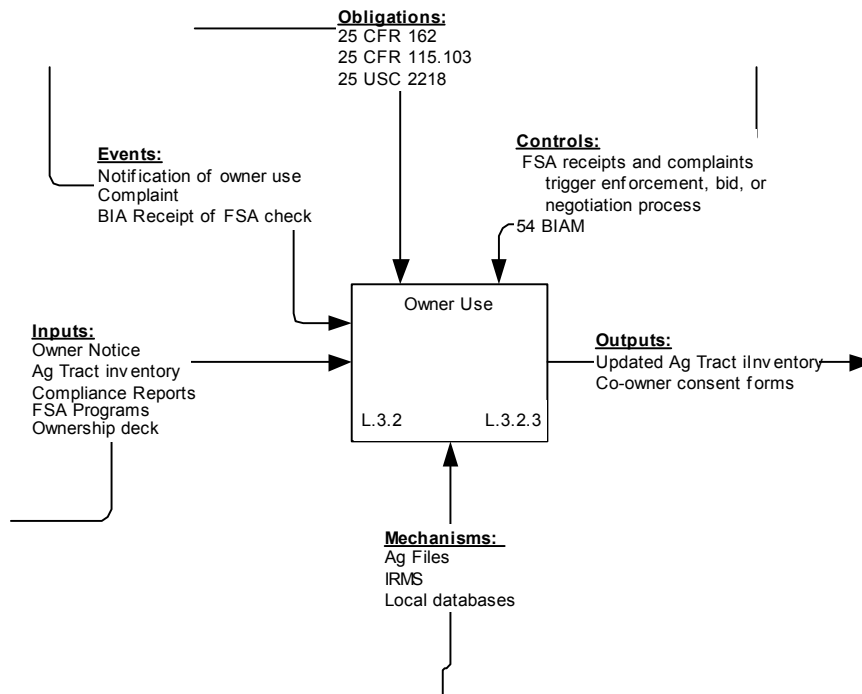
Starts with: Receive complaint, receive Farm Services Agency (FSA) funds for agricultural land or, receive owner-interest notification of intent to use.

Ends with: Update agricultural tract inventory.

This process is performed infrequently, and the majority of agricultural landowner use is unrecorded. The most frequent trigger initiating this process is complaint by a co-owner of tract use without that co-owner’s consent. Another event starting an analysis culminating in recordation of owner use is the BIA receiving or being notified of FSA funds, such as land improvement funds or crop subsidies received through the use of agricultural land in conjunction with Natural Resource Conservation Service (NRCS)/FSA administered farm programs. Lastly, some owners notify the local BIA office of intent to use the tract in which they have an interest.

Leases are not typically issued in cases of owner use. Upon notification, the BIA requests the owner to obtain majority consent of co-owners for use of the tract, under guidance according to both 25 USC 162 Agriculture Leasing and the 25 USC 2218 ILCA regulations. Once consent is obtained, the BIA files the consent in the local office agricultural tract files. If the owner-operator is unsuccessful in obtaining consent from co-owners, the BIA attempts to mediate the situation, and may negotiate an agricultural lease to compensate the co-owners for the use of their interest in the land. Contention over use of fractionated ownership land is common, many times ending in unresolved disputes between ownership interests.

In these cases, the agricultural tract inventory is updated to show the land status as idle, but not “leasable”.



**Figure 4.3.5.4- 8 Owner Use of Agricultural Land IDEF(0)**



### **Issue 90-Day Notice (L.3.2.4)**

Starts with: Confirm availability of tracts for agricultural lease.  
Ends with: Compile 90-day notices response report.

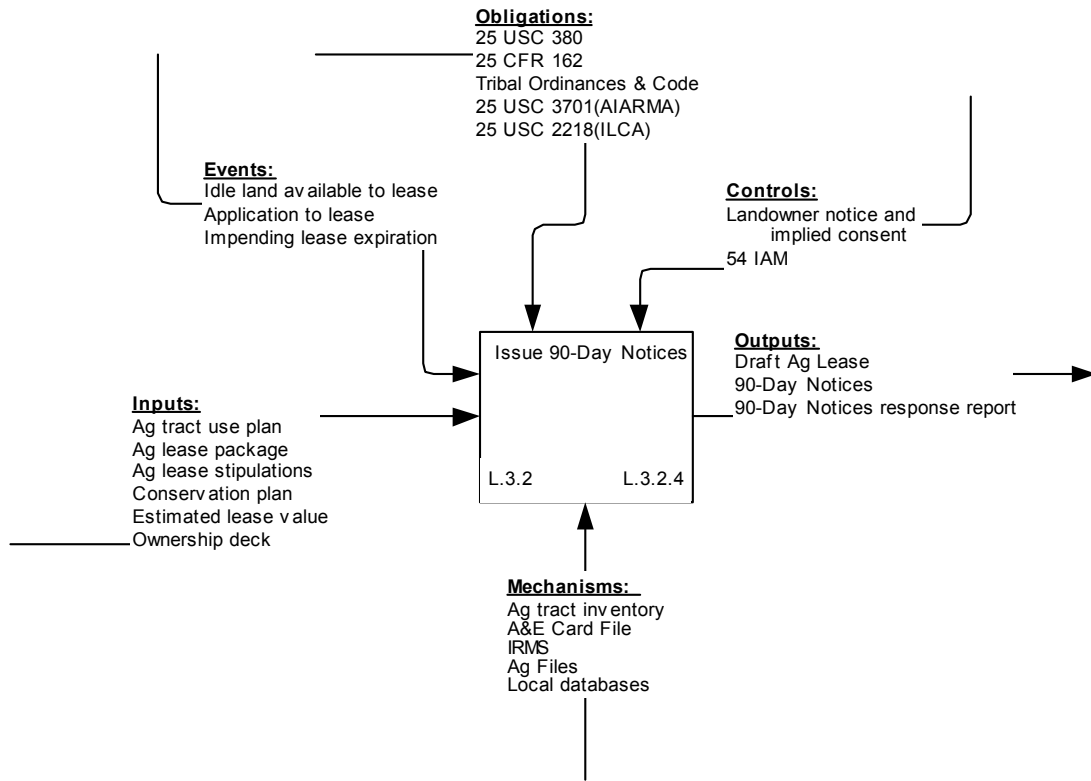
Agency realty specialists review agricultural tract inventory records and issue 90-day notices to the ownership-interests of record. Sources of the ownership-interests are varied dependent upon the responsiveness and backlog of the pertinent Title Plant office, and what systems of ownership are available to the local BIA office performing this process. An ownership list is created from whatever source is available in a timely manner.

The notice informs landowners of impending use of the tract of their ownership-interest, and provides them 90 days to identify a candidate lessee and negotiate alternative lease terms within that period.

Landowners can concurrently negotiate terms with prospective lessees, respond to the BIA with consent or that they do not wish to lease the land, or provide no response. All responses are filed and a 90-Day-Notice response report is compiled. Line officials, generally the BIA agency Superintendent, are authorized to vote interests for non-respondents, non-compos-mentis owners, owners whose whereabouts are unknown and minors.

A consent report is compiled, aggregating all responses including the ownership-interests voted by the BIA line official. If no alternative lease proposal is received, nor a majority of the ownership-interests respond negatively, the BIA specialist usually proceeds to the next activity in selecting the lessee. A number of line officials expressed reluctance to authorize granting a lease in the absence of written, confirmed, positive majority responses directly from the ownership-interests.

Objections to leasing are reviewed by the appropriate land operations specialist or line official. Aside from minority objections, a draft lease package may be prepared, such as a pre-lease action item checklist, terms, bonding requirements, pre-lease payment requirements, and is made available to candidate lessees as appropriate (e.g. for lease “renewals”).



**Figure 4.3.5.4- 9 Issue 90-Day Notices IDEF(0)**





### **Negotiate Agricultural Lease (L.3.2.5)**

Starts with: Receive application for agricultural lease.  
Ends with: Select lessee, draft lease package, and update files.

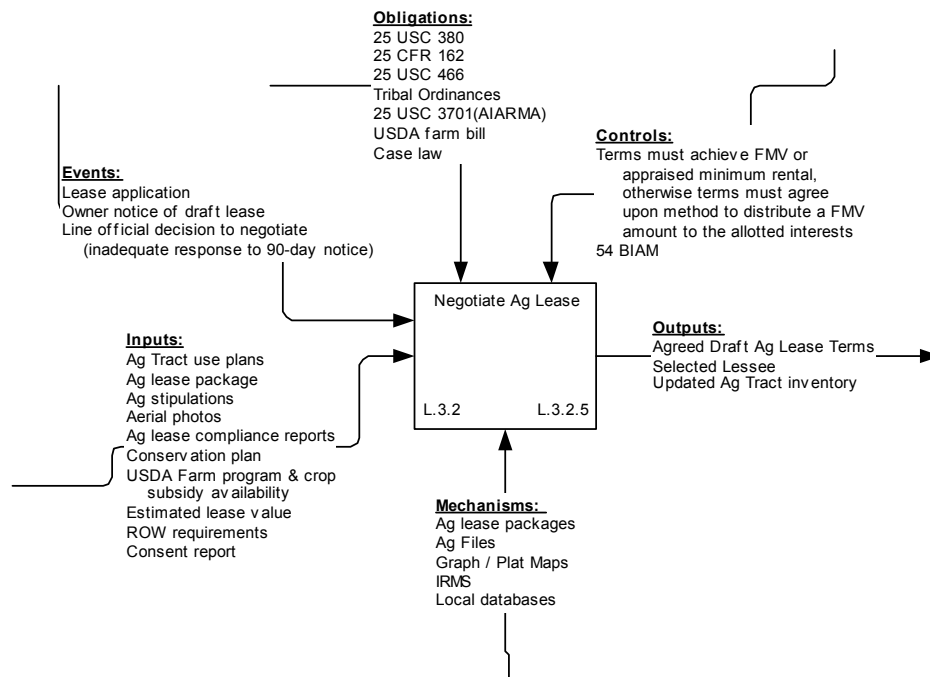
This option of selecting a lessee is performed when:

- a) Tract is allotted land
- b) Candidate lessee application is completed
- c) 90-Day Notice authority has been obtained

Negotiation is planned in priority sequence to select a lessee during the Plan Agricultural Land Use process. At this point, it has been determined that negotiation is the best method of obtaining the most qualified lessee at the best rental rate.

Negotiation may also begin with notice or application to a Tribe for use of the property, and end with a selected user/operator. When this happens, the property involved is usually a tract which either has fractionated interest including both Tribal and allottee interests, or where the property has been planned as a unitized lease where both Tribal and allottee lands have been pooled into a single property for lease.

Most agricultural tracts processed through this activity are negotiations with the existing operator to continue farm/pasture operations through another lease period. Continuity rates frequently approach 80+%, and provide a consistent relationship with a known operator. For the remainder, the BIA specialists seek out candidates and negotiate the best terms possible, with inputs from the appraisal report, the conservation plan of operations, existing compliance reports, etc. Once the lessee is selected, agricultural tract inventory files, realty and billing records are updated, and a copy of the draft lease package is provided to the lessee.



**Figure 4.3.5.4- 10 Negotiate Agricultural Lease IDEF(0)**



### **Conduct Agricultural Lease Bid Process (L.3.2.6)**

Starts with: Record 90 days elapsed since issuance of 90-day notices, and, no receipt of owner-negotiated terms with prospective lessee.

Ends with: Select lessee, draft lease package, and update files.

The bid process is planned in sequence of priority during the Plan Agricultural Land Use process. At this point, it has been determined that open market bidding is the best method of obtaining either a qualified lessee, or obtaining the best rental rate from qualified operators. Virtually all agricultural tracts put up for bid are lands with fractionated ownership, but occasionally Tribes request the BIA to put Tribal land up for bid.

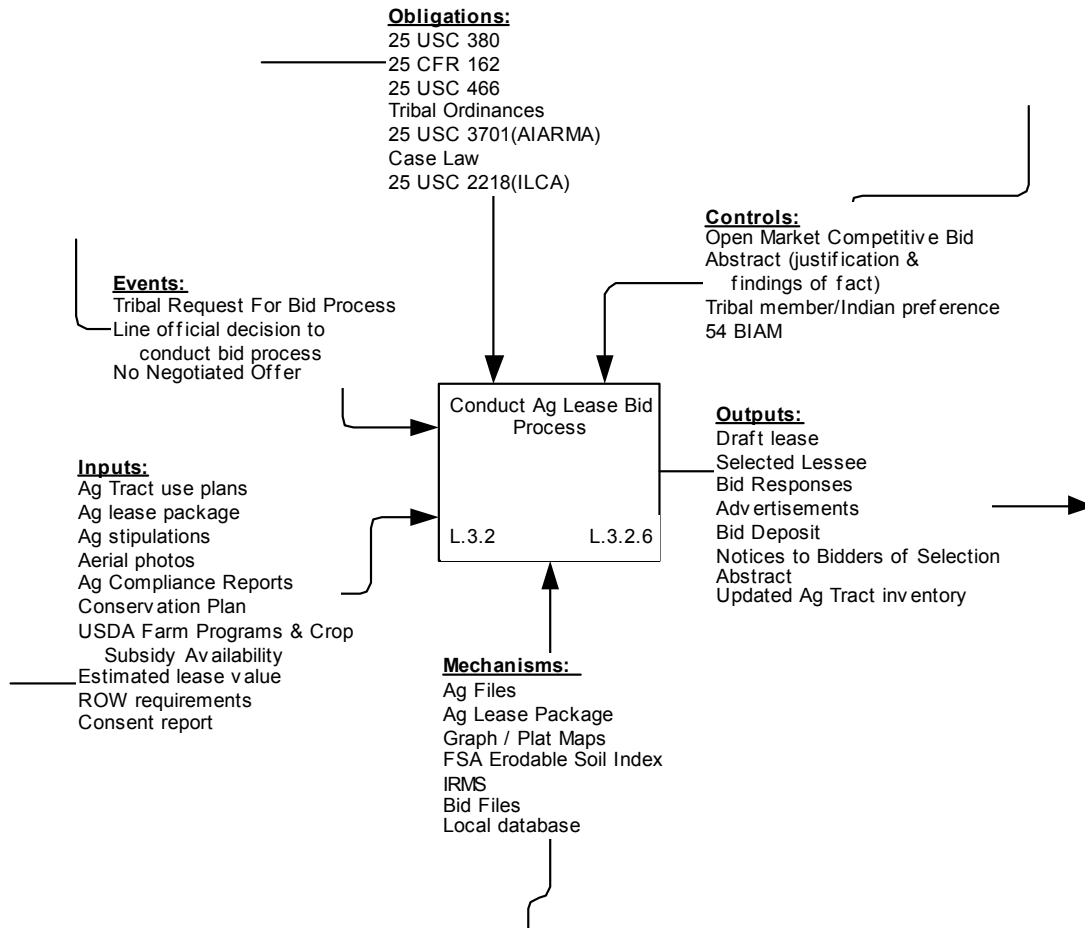
Information is compiled from previous suitability and monitoring activities to provide adequate descriptions and create an advertisement. Advertisements and public notices are issued. Generally, realty staff issues one mass advertisement per year for all agricultural tracts for the BIA agency or reservation. Bid responses are received, reviewed for lessee qualification, price offered and ability to meet the lease package terms, stipulations, and landowner requirements. If the selected bid does not meet all requirements, negotiations are conducted until terms are mutually acceptable, and the lessee selection is finalized.

A 'Finding of Fact' is used to lease at below appraised value. This may have resulted from changes to market value or declining marketability of the particular tract, and to prevent the tract from going "idle". Occasionally no acceptable bids are received, and the BIA may determine to hold another bid process, or initiate a negotiation process with a known qualified operator to minimize the "idle" time for the tract.

Criteria used to select the lessee are typically:

- a) Dollar value of offer
- b) Compliance history
- c) Working relationship with key Tribal members and the BIA

Once the winning bid is selected, and abstract is prepared which describes the bid process conducted, and the criteria and rationale for selecting the lessee. The abstract is reviewed and approved by the local line official.



**Figure 4.3.5.4- 11 Conduct Agricultural Lease Bid Process IDEF(0)**



### **Obtain Agricultural Lease Consent (L.3.2.7)**

Starts with: Issue consent letters.

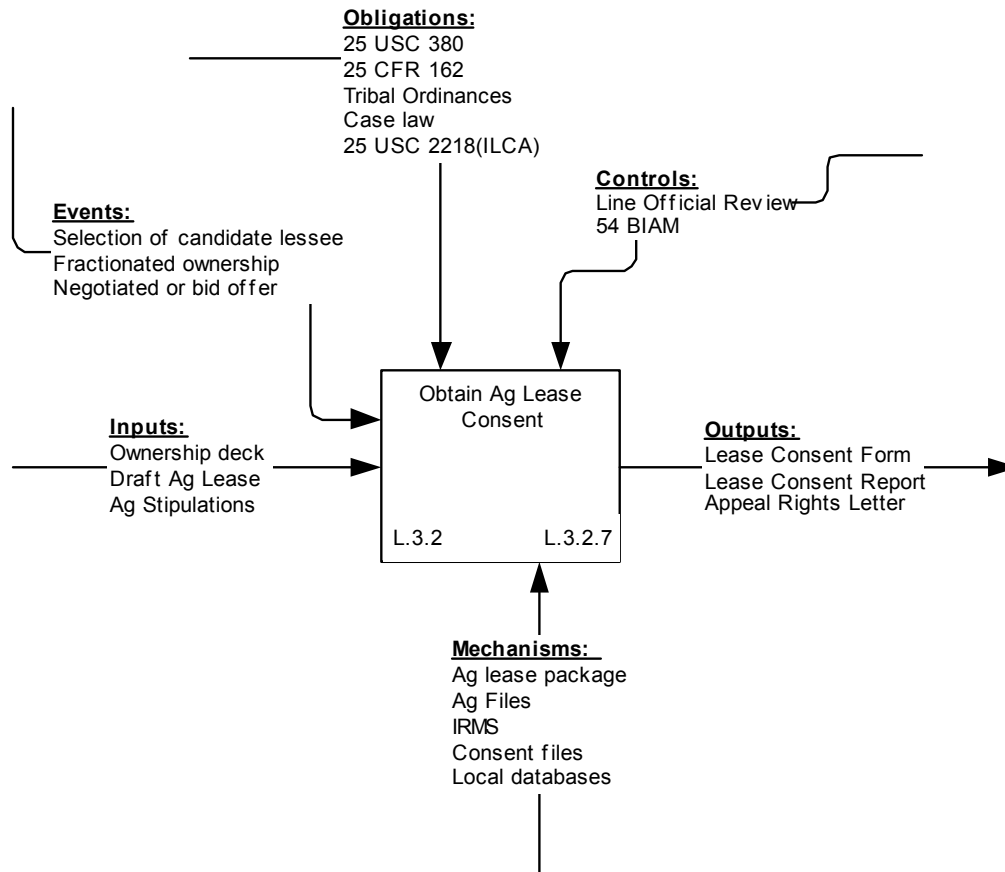
Ends with: Compile consent report.

Once a lessee has been selected and a draft lease package compiled for a fractionated-interest land tract, a process is taken to provide individual beneficiaries with greater involvement in the use of their land. Although some BIA agencies rely exclusively upon grant authority obtained from the 90-Day Notice process, many agencies additionally request a separate consent from a majority of the ownership-interest in the tract after the specific lessee, rental rate, and other terms have been finalized.

Consent letters are sent to the ownership list created in the 90-Day Notice process, along with copies of the relevant terms and conditions. Consent responses are compiled and tabulated. Once appropriate thresholds have been reached, the line official authorizes subsequent activities for collection of pre-lease payments and lease approval. A consent report is compiled documenting the results.

Consent has been redefined with the 25 USC 2218 regulations, specifying different consent thresholds for tracts with different numbers of ownership-interests. In practicality, a relatively low response rate, averaging less than 10%, results in informal rules being applied:

- a) Simple majority consent is usually considered adequate.
- b) Leases are approved where consent does not meet thresholds, as long as co-owners raise no objections.
- c) Consent may not meet regulatory thresholds, or no qualified lessee exists (e.g. withdrawal of interested applicants, non-fulfillment of pre-lease checklist requirements). In these events, the agency Superintendent applies judgment for the best interests of the beneficiaries, preservation of the land, and the sustainable use of the land, to lease the tract. Other known operators may be selected for negotiation, or the tract may be put up for bid process. As a matter of prudent stewardship, the Superintendent may not wait for the consent, and may initiate negotiations with an identified candidate operator directly once the draft lease package assembled.



**Figure 4.3.5.4- 12 Obtain Agricultural Lease Consent IDEF(0)**



### **Collect Pre-Lease Payments (L.3.2.8)**

Starts with: Receive payment from lessee, or, record non-payment by lease date.  
Ends with: Forward deposits to FFS and Accounting.

Generally, collection of the pre-lease payments coincides with the following process, Approve Agricultural Lease (L.3.2.9), as most lessees physically come to the agency office and submit payment at the same time they sign the lease. Occasionally, payment is made through other mechanisms; e.g., mail.

Pre-lease collection may also overlap with the lessee selection activities, specifically if the Conduct Agricultural Lease Bid Process is performed, where bid deposits and performance bonds may be received significantly in advance of the lease date.

Pre-lease payments that are collected far enough in advance of lease approval that they need to be kept segregated from Trust funds available for distribution to beneficiaries may be sent to the Accounting process for deposit into a suspense account.

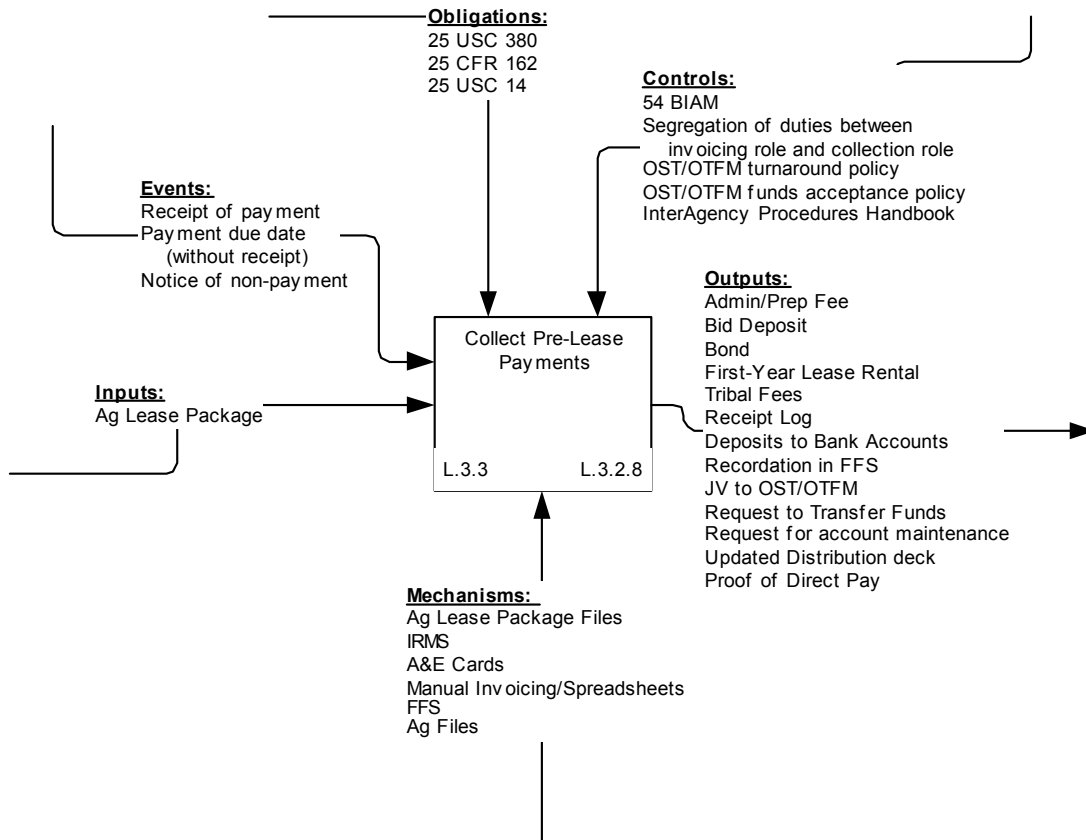
Bills for Collection are prepared and a copy is given to the lessee. The bills may be created proactively, between 30-60 days ahead of payment due date, as an invoice to the lessee, or they may be created after payment has been made, as a receipt.

All receipts are recorded in a mail or collections log. Where adequate staff allow, a mail clerk logs the receipt, a collections specialist logs the payment, and both are segregated in duties from persons who perform the billing. Payments are recorded in the appropriate realty, billing, and collection systems, and may include receipts for any of the following charges:

- a) First year lease rental fees
- b) Preparation and administrative fees
- c) Bid deposits
- d) Performance bonds
- e) Tribal fees and taxes

Checks are held for 24 hours, and deposited to a bank account (suspense account). Once the lease is approved, a distribution advice is prepared, and a transfer request is made to move rental payment funds from the suspense account to OTFM, and non-Trust funds are forwarded to FFS.

Bonds are either held in a BIA safe or deposited (e.g. cash bond) into a non-interest-bearing account in a bank.



**Figure 4.3.5.4- 13 Collect Pre-Lease Payments IDEF(0)**



## **Approve Agricultural Lease (L.3.2.9)**

Starts with: Confirm completion of pre-lease checklist.

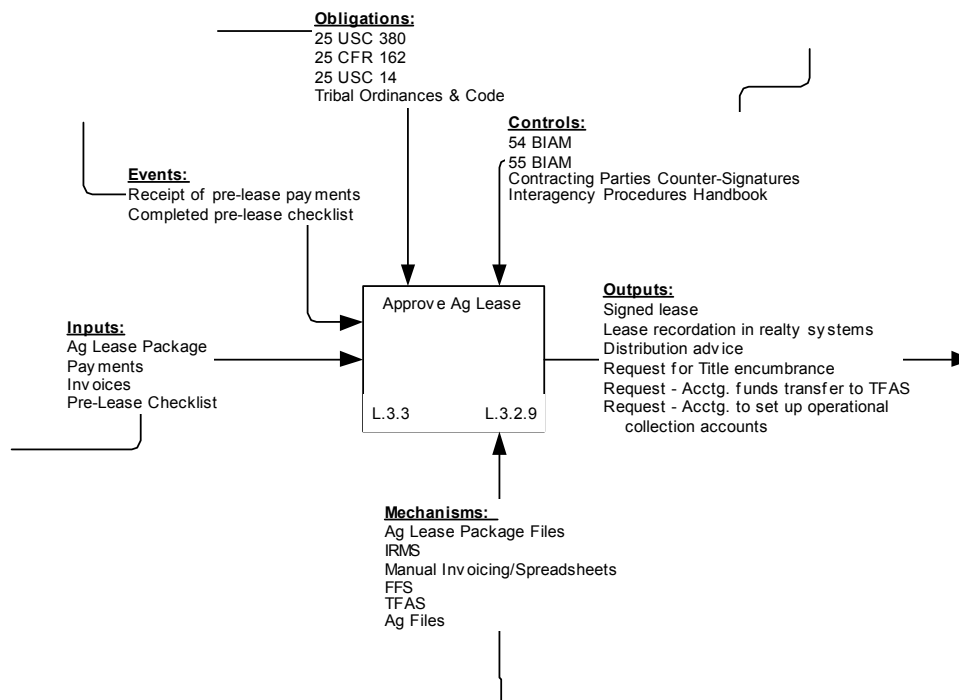
Ends with: Forward funds and distribution advice to Accounting process.

As part of establishing the terms and conditions, each agricultural lease package utilizes a pre-lease checklist, including, where appropriate, specific requirements that must be completed prior to approval of the lease. Examples include but are not limited to:

- a) Pending repairs or improvements
- b) Water drainage or access improvements
- c) Weed control, tillage, soil improvements
- d) Health inspections and immunizations of animals
- e) Appraisal report
- f) Survey or legal description
- g) Title Status Report
- h) NEPA compliance clearance

All pre-lease requirements and obligations are reviewed for completion. The agricultural lease package is finalized and assembled. Copies of the lease are signed and approved. Lease information is recorded in appropriate realty and billing systems. A copy of the lease is forwarded to Title to record encumbrance(s).

A request is sent to OST/OTFM Accounting with a distribution advice and request for transfer of funds to TFAS (note that this may be accomplished in numerous ways: through electronic file transfers, journal vouchers, funds transfer requests, etc.). Requests may also be sent to Accounting to set up appropriate accounts for future operational billing and collection.



**Figure 4.3.5.4- 14 Approve Agricultural Lease IDEF(0)**





#### **4.3.5.4.3 Manage Agricultural Lease Revenue (L.3.3)**

Starts with: Perform annual billing and collection for agricultural lease payments.  
Ends with: Reconcile distribution advice errors and undistributed funds.

Annual billing invoices are sent to lessees, and payments are collected for agricultural tract rentals.

Periodic reviews of collected but undisbursed payments are reconciled. This may include monies such as unreturned bid deposits, cash bonds for performance guarantees, and agricultural lease rental payments not yet deposited to Accounting processes for distribution.

Regular reviews and reconciliations are also performed during the annual billing and collection cycle. This cycle is typically about a quarter (e.g. 3-month to 4-month period) of the year. The BIA agencies collect the payments and usually prepare the distribution advice from different sources than the OST/OTFM Accounting processes (e.g. from A&E cards, local spreadsheets and files, IRMS system). This results in errors and transactional rejections. Such payment transfer interface inconsistencies need to be researched and resolved for the funds to be deposited to the correct beneficiary accounts and eventually distributed.

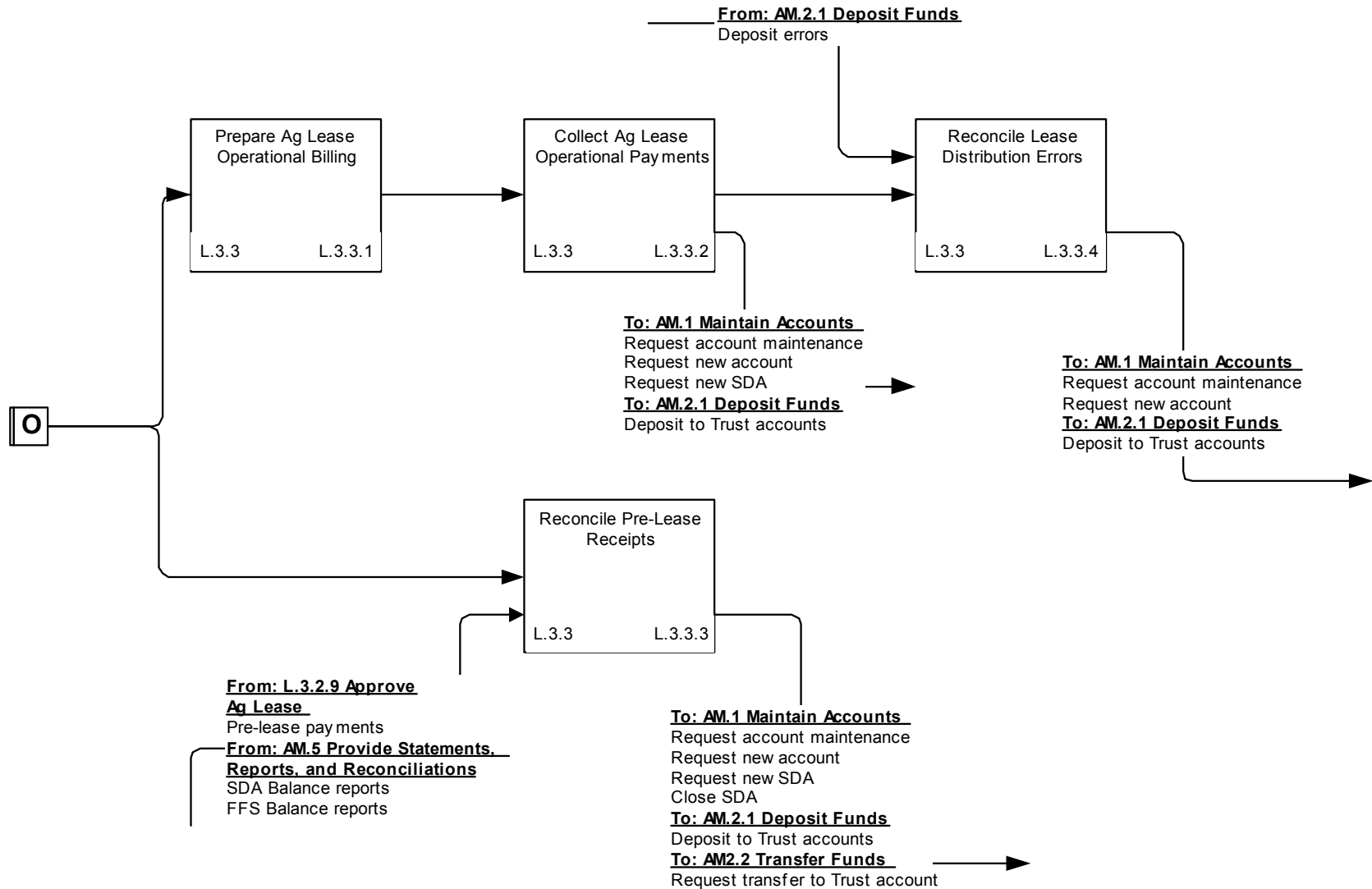


Figure 4.3.5.4- 15 Manage Agricultural Lease Revenue IDEF(3)



## **Beneficiary Involvement for Manage Agricultural Lease Revenue**

The beneficiaries are not involved with this process. Direct payments from agricultural land lessees to landowner-interests are not part of the baseline process, but frequently occur and involve direct receipt of funds by the beneficiaries. Sources of ownership-interests information for such direct payments vary widely.

## **Manage Agricultural Lease Revenue Significant Notes**

- a) Large suspense account or SDA balances exist at some of the BIA offices. Various payments of bid deposits, cash bonds, administrative fees, and agricultural lease rental payments are received, usually by Agencies, and deposited into a suspense account. A time lag may occur until these funds are disbursed. Bid deposits cannot be disbursed until after bid opening and lessee selection. Rental payments cannot be forwarded to OST/OTFM until a distribution advice has been prepared which is accepted by OST/OTFM systems. As a result, balances accumulate.
- b) OST/OTFM policies and procedures regarding payment collection, recordation, preparation of distribution advice, and deposit have changed several times within the last 18 months.
- c) BIA field offices and agencies, Tribes under 638 contracts, or Tribes under Self-Governance authority all may perform collections for agricultural leases involving allotted land interests. Most of these resources do not have access to ownership records or the distribution information necessary to prepare accurate distribution advices.
- d) Distribution advices frequently have error rates described at approximately 2-5% on a remittance/ ownership-interest line item basis, which commonly translates to approximately 15-20% when aggregated to all line items for a beneficiary distribution. For example, a beneficiary may have ownership-interests in 6 tracts of land. Distribution advices are prepared for each tract/ownership-interest. If 3% of the tract/ownership-interest distribution amounts are in error, then the beneficiary may experiences an 18% cumulative error rate (6 tracts x 3% = 18%). Most errors result in a delay in processing the distribution to the beneficiary. Some may result in an actual payment in error, either to the wrong beneficiary, or a wrong amount to the correct beneficiaries. (See the Reconcile Pre-Lease Payments process description for more detail.)



## **Manage Agricultural Lease Revenue Detail Description**

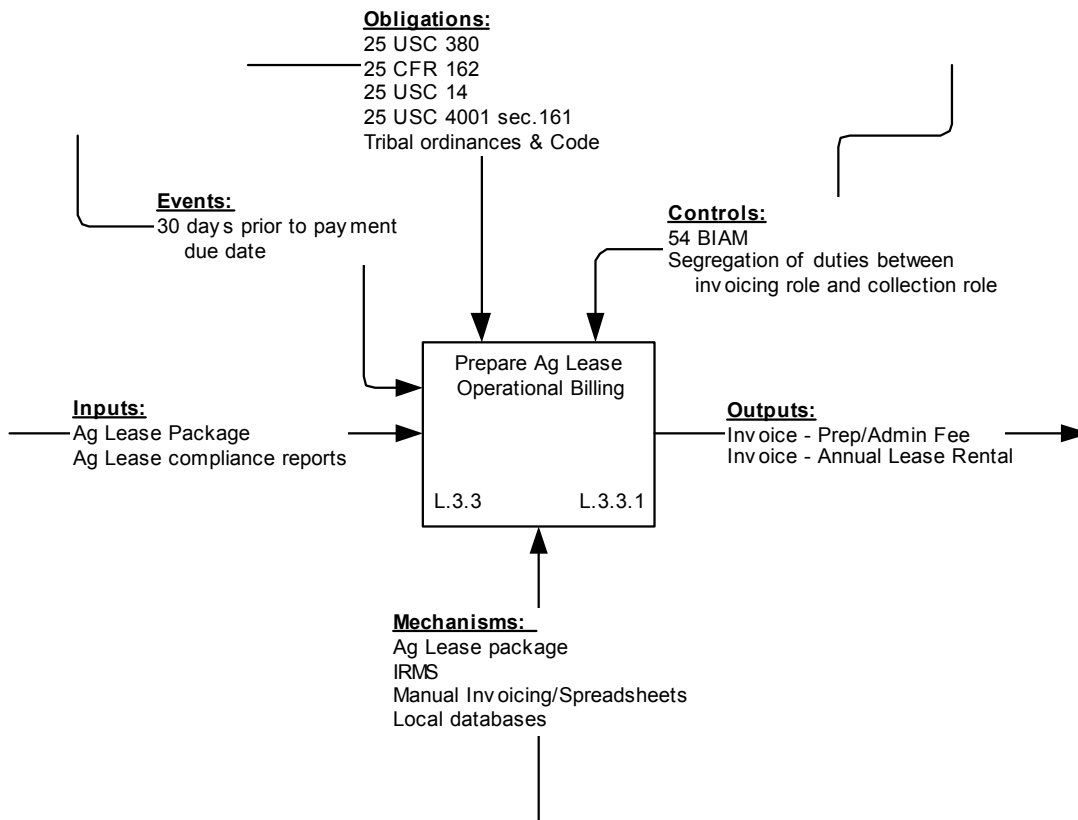
### **Prepare Agricultural Lease Operational Billing (L.3.3.1)**

Starts with: Generate invoices 30 days prior to anniversary of lease contract or due date.  
Ends with: Pay invoice amount (by lessee).

Separate invoices are prepared for annual rental payment and for admin/preparation fees, where such fees are charged annually.

Invoices are usually delivered via mail or certified mail.

Some agencies do not issue annual invoices, relying instead only on the lease payment terms available to the lessee in the lease.



**Figure 4.3.5.4- 16 Prepare Agricultural Lease Operational Billing IDEF(0)**



### **Collect Agricultural Lease Operational Billing (L.3.3.2)**

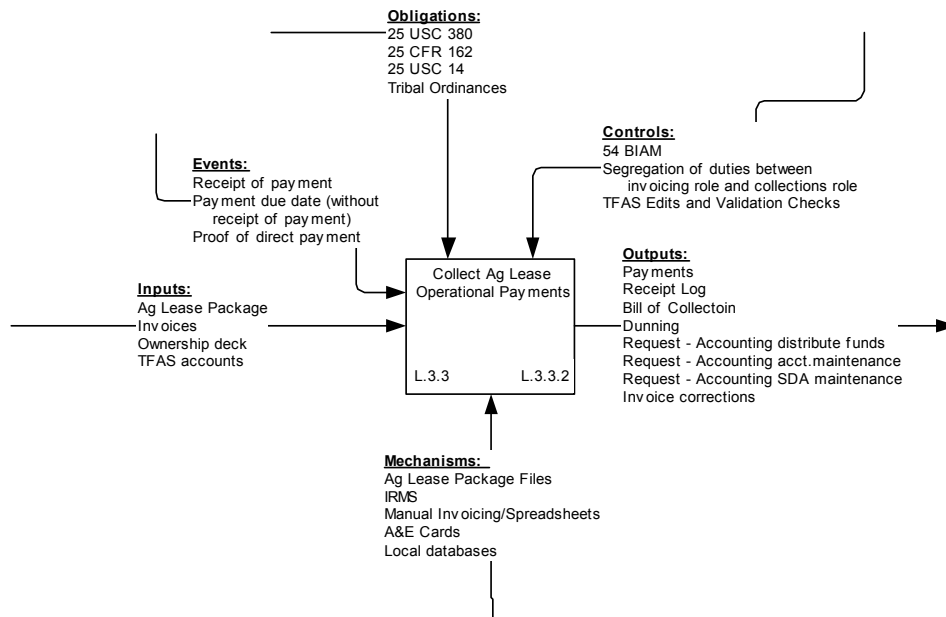
Starts with: Receive payment, or, record no payment by annual lease rental due date.  
Ends with: Forward Trust funds and distribution advice to Accounting process.

All payments received by the BIA agency are logged, recorded, and deposited. Lessees may also submit a “proof of direct payment” (e.g. in the form of a cancelled check). If payment is incorrect, late, or not remitted, dunning notice takes place. The first step is generally verbal contact and request, then a dunning or 10-day show-cause notice is sent, and eventually permit cancellation or other types of remediation would be taken (see the Agricultural Lease Enforcement process L.3.4.2).

Collection is performed by a separate resource role from the realty specialists who prepare the billing, in order to maintain segregation of duties. Bills for Collection, or receipts, are created after payment has been logged. Where adequate staff allow, a mail clerk logs the receipt, and a collections specialist logs the payment and creates the Bill for Collection, both being segregated in duties from the person performing the billing. Payments are recorded into the appropriate realty and billing systems.

The program specialist prepares deposit and distribution advice. Distribution advice is calculated from whatever ownership list the specialist has available, generally the same list created at time of 90-Day Notice or Lease Approval process.

Payments of Trust funds are forwarded to Accounting for deposit with the distribution advice. Trust funds are collected and deposited in either an SDA or an individual’s IIM account.



**Figure 4.3.5.4- 17 Collect Agricultural Lease Operational Payments IDEF(0)**



### **Reconcile Pre-Lease Receipts (L.3.3.3)**

Starts with: Receive request to reconcile undistributed payments.

Ends with: Request Accounting transfer or distribution of funds, and, prepare reconciliation report.

Funds accumulate in suspense or SDA accounts from payments received during Contract Agricultural Lease, or Manage Agricultural Lease Revenue processes. Sources include both non-Trust and Trust funds, and the Trust funds include both revenue distributable to beneficiaries as well as administrative/preparation fees and Tribal fees or taxes. For example, SDAs may have a balance accumulated from bid deposits from a previous year's leasing, cash bonds deposited from a lease currently in force, and current lease rental payments not yet transferred to an OST/OTFM IIM account for distribution.

Balances are researched and reconciled. Certain balances are reduced via repatriation to depositors (e.g. for bid deposits on leases which have been awarded to other operators), or via transfer of funds to IIM accounts. Some balances (e.g. current year payments in process of developing distribution advices) must be retained until adequate information is obtained to accurately resolve the rightful disbursement.

Accumulated SDA balances exist for many reasons. Accounting in the OST/OTFM organization has requested that agencies not accept funds as Trust money until a valid contract exists (e.g. lease or permit). Bid deposits, cash bonds, and first year rental payments must be stored in suspense or Special Deposit Accounts, as leasing activities require some payments to be collected one to six months prior to the permit award. Accounting policies also require certain accounts to accrue interest, while others are prescribed from accrual. Accounting and Agricultural Leasing processes do not calculate the same amounts, resulting in a balance remaining in suspense until equivalency is achieved and amounts can be transferred between the processes.

Once reconciled, requests are made to the Accounting process to correct any inconsistencies and return, or transfer and distribute the funds. These requests can take the form of:

- a) Account maintenance
- b) New accounts
- c) New SDA's
- d) Close SDA's
- e) Deposit funds to Trust accounts
- d) Transfer funds to Trust accounts (e.g. from an SDA or FFS to an OTFM account)

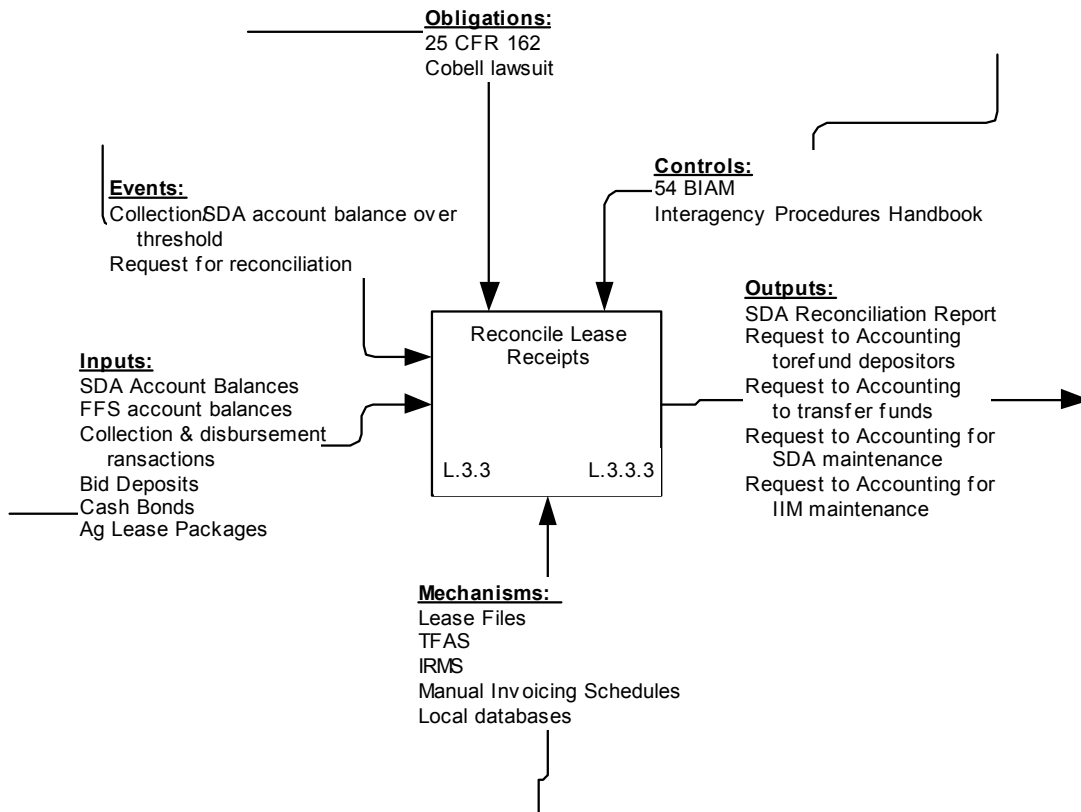


Figure 4.3.5.4- 18 Reconcile Pre-Lease Receipts IDEF(0)



### **Reconcile Lease Distribution Errors (L.3.3.4)**

Starts with: Receive error notification from Accounting process.

Ends with: Request Accounting transfer or distribution of funds, and, prepare reconciliation report.

Distribution advices are prepared during billing and collection activities as described in Approve Agricultural Lease (L.3.2.9) and Collect Agricultural Lease Operational Payments (L.3.3.2). The sources of information for the preparation of the distribution advices are based upon the ownership-interest information available in the field office or agency where the advices are created. This information may not be consistent with the information utilized by OST/OTFM headquarters in Albuquerque, New Mexico for the transfer, deposit to a beneficiary account, and eventual distribution.

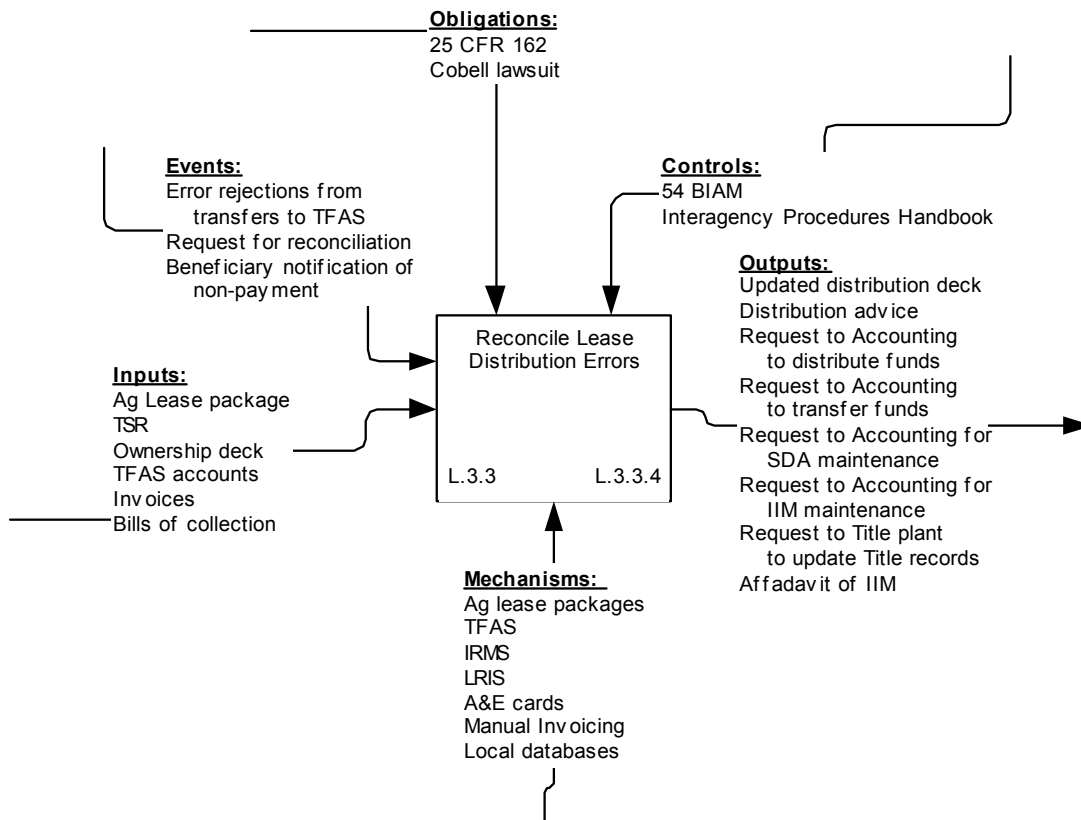
When inconsistencies are encountered, the transactions cannot be processed. The activities performed in this process include reconciliation and correction of errors and rejections encountered in the Accounting processes. (See the “Significant Notes” above for further detail.)

Manual transfers of distribution advice encounter similar problems as those agencies or regions performing an electronic transfer of the distribution advice. Edit and validation activity occurs during overnight, batch transfers or voucher transfer entry as part of the Accounting process. Fund collections are reported in Agency systems, usually local or regional in their design and operation. The records of Individual Indian accounts in these systems are frequently not identical in the records used by the OST/OTFM. Transfer requests first pass through an A17 system, providing a front-end edit, validation and common interface into the TFAS system. Inconsistencies may exist between each of these three systems (agency, A17, TFAS). Hence, an inconsistency may be found in the A17 system, researched, and corrected only to find an additional error rejection found at time of attempted posting to TFAS. Errors are researched, and various agencies, regions and headquarters are contacted to collect the reconciling information. Corrections are then made and submitted for resolution.

- a) Many sources of errors exist, but prevalent examples include:
- b) Inconsistent spelling of name
- c) Inconsistent enrollment number
- d) Inconsistent calculation of interest accruals
- e) Ownership interests on a specific collection payment’s distribution advice not totaling 100%
- f) Youpee corrections in TFAS system may not be consistent with local ownership records
- g) Probate ownership updates may be recorded at different times in the different systems (e.g. Accounts may already be closed for distribution, yet the distribution advice indicates the deceased.)

Uncertified TSRs may be requested from the Title process to reconcile the errors regarding ownership. Corrections are made to bring the processes and systems into alignment, and the funds transfers and deposits are reprocessed.





**Figure 4.3.5.4- 19 Reconcile Lease Distribution Error**



#### **4.3.5.4.4 Manage Agricultural Lease (L.3.4)**

Starts with: Monitor agricultural land and leases for compliance.

Ends with: Close agricultural lease and request final funds distribution.

Land utilization, condition of forage and water access; fertilization and tillage practices; animal counts; operating agricultural land according to the terms of the lease issued; trespass; and financial compliance are all monitored as part of this process. When complaints are received or non-compliance is observed, enforcement activities are initiated. Requests for changes may be reviewed and approved, resulting in modifications of existing leases. However, when the changes are of sufficient magnitude, leases are terminated and a new lease is issued. Closure may happen through natural expiration of the term of duration, or they may be terminated for cause. Most typical terminations are non-payment for two or more consecutive payment cycles.

Periodic inspections, both of the land, crops, animals, and financial compliance, are performed. Inspections may be formal and scheduled in nature, or they may be informal in nature, such as “drive-by” casual sight inspections to ensure there are no flagrant breaches of terms or material changes to the condition of the land.

Upon closure of the lease, requests are made to appropriately transfer and distribute funds. If non-compliance has caused damage, a request may be made to transfer performance and surety bonds, or deposits in FFS to the Trust funds to compensate for the damages incurred. Otherwise, requests are made to return such deposits to the lessee.

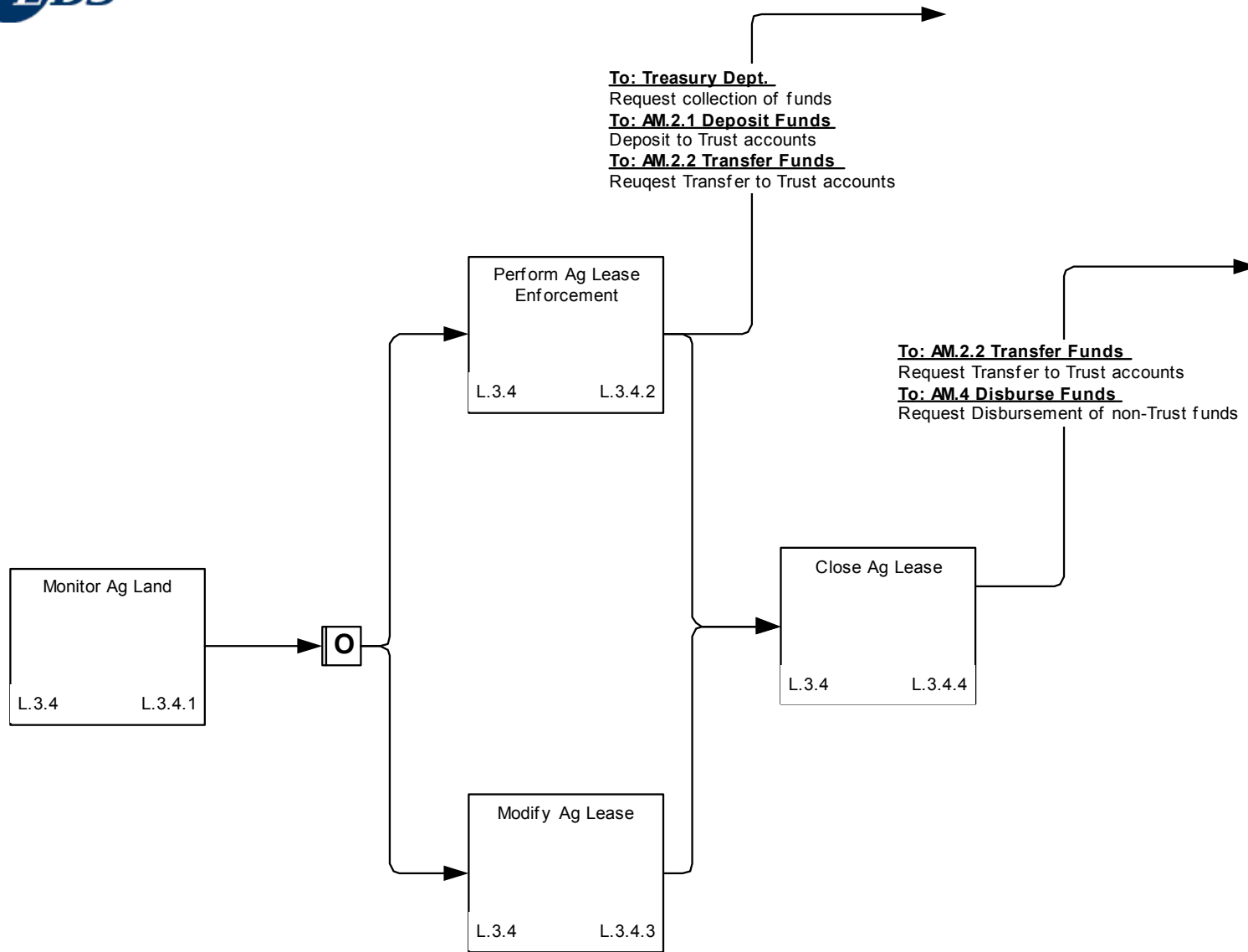


Figure 4.3.5.4- 20 Manage Agricultural Lease IDEF(3)



### **Beneficiary Involvement for Manage Agricultural Lease**

Individual landowners or allotted-owner-interests are involved to the extent they monitor their own tract areas and report complaints to either the BIA or Tribal authorities for resolution. This is the primary method of identifying non-compliance on rangeland.

Tribes, especially those with 638 contracts or Self-Governance compacts, frequently have funds provided to staff a soil technician, agricultural specialist, and/or law enforcement roles, and perform their own monitoring and enforcement.

### **Manage Agricultural Lease Significant Notes**

- a) Most of the Trust agricultural land experiences minimal inspection and compliance monitoring, with workload and inadequate staff as the primary limiting factors. It is common to encounter Reservations where 5-10% of the agricultural tracts are inspected on an annual basis, and rely primarily upon owner or operator complaints. Most Agencies report they have experienced reductions of 50% to 90% in agricultural leasing (farm/pasture) program staffing over the last 30 years.
- b) Where inspections are performed, there is a high incidence of non-compliance. Many agencies described 70-90% non-compliance rates when a formal inspection and agricultural tract monitoring report were completed.
- c) Many Tribes have the Manage Agricultural Land process split in responsibilities between utilization monitoring and permit compliance monitoring by the BIA, and enforcement by Tribal range and law officers.
- d) Reservations and PDA (Public Domain Allotments) where Public Law 280 is in effect have great difficulty in engaging enforcement activities by the public officials, or to successfully prosecute trespass, due to the high threshold of damages required for action, and due to other priorities and demands upon public law enforcement and prosecution.
- e) Programmatic reviews of self-governance Tribes are occurring once per year, however they are limited to documentation review and do not include on-site assessment of agricultural program operations and land conditions.



## Manage Agricultural Lease Detail Description

### Monitor Agricultural Land (L.3.4.1)

Starts with: Receive a complaint of non-compliance, or, schedule inspection monitoring of an agricultural lease tract.

Ends with: Prepare an inspection report, and, request appropriate enforcement actions.

Numerous changes may trigger compliance monitoring. Although some formal, scheduled monitoring activities take place resulting in a report, most monitoring is triggered by informal activities or passive notifications and complaints:

- a) Contract violations
- b) Asset changes (e.g. natural events such as fires, floods)
- c) Notice of complaint or compliance issue
- d) Drive-by observations
- e) Non-payment of annual rentals

Most monitoring is based on seasonal schedules, events, and availability of resources. For example, tilling, planting, fertilization, harvest are normal times for key land use checkpoints. Monitoring includes inspecting the condition of land to ensure sustained yield and proper land use to maximize long-term beneficiary profit.

The inspection report is prepared noting dates, conditions, and compliance characteristics observed. Information collected includes the condition of the land to ensure sustainable yield management.

An inspection may also gather information needs on other leases or permits in the same or adjacent geographic area. Very little monitoring is performed for non-leased land, whether listed as idle tracts, or owner use.

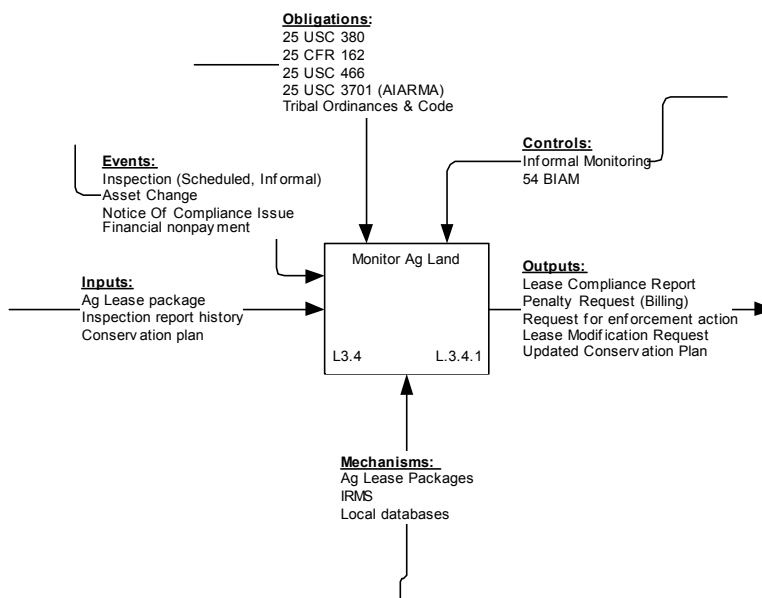


Figure 4.3.5.4- 21 Monitor Agricultural Land IDEF(0)



### **Perform Agricultural Lease Enforcement (L.3.4.2)**

Starts with: Receive request enforcement, and, receive inspection report.

Ends with: Mediate acceptable resolution, or, request termination of agricultural lease for cause.

Most enforcement is performed with a guiding principle of retaining a viable working relationship with landowners, operators, Tribes, and other interested parties.

Typically, first actions are verbal, informational warnings with a request to resolve the noncompliance issue. If unresolved, a 10-day show-cause notice is issued, giving the offending party 10 days to show good reason for the issue, or, resolve and eliminate the issue. Left unresolved, the agency specialist may confer with the superintendent to determine appropriate action. This may include billing for damages, requesting permit cancellation, and the like. Where appropriate, Tribal police or civil law enforcement are engaged. Generally, for large damages or more serious situations, the Regional Director may be notified for input and review.

Resolution is most often a verbal agreement with lessee or between neighboring operators without a formal enforcement action.

Approximately 10-15% of inspections yield enforcement actions, after informal resolution efforts have been attempted. Financial non-payment issues may be turned over to the Treasury Department for collection via a Request for Collection of Funds.

In cases of livestock trespass, the BIA uses 25 CFR 166 regulations to determine enforcement actions and damages assessments.

Any enforcement actions such as show-cause notices are subject to appeal as provided in 25 CFR 166 and escalate to the IBIA for further resolution.

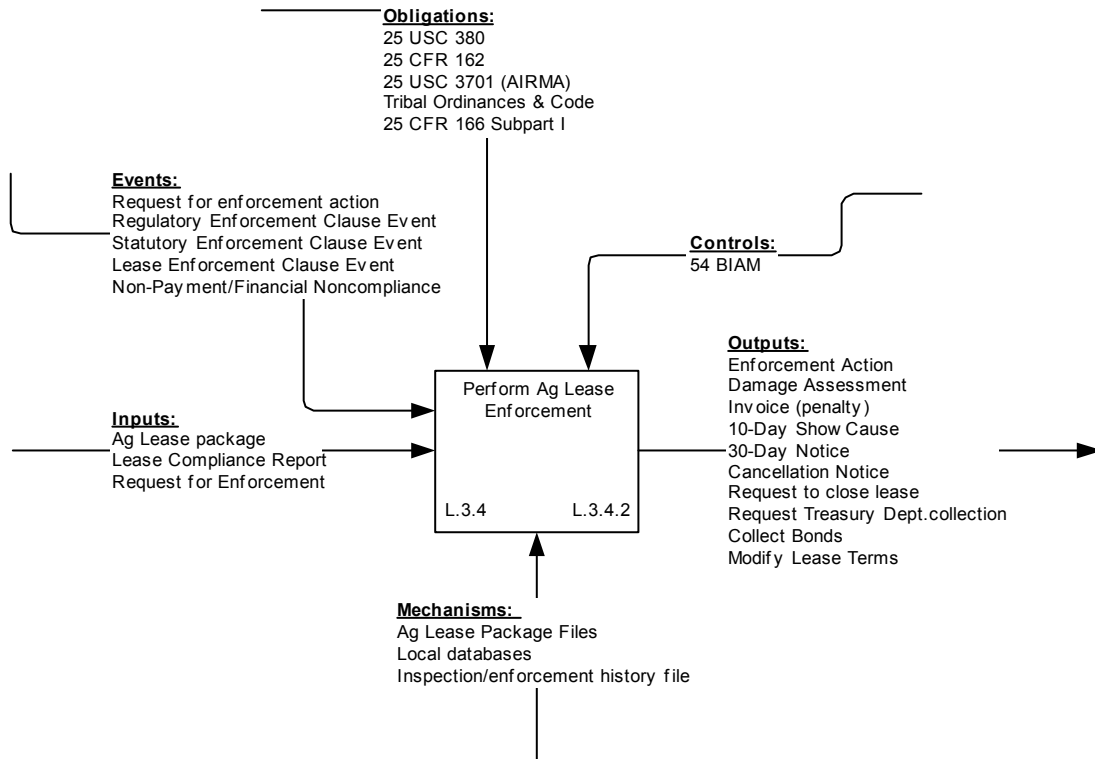


Figure 4.3.5.4- 22 Perform Agricultural Lease Enforcement IDEF(0)



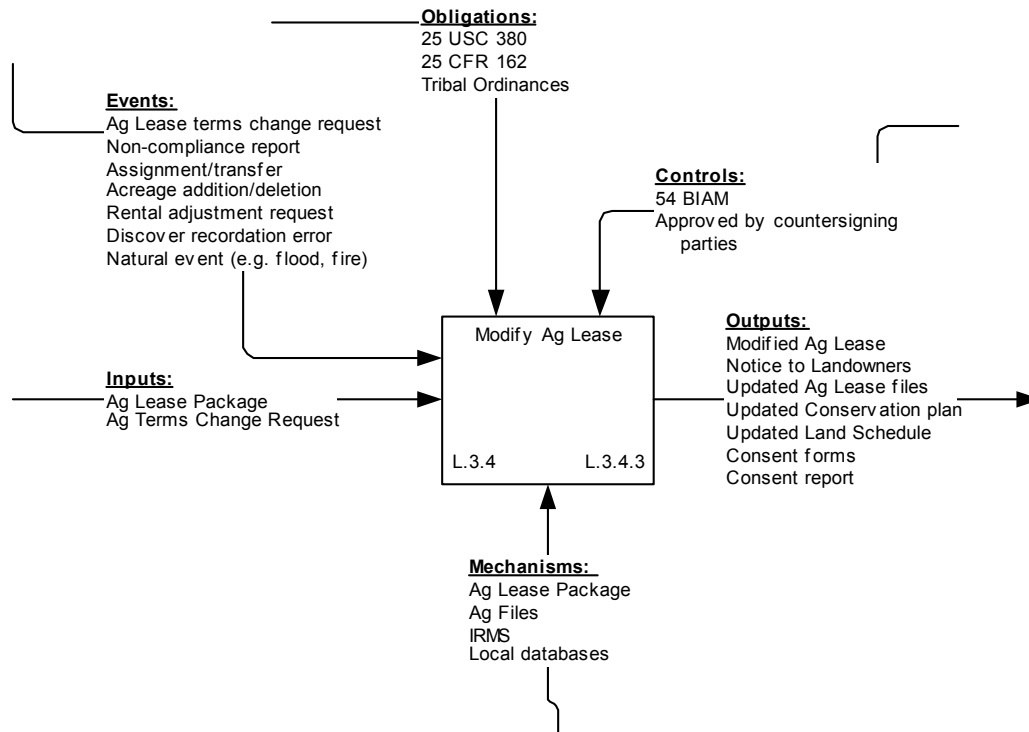
### **Modify Agricultural Lease (L.3.4.3)**

Starts with: Receive request to change the agricultural lease.  
Ends with: Sign modified contract by all contracting parties.

Various events may trigger the request to change an agricultural lease. Examples include:

- a) Change to a rental rate
- b) Additions or deletions of land or property to the tract
- c) Change to season of use
- d) Change to allowed crops, crop rotation
- e) Request for assignment or transfer of rights
- f) Non-compliance of permittee on terms of use
- g) Advance payment
- h) Lessee requesting addition of co-operator
- i) Lowering of rental in times of drought

The request is reviewed by the Soil Conservationist or natural resources program specialist, and approved or rejected by the Superintendent. If approved, modifications are made to the permit package. Lessees and landowners are notified if there are impacts to land base included in the lease, or in the amount of the rental payments. Administrative and clerical error correction changes are typically completed without signatures.



**Figure 4.3.5.4- 23 Modify Agricultural Lease IDEF(0)**

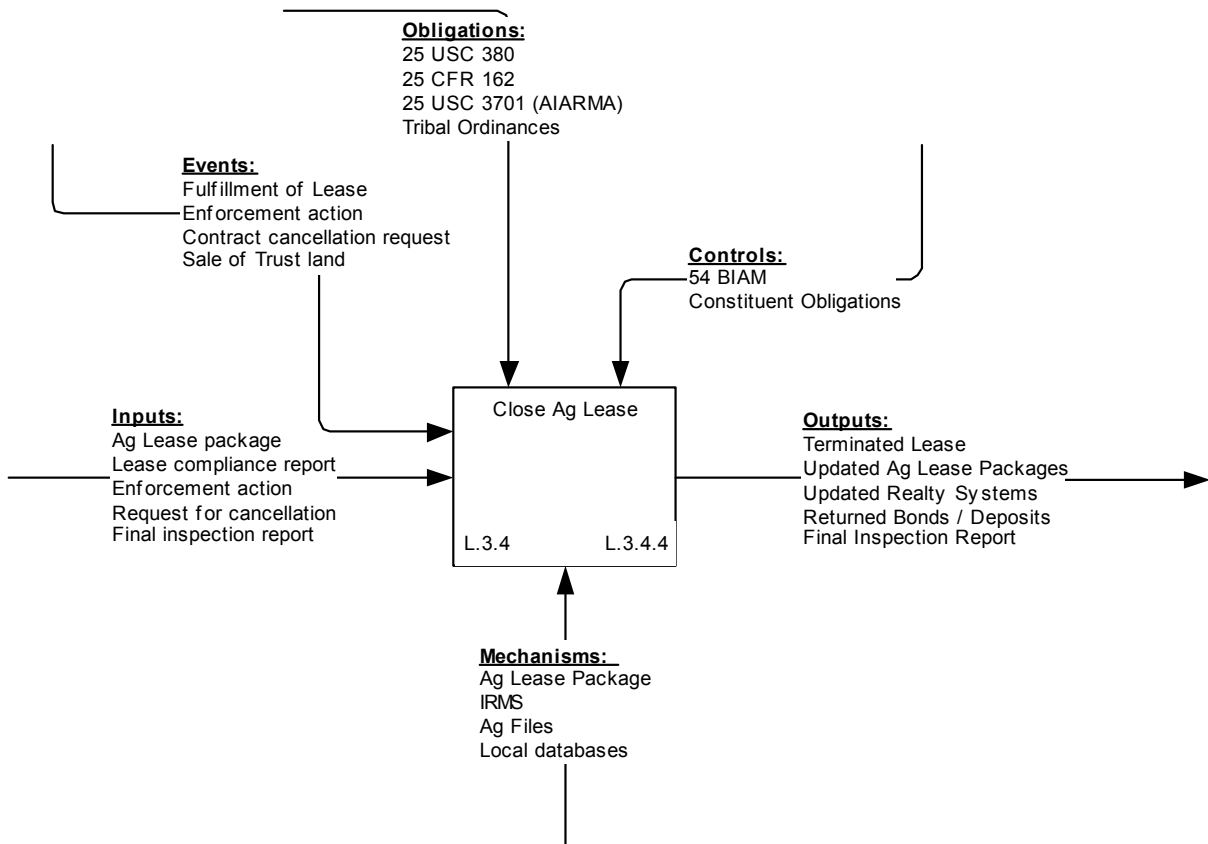


### **Close Agricultural Lease (L.3.4.4)**

Starts with: Record expiration of the lease, or, receive a request to terminate the agricultural lease.

Ends with: Request transfer and disbursement of funds.

Leases are typically closed through passive expiration of the lease period. Early termination of lease is rare. If deposits or performance bonds have been collected from the lessee, a final compliance check is performed, reviewing the last inspection report and financial status on the lease, before requesting disbursements of funds. If the lease is closed for cause or damages are found in need of recovery, the damage value up to the face amount of the bond may be collected for compensation via a Request to Transfer Funds. This initiated an Accounting process to transfer the funds into Trust accounts, which then can be used to compensate for the damages.



**Figure 4.3.5.4- 24 Close Agricultural Lease IDEF(0)**



#### 4.4.5.4.5 Agricultural Leasing 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 4.3.5.4- 1 Great Plains Region Agricultural Leasing Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Great Plains BIA Agency offices	Process	Cash bonds are deposited in non-interest-bearing accounts. CD's are held in safes at the agency	Procedural	Complicates reconciliation of Trust vs. non-Trust funds, as well as accounting for the non-Trust funds and return of these funds to the depositor (unsuccessful bidder after lease approval, or, lessee at end of lease term).	Medium	Minor
Great Plains BIA Agency offices	Process Inputs Outputs	Agencies allow landowners to select the ability to receive direct payments, but frequently do not receive any notice or proof of the payments (from lessee). The beneficiaries or lessee may request no billing (direct payment based upon the agricultural lease terms), or, BIA Agencies performing annual invoicing to the lessee. The lessee who then directly pays the owner-interests identified at the time of lease origination.	Procedural	Limited controls exist to ensure the correct landowners are receiving the correct payments per the agricultural lease. Where this happens, beneficiaries receive incorrect W-2 statements from the Trust. Since lessees are provided ownership interests only at the beginning of a lease, it is problematic to ensure that correct payments go to	High	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				the correct beneficiaries if ownership-interests change during the lease term.		
Great Plains BIA Agency offices	Control	Some agencies perform billing and/or collections for Tribal leases/permits of Tribal land, even though the BIA does not approve, sign, or manage these leases. Also, due to “unitized” agricultural leases of “checkerboarded” ownership tracts, the BIA sometimes bills and collects for non-Trust interests.	Procedural	Moderate additional workload for local program and realty resources. Significant additional complexities in segregating Trust and non-Trust funds. This can cause errors in administering collection and distribution advice information and result in incorrect beneficiary distributions.	High	Medium
BIA Lower Brule Agency	Process Outputs	No bid deposits are required for agricultural leases where bidding is performed, but a surety bond is required. All amounts due are billed and collected after contract approval and signature.	Procedural	Minimal	Low	Minor
Great Plains BIA Regional office	Mechanism Role	The MAD system is used to automatically generate between 8-20,000 90-Day Notices each year for obtaining authority to grant agricultural leases. This requires additional roles for maintaining MAD information, and a computer system specialist to	System (benefit)	Large reduction in workload compared to manual preparation of notices. Impacts are directly proportionate to the number of landowner interests.	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		perform programming and/or set appropriate parameters for generation of notices.				
Great Plains BIA Regional and Agency offices	Mechanism Process	The MAD system is used to perform all billing, record collections, calculate and electronically transfer deposit and distribution advice information on a nightly basis to OST/OTFM. A set of rejected transactions is created overnight, when batches of funds transfer requests and distribution advices are processed. Rejects occur when the records of ownership in MAD are not identical to the records used by the OST/OTFM headquarters in the TFAS system. Data passes from MAD through an NX system, which provides a front-end edit, validation and common interface into the TFAS system. Inconsistencies may exist between each of these three systems (agency, NX, TFAS). Inconsistencies found from NX rejects, may be corrected only to find an additional error rejection found at time of attempted posting to TFAS.	System	Substantial effort reduction is achieved in billing and preparation of distribution advices, since the system is automated. However:  A separate interface correction process is necessary due to this automated interface from MAD to TFAS. Errors are researched, and various agencies, regions and headquarters are contacted to collect the reconciling information. Corrections are then made and submitted for resolution.	High	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
BIA Rosebud Agency	Process Mechanism	[Impacts specific to Rosebud for the reconciliation of errors due to data inconsistencies between the realty records in MAD, and the accounting and distribution systems of OST/OTFM, as described above.]	System Constraint	Between one and two and a half months elapsed time is required to complete reconciliation of errors. Approximately 200 land-owner-interests produce interface error rejects each year. Current unreconciled interface rejects for Rosebud agency currently total \$3million as of July 2002 (money delayed from distribution to beneficiaries).	High	Major
Great Plains Region BIA Regional and Agency offices	Mechanism Process Role	It takes anywhere from one to three months to correct most errors in the Distribution Reconciliation process, due to the large number of owner-interests. Current suspense errors totaled \$3million as of July 2002. Systems are not integrated, and have inconsistent data, resulting in elongated reconciliation time for distribution advice problems.	System constraints Fractionation	Long elapsed times for lease payment distribution to beneficiaries.	High	Medium



**Table 4.3.5.4- 2 Midwest Region Agricultural Leasing Variances**

<b>Areas Affected by the Variance</b>	<b>Category</b>	<b>Variance Description</b>	<b>Reason for Variance</b>	<b>Business Impact</b>	<b>Degree of Business Impact</b>	<b>Difficulty of Change</b>
BIA Ashland, WI Field Office	Role Organization	Realty specialist performs field surveys and plat survey work (instead of BLM or contracted party).	Budget	Surveys are performed more timely, resulting in more formally contracted land use, with less idle land and trespass.	Medium	Minor
Midwest Region BIA and Tribal offices	Process Inputs Outputs	Direct payment (from lessee or permittee to owners) is frequently the method used for billing and collection on agricultural leases and permits, estimated by work session participants as used for approximately half of all contracts.	Culture	Lessees do not have a method of keeping current, accurate records of owner-interests, and may provide incorrect payments and occasionally remit to incorrect people. Ownership-interests do not receive the detailed information necessary to monitor their receipts, effectively reducing the ability to ensure accurate monitoring of lease receivables.	High	Major
Midwest Region BIA and Tribal offices	Process	Leases and permits for recreational and lakeshore use comprise the largest body of agricultural land use in this region, and are usually 5 to 10 years in duration. Due to the popularity and high demand for this property, many Tribes limit	Culture Procedural	Minimal	Low	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		contracts to enrolled members, or Native Americans, either through informal policy or through ordinances.				
Midwest Region BIA and Tribal offices	Roles Organization Process	<p>Roles, responsibilities, and handoffs between Tribal and BIA activities are more varied than most regions. Four major profiles of BIA involvement were identified:</p> <ol style="list-style-type: none"> <li>1) Tribes perform planning, lease the property, owners receive direct payment, with no notice to the BIA.</li> <li>2) Tribes perform planning, lease the property, owners receive direct payment, and copies are provided to the BIA. This may occur as post-facto notice, or, provided for BIA line official approval and signature on the lease.</li> <li>3) Tribes perform planning, lease the property, and provide the lease to BIA to perform collection and distribution of payments.</li> <li>4) BIA performs planning, leasing, collection and distribution for the property.</li> </ol>	Tribal policy Obligations Procedural	Limited controls exist to ensure the correct landowners are receiving the correct payments per the agricultural lease.	High	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
BIA Midwest Regional Office, Red Lake and Bemidji Field offices, and all Minnesota Tribal offices	Roles Organization	All Minnesota Tribes do their own billing & collection. The BIA performs financial compliance monitoring via an annual report of revenues voluntarily provided by the Tribes. There is no agreed upon standard for this reporting, and it is often inconsistent or incomplete.	Tribal policy Obligations	Limited controls exist to ensure the correct landowners are receiving the correct payments per the agricultural lease. Where this happens, beneficiaries may receive incorrect W-2 statements from the Trust. Since lessees are provided ownership interests only at the beginning of a lease, payments may not be correct or go to the correct beneficiaries if ownership-interests change during the lease term.	High	Major
Midwest Region BIA and Tribal offices	Roles Organization Process	Tribes perform most of the planning, suitability assessments, and also a significant portion of the leasing. Leasing and permitting, especially for recreational and lakeshore use, may commonly be conducted without significant BIA involvement or awareness, whether or not allotted land ownership-interests are involved. Tribes sometimes choose to contract verbally and not	Tribal policy Procedural	Work session participants estimated the volume to average approximately 200-250 leases per year for each Tribe, which may vary widely between Tribes.  There is no comprehensive visibility to land use, limiting the ability to plan effectively. This makes ensuring protection of individual beneficiaries'	High	Major





Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		document leases or permits. Property involved is usually a tract which either has fractionated interest including both Tribal and allotted-land ownership interests, or where the property has been planned as a unitized lease where both Tribal and allotted lands have been pooled into a single property for lease.		rights problematic.		

**Table 4.3.5.4- 3 Eastern Region Agricultural Leasing Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
BIA Seminole Agency, Seminole Tribal office, Choctaw Tribal office	Obligation	The Seminole and Choctaw Tribes contract realty performing all agricultural leasing with nominal BIA involvement. The BIA Superintendent is requested to approve a few leases, where the lessee wants to protect their interests or receive operational financing.	Federal Law	Minimal	Low	Major



**Table 4.3.5.4- 4 Alaska Region Agricultural Leasing Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Alaska Region BIA Agencies, Contracted Service Provider offices	Obligation	Per Native Alaskan Allotment Act of 1906, the Federal government does not manage and sign all leases/permits; but has an obligation to advise allottees.	Federal Law	Three major profiles of BIA involvement were discussed as common procedure: 1) Allotted landowners plan and permit the property, and receive direct payment from permittees. The BIA may or may not be notified. 2) Allotted landowners plan and permit the property, providing the permit to BIA for collection and distribution of payments. 3) The BIA plans, permits the property, collects and distributes revenues, with the allotted landowners involved only by providing consent.	High	Major
Alaska Region BIA Agencies, Contracted Service Provider offices	Process Roles	Obtaining landowner consent is substantially different for allotted lands, many of which are still owned by original allottees, or have gone through no more than one generation of heirship. Hence, fractionation is not yet a	Federal Law	Significantly increased cost and time to obtain an approved lease. Applicant permittees and individual beneficiaries may attempt to circumvent BIA or CSP participation in the process,	High	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		<p>significant issue. Most realty work is performed by Contracted Service Providers (CSPs). A generalized sequence to perfect a permit is as follows:            Applicant lessee/permittee contacts and negotiates with owner            Applicant drafts lease or permit, and owner signs            Permittee submits application and draft contract to BIA realty or CSP            BIA / CSP redrafts the permit on authorized forms, utilizing authorized terms            Report of Investigation is completed            Signatures are obtained from realty provider, lessee, and all owner-interests            Note that all parties sign the leases/permits except the BIA.</p>		<p>and direct “cash for use” transactions between parties are common. Applicants, particularly oil companies on the North Slope, may apply high-pressure tactics to directly negotiate and pay landowners. Examples cited companies requesting beneficiaries to directly sign pre-completed contract forms within a few weeks before intended use, with the stated or implied risk that if not agreed to immediately, the offer will be withdrawn. BIA and CSP organizations frequently are not informed of most of the owner-negotiated, direct pay leases and permits, and have limited visibility to that land use.</p>		
Alaska Region BIA Agencies, Contracted Service Provider Offices	Process	<p>No farm/pasture leasing is performed for allotted land in Alaska. BIA-approved leasing/permitting is comprised of three primary types of land use:            1) Miscellaneous permits; e.g.,</p>	Land Characteristics	<p>Wide variations in types of use, land characteristics, and location require a broad array of skills and knowledge from resources involved in leasing and</p>	High	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		<p>gathering, filming, archeological studies; 2) Revocable use permits for recreation; e.g., hunting, fishing, vacationing; 3) Revocable use permits for easements; e.g., oil company access for seismic testing. The term of these leases and permits varies widely, dependent upon the specific intended use of the property. Many contracts are issued only for a three or six month season. Others range from 5 to 20 years, where the use (e.g. operation of guided fishing tours, constructing fishing set-net sites, etc.) requires substantial time to recapture initial start-up costs.</p>		<p>permitting.</p>		
<p>Alaska Region BIA Agencies, Contracted Service Provider offices</p>	<p>Process</p>	<p>All BIA-approved agricultural land contracts are on allotted lands. While some are leases, most are revocable use permits, usually initiated by the applicant, and the only method of lessee/permittee selection is through negotiation. No Tribal-negotiated leases are documented. Due to the scattered, remote locations and land characteristics of allotted tracts, competitive</p>	<p>Land Characteristics</p>	<p>Agricultural leasing and permitting is sometimes initiated without BIA awareness. Future involvement and adherence to required procedures is problematic. Trust landowners and permittees are often motivated to keep the BIA from participating, due to the increases in time and cost. Completion of</p>	<p>High</p>	<p>Major</p>



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		bidding is not performed. Owner use and Tribal use are not documented.		BIA requirements and approvals motivates permittees to seek other alternatives, or, incents them to directly pay beneficiaries for immediate access to the land. Approximately 20% of the allotment tracts are absentee-owned; 70% used for subsistence purposes primarily on a seasonal basis. Only between 2-10% of the tracts have leases or permits.		
Alaska Region BIA Agencies, Contracted Service Provider offices	Process	Remote locations cause large transit times and costs, making timely and effective planning, permitting, inspections and management extremely difficult. These elapsed times and costs exceed those considered “normal” in the lower-48 states, by a multiple to an order of magnitude. Key variables affecting this are remote locations, seasonal access, methods of transport to gain access, and weather.	Land Characteristics	Significantly increased cost and time to accomplish similar activities, resulting in reduced service levels, and reduced levels of permitting.	High	Major
Alaska Region BIA Agencies, Contracted	Organization Roles	Remote, scattered tracts with limited access allow limited	Land Characteristics	Most often permits are negotiated and issued	Medium	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Service Provider offices	Process	options to obtain appraisals for use in negotiating permit value: Generalized estimate by land operations or realty staff, based upon value of similar type of land use within the region. Specific site-inspection appraisal by a qualified appraiser. "Reasonable-man-estimation" by land operations or realty staff, based upon the unique traits of the property in question.		without formal appraisal. Local land program or realty staff make estimates, due to the backlog, timing constraints and difficulties of scheduling a certified appraiser to perform site-visits.		
Alaska Region BIA Agencies, Contracted Service Provider offices	Process	Most BIA Agencies and CSPs do not implement consistent compliance monitoring. When performed, it is extremely costly both in money, elapsed time, and time required of the resource performing the monitoring.	Land Characteristics	There is limited stewardship, monitoring, and reporting of land use. Enforcement mechanisms are difficult to apply in meaningful fashion. There is limited visibility to permittee fulfillment of operational responsibilities.	Medium	Major
Alaska Region BIA Agencies, Contracted Service Provider offices	Organization Roles	Contracted Service Providers (CSPs) are independent alliances or consortiums providing contracted land management services for Trust lands.	Obligation	The addition of an independent 3 <sup>rd</sup> party provider, between the BIA and the beneficiaries assists in substantially reducing some of the BIA workload in performing realty services, and often provides them with an office of	High	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				contact in closer proximity. At the same time, it increases difficulties in coordinating information and consistency for all leasing/permitting processes.		
Alaska Region BIA Agencies, Contracted Service Provider offices	Inputs	A Certificate of Native Allotment is required to perfect Title, and is a regulatory and legal requisite to make the allotted landowner party to a lease or permit. There is a large backlog, and long elapsed time (months or years), to receive these certificates, estimated by session attendees in the thousands.	Obligation	Permit applicants sometimes do not wait for this process, and withdraw, resulting in allotted landowners missing revenue from their property. As a result, BIA or CSP staff may issue permits or leases without the certificate, in potential conflict with requirements. Kotzebue office alone has approximately 30 lease or permit applications in queue waiting for certificates.	High	Major
Alaska Region BIA Agencies, Contracted Service Provider offices	Outputs Process	Report of Investigation - Alaska region requires all property activity history from the allotment title grant to current date, along with a recommendation for land use.	Procedural	Substantial additional effort and time is required to perform this research and assessment. Sometimes this results in negotiation difficulties, while providing more due diligence and	High	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				having more information to make better land management choices.		
BIA Fairbanks, Anchorage Agencies and Juneau Regional office, and CSP offices	Process	Most collection is performed by CSPs, with some performed by BIA Agencies (Fairbanks, Anchorage, and Juneau). The Provider or Agency records the receipt in a file or local computer database. A copy of the receipt is provided to the permittee, and the check (if not direct pay) and record of receipt is forwarded to the OST/OTFM Accountant in Juneau. Where the Provider supports realty processes but not collection, remittances are direct to the BIA Agency, and a copy of the receipt is then also forwarded to the Provider.	Procedural	Longer elapsed times are required to process the receipt and physically forward it to the BIA Regional office, resulting in longer times to ultimate distribution back to the beneficiary. This also results in an incentive for beneficiaries to negotiate direct payment from the permittee and bypass BIA / CSP processes.	High	Major
Alaska Region BIA Agencies, Contracted Service Provider offices	Process Inputs Outputs	Most BIA Agencies and CSPs do not prepare annual invoices for billing operational payments, but rely on the payment terms included in the contract. The process begins with BIA Agency / CSP receipt of a certified check, or, a direct payment receipt from the lessee/permittee. Process ends with fulfillment of contract	Procedural	Significantly increased cost and time to obtain a signed and approved lease. Applicant permittees and individual beneficiaries may attempt to circumvent BIA or CSP participation in the process, and direct "cash for use" transactions between parties is not	Medium	Major





Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		pre-lease-checklist and any pre-lease terms.		uncommon.		
Alaska Region BIA Agencies, Contracted Service Provider offices	Mechanisms	Access to and training on regional or national systems is not available to most local offices. Manual files and local spreadsheets/databases are the only systems support leasing and permitting.	System Constraints	Compiling data for permitting is very time-intensive. Frequently the source, method, or timing of how it is obtained, impacts the timeliness and efficacy of achieving a perfected contract, and also increases inconsistencies when recorded and reconciled with regional office or OST/OTFM data.	High	Major

**Table 4.3.5.4- 5 Northwest Region Agricultural Leasing Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Northwest Region BIA Agencies and Tribal offices	Organization Roles Process	Approximately 65% of the land use programs, especially agricultural leasing, are contracted or compacted. Notable examples of Tribes who have served as leadership models include Salish-Kootenai and Nez Perce. The Colville, Yakama, and Warm Springs Tribes have	Federal Statute Tribal Code Tribal policy	Some of the Tribes, particularly those who have compacts, manage allotted lands (e.g. Salish-Kootenai). This has a substantial workload reduction for the local BIA Agency, but also presents significant issues.	High	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		co-op self-determination agreements with the BIA.		Specifically, tracking the correct ownership-interest information, resolving conflicts of interest between Tribal and individual beneficiaries, and oversight of the fulfillment of fiduciary duties to the individual beneficiaries.		
Northwest Region BIA Agencies and Tribal offices	Process	Some of the agricultural leases run for substantially longer periods of time than most other regions. This is due to the geography, climate, and types of use of the land. Specific examples are orchards and vineyards on the Yakama reservation. These are frequently 25 years in duration, in order to match the expected life of the lease improvements (e.g. land contouring, irrigation, heating systems, tree and vine planting). Most other regions commonly have five year leases, with the range of durations from 2 to 10 years.	Land Characteristics	Where applicable, given this unique type of land use, the longer tenure leases provide a more stable operator base, and increase the motivation for better operator stewardship.	Medium	Medium
Northwest Region BIA Agencies and Tribal offices	Process	There are wide variations in procedural implementation	OST/OTFM Policy	OST/OTFM policies and procedures have changed	High	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		<p>between BIA Agencies (and also Tribal offices where Tribes process allotment-interest collection and distribution for the collection, holding, depositing, and submission of distribution advice for individual beneficiaries. Some locations segregate duties. Others have a single person perform billing, collection and distribution advice. Some locations forward any receipt to suspense accounts and a distribution advice to OST/OTFM within 24 hours of receipt. Others may hold checks for weeks or months, and may take months to reconcile distribution advices with OST/OTFM.</p>		<p>frequently. Local resources performing the collection and preparation of distribution advices do not receive documentation, training, access to information, and tool support to adequately implement them. Some of the policies may be in conflict with procedural guidance or good business practices required in performing land use management and agricultural leasing. Results are large amounts of funds in suspense, reconciliation workloads, and limited ability to ensure that the correct individual beneficiaries are receiving the right amounts of revenue distributions from these related leases.</p>		
Northwest Region BIA Agencies and Tribal offices	Inputs	The Title plant is generally considered to be out of date (backlogged) with current, accurate ownership information. TSR (Title Status Report)	Procedural	IRMS or local manual files are used for all lease and ownership information. Data inconsistencies exist between agency / Tribal	High	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		requests frequently take two to three years.		information, Title Plant information, and OST/OTFM information, resulting in errors and reconciliation workloads. As a result, the correct beneficiaries may not be involved in consenting to leases, and may not receive the correct distribution of agricultural lease revenues. Error rates from inconsistencies are estimated to be 5-10%, resulting in approximately 90,000 errors / year.		
Northwest Region BIA Agencies and Tribal offices	Process	Irrigation O&M (operation and maintenance) billing is performed for governmental-supported water projects. A substantial number of allotment landowners use their property without lease, or have let the land go idle, are billed for the O&M (since there is no lessee to be billed), and do not pay the fees.	Procedural	There are approximately 500 appeal court cases in the region for individual beneficiary owner-use or idle tracts. The conflict results in a standoff with substantially negative impacts for all parties involved. When a lessee is not paying the O&M fees, the water project does not receive fees, and typically reduces water flow and maintenance on the project.	High	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				<p>If the land is idle, absentee owners object to paying for a governmental project in which they usually had no original participation. If the land is at some point used by owner(s), the related water delivery has often fallen in to disrepair or does not provide adequate flow, so that owners object to paying O&amp;M for a project where they are receiving inadequate benefit.</p>		
Northwest Region BIA Agencies and Tribal offices	Process Inputs Outputs	Leases negotiated for direct pay between lessee and owners bypass BIA or Tribal billing, collection, deposit, and distribution activities. This accounts for approximately 15-20% of all agricultural leases in the region.	Procedural	BIA Agency and Tribal workloads are significantly reduced, and individual beneficiaries generally receive payments in a much more timely manner. While certain benefits accrue, processes and information do not provide lessees with certified ownership interests, update lessees with ownership changes, or consistently ensure that the correct individual beneficiaries are	High	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				actually getting paid the correct amounts, per the lease terms.		
Yakama BIA Agency, Tribal office	Inputs	Appraisals are received in very short turnaround, and incorporated with BIA Agency agricultural lease information and Tribal GIS systems. Appraisals are considered good for five years. This matches most farm/pasture leases, and serves to update rental rates every five years on longer-term leases.	Procedural System Capability	Reduces cycle times for negotiation and approval of leases, and is a leading example of integration of procedures with GIS / GCDB systems, to provide better quality information in planning and monitoring land use.	Medium	Medium
Yakama BIA Agency, Tribal office	Process	The BIA Agency sends out repetitive mailings to obtain ownership consent to agricultural leases, and always attempts to obtain positive confirmation of majority consent from allotment-landowner-interests. Notices to owners include the specific lessee applicant and negotiated terms. The Agency Superintendent is reluctant to exercise authority to grant, especially if bid or negotiation activities have yielded less than the appraised value. Authority is used approximately 10% of the time.	Procedural	Rework (repetitive mailing) is performed approximately 70% of the time, due to relatively low response rates from allotment-owner-interests. Due to the cycle time to obtain consent, approximately 70% of the leases are in queue for approval. At the same time, this increases ownership communication and awareness of land use and management, decreasing questions and complaints during lease operation.	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Northwest Region BIA Agencies and Tribal offices	Mechanism	About half of the Northwest BIA Agencies and Tribes use IRMS to track ownership interests and support agricultural leasing. The remainder use manual files, and local spreadsheets or databases. Significant limitations exist in obtaining access and security clearance to the proper DOI systems. Approximately half of the Tribes who contract or compact realty processes do not have access to IRMS and are forced to utilize manual files or develop their own stand-alone spreadsheets or databases of information.	System Constraints	Access to IRMS significantly improves the ability to track, report and manage agricultural leasing activities. Substantial data inconsistencies exist between local Agency or Tribal office information, the data available from IRMS, and the data utilized by OST/OTFM from other systems; e.g., TFAS. This results in a relatively large workload of reconciliation activities. Substantial difficulties exist to ensure the correct individual beneficiaries are receiving the right amounts of revenue distributions from these related leases.	High	Major
Yakama BIA Agency and Tribal office	Obligation Control	For Tribal land farm/pasture use, the Tribe either operates the land itself or issues leases directly to operators, as with most other Tribes. However, the Tribe stipulates special land use restrictions both on Tribal land and allotments to accommodate	Tribal Ordinance Tribal Resolution Tribal Policy	Tribal stipulations help achieve NEPA regulatory compliance with lease applications. The Tribe addresses integration and limitations of the lease terms with any NEPA requirements, Tribal social	Medium	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		wildlife, wetland, and other cultural and environmental key habitat areas. Leases impacted by these stipulations are usually negotiated by the Tribe, which then may request the BIA to perform line official approval, collection and disbursement processes.		and cultural considerations, and other Tribal land use programs; e.g., Fisheries. This substantially reduces the workload burden on the BIA Agency during planning and suitability processes, which normally have large environmental consideration requirements.		
BIA Colville and Warm Springs Agencies, and related Tribal offices	Controls Inputs	IRMPs are in place to guide land use planning, contracts, and utilization monitoring.	Tribal Policy	IRMPs substantially improve communication and expectations between BIA Agencies and Tribal governments and land operators.	Medium	Medium
Yakama BIA Agency and Tribal office	Control	Yakama BIA Agency and Tribe require a new majority-of-ownership consent for any lease modification, including five-year rental-rate adjustments on longer term leases.	Tribal Policy	A substantial workload increase in issuing consent letters and compiling consent report results, primarily for the BIA Agency.	Medium	Minor





**Table 4.3.5.4- 6 Eastern Oklahoma Region Agricultural Leasing Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Eastern Oklahoma BIA Agencies, Field Offices, and Tribal Offices	Process	Positive consent signatures from a majority of ownership-interests are required for any lease modifications.	BIA Agency & Field Office Policy	This requires substantial repetitive mailings and follow-up to obtain a sufficient response rate, delaying the approval of the lease.	High	Minor
Eastern Oklahoma BIA Agencies, Field Offices, and Tribal Offices	Obligation Process	In cases of non-compliance due to livestock trespass, the BIA Agencies and Field Office personnel use the 25 CFR 166 regulations to determine and apply enforcement actions and damage assessments, even though the leases are contracted through 25 CFR 162.	BIA Agency & Field Office Policy	Minimal	Low	Minor
Chicasaw BIA Agency	Process Outputs	The Agency realty specialists prepare bill for all pre-lease payments. Separate invoices are generated for bonds, first year lease payment, and administrative fee. Chicasaw does not collect the 1 <sup>st</sup> year rental in advance. Their lease terms collect a cash bond in advance. The administrative fee is sent to Denver for deposit in FFS, cash bonds are sent to Reston, VA for deposit in FFS as non-Trust funds, the lease is then approved	BIA Agency & Field Office Policy	Extra workload is required to generate the additional invoices, and send copies of the lease to all ownership-interests.	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		by a BIA Line Official (Superintendent), and the original lease copy is sent to Title Plant for recordation as an encumbrance. Copies are sent to all ownership-interests.				
Eastern Oklahoma BIA Agencies, Field Offices, and Tribal Offices	Control Process	Approximately 75% of the Agencies and Field Offices interpret the regulations to require a positive consent from a majority of ownership-interests, once the terms and lessee selection are finalized.	BIA Agency and Field Office Policy	This requires substantial repetitive mailings and follow-up to obtain a sufficient response rate, delaying the approval of the lease.	High	Minor
Eastern Oklahoma BIA Agencies, Field Offices.	Process	About half of the agricultural leases are negotiated and half are advertised for bid process, which differs from most regions where the distinct majority are negotiated. 90% of FMV is used as the acceptance criteria for the 1 <sup>st</sup> bid. If not met, a 2 <sup>nd</sup> (repeat) bid process is required, with preparation of an Abstract documenting the lessee selection process and justifying the specific lessee, terms, and recommendation.	BIA Agency and Field Office Policy Procedural	Bid process usually takes a longer elapsed time and substantially more work than merely negotiating with a single or few known operators. It also reduces the percentage of repeat leases with the same operator, reducing the continuity of stewardship. Approximately 30% of the tracts put up for bid require rework through a 2 <sup>nd</sup> bid process. This requires an additional 60-90 days.	Medium	Medium
BIA Chicasaw Agency	Process	All tracts for lease are advertised and put through a bid process.	BIA Agency Policy	Bid process usually takes a longer elapsed time and	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				more work than merely negotiating with a single or few known operators. It also reduces the percentage of repeat leases with the same operator, reducing the continuity of stewardship.		
Eastern Oklahoma BIA Agencies, Field Offices, and Tribal Offices	Obligation	The Five Civilized Tribes of Oklahoma Act of 1908 provide restrictions on land allotments granted from 1899–1907. This permits leasing of Indian lands in district court instead of through the BIA.	Federal Law	Limits BIA visibility to land status, and ability to track or assist in planning and managing land use. The BIA is frequently unaware and cannot identify all Trust lands.	High	Major
Eastern Oklahoma BIA Agencies, Field Offices, and Tribal Offices	Obligation Organization Process Role Location	The Five Civilized Tribes of Oklahoma Land Act of 1947 permits the Tribes to lease without BIA involvement or approval. Individual beneficiaries can contract their own land, and record necessary information through state, county, or district courts. (Tribes are Cherokee, Choctaw, Seminole, Creek, and Chicasaw).	Federal Law	Precludes BIA visibility to land status, and ability to track or assist in planning and managing land use. The BIA is frequently unaware and cannot identify all Trust lands. To obtain any information of land status, ownership, and other critical Trust status information, an inordinate amount of effort is required to manually search the county, district, and state court files for relevant transactions.	High	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				<p>Much of the land remains idle, as there is no focal single point of management. Where fractionated interests exist, the owners themselves need to work together to jointly lease the land. As a result, approximately 55,000 acres of a total of 77,000 acres is inactive and goes unleased.</p>		
<p>Eastern Oklahoma BIA Agencies, Field Offices, and Tribal Offices</p>	<p>Obligation Process</p>	<p>Tract sizes are relatively small, normally between 40–160 acres, and are leased under short-term agricultural leasing, even though the intended use for many is grazing. No attempts are made to aggregate these tracts into larger range units under a unitized lease. Grazing is managed under the regulations provided by farm/pasture leasing through 25 CFR 162.</p>	<p>Federal Law Federal Regulation Land Characteristics</p>	<p>Due to “checkerboarding” of small tracts with heavily fractionated ownership, the 1908 and 1947 Acts, and the consent requirements under 25 CFR 162, many properties go idle. Without leasing, there has been a substantial encroachment of invasive species of flora, and most of the land is now not commercially attractive at FMV rates for agricultural or grazing use.</p>	<p>High</p>	<p>Major</p>
<p>Eastern Oklahoma BIA Agencies, Field Offices, and Tribal Offices</p>	<p>Process</p>	<p>Very little Tribal land is used for agricultural leasing. Where leases are contracted, there is no BIA involvement. The Tribe performs</p>	<p>Federal Law Procedural</p>	<p>Minimal</p>	<p>Low</p>	<p>Major</p>



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		all Tribal-land leasing activities.				
Eastern Oklahoma BIA Agencies, Field Offices	Process	Large backlogs and long cycle times exist on appraisal requests and requests for TSRs from Title Plant. TSR turnaround averages about six months or more.	Procedural	Many land operations specialists work overtime to perform informal appraisals themselves, or contract out the appraisal work. Likewise for TSRs, land operations resources develop ownership lists to support consent and distribution advices from whatever manual files they have at their Agency or Field Office (e.g. A&E cards, local lease files, court records). A few have access to IRMS, which is still not consistent with Title Plant records.	High	Major
Eastern Oklahoma BIA Agencies, Field Offices, and Tribal Offices	Location Process	A majority of land operations and Agricultural Leasing processes are performed at BIA Field Offices, not at Agencies as in most other regions.	Procedural	Minimal. The Field Offices provide a slightly closer proximity to the county courthouses where many of the land records are on file.	Low	Medium
Moscogee (Creek) Nation of Oklahoma	Obligation Role Process	The Tribal Chairman has authority to approve any leases up to three years in duration.	Tribal Law	Minimal.	Low	Major
Cherokee Nation of Oklahoma	Process	Cherokee Nation has contracted the process for agricultural leasing, billing and collection.	Tribal Policy	This requires additional departmental and cross-organizational approvals,	Low	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		<p>Before lease approval, Cherokee realty specialists complete the draft lease package, collect bonds, first year rental, and an administrative fee. All collections are forwarded to the Cherokee Credit and Finance department, where administrative fees are directly deposited into general Tribal account. All packages and copy of collections are then forwarded to the BIA Regional Director for approval, and returned to the Cherokee Title Plant for recordation. The remaining collection amounts are logged by Cherokee credit and finance specialists, are deposited to an SDA. A distribution advice is then prepared and forwarded to OST/OTFM for disbursement to individual beneficiaries.</p>		lengthening the lease approval cycle.		
Eastern Oklahoma BIA Agencies, Field Offices, and Tribal Offices	Control	Each agricultural lease requires a Tribal Resolution for approval.	Tribal Policy	This adds extra steps to the approval cycle, and elongates the leasing process.	Medium	Major



**Table 4.3.5.4- 7 Southern Plains Region Agricultural Leasing Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Southern Plains BIA Agencies, Field Offices	Process	Positive consent signatures from a majority of ownership-interests are required for any lease modifications.	BIA Agency & Field Office Policy	This requires substantial repetitive mailings and follow-up to obtain a sufficient response rate.	Low	Minor
Southern Plains BIA Agencies, Field Offices	Process	About 40% of the tracts in the region go through the bid process.	BIA Agency & Field Office Policy Procedural	Bid process usually takes a longer elapsed time and more work than merely negotiating with a single or few known operators. It also reduces the percentage of repeat leases with the same operator, reducing the continuity of stewardship.	Medium	Medium
BIA Chicasaw Agency	Control Process	The Chicasaw Agency puts all tracts through the bid process, and requires a bid deposit of 10%, and allows all bidders and general public at the bid opening. Chicasaw noted that the Agency Superintendent interpretation of the 25 CFR 162 changes effective in 2001 requires them to advertise all leases for bid before the BIA can initiate any negotiation.	BIA Agency & Field Office Policy Procedural	Bid process usually takes a longer elapsed time and substantially more work than merely negotiating with a single or few known operators. It also reduces the percentage of repeat leases with the same operator, reducing the continuity of stewardship. Approximately 30% of the tracts put up for bid require rework through a 2 <sup>nd</sup> bid process. This requires an additional 60-90 days.	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
BIA Anadarko and Concho Agencies	Process	The Agency conducts a 2 <sup>nd</sup> bid process where the 1 <sup>st</sup> bid process does not meet criteria (90% of FMV). Negotiation may also proceed while the bidding is being conducted. The 2 <sup>nd</sup> bid process posts an advertisement for a shortened period of 15 days, whereupon a 2 <sup>nd</sup> bid opening is conducted. Only sealed bidders are allowed to attend the opening. If multiple bids are selected as meeting acceptability criteria for leasing the tract, the Agency conducts an oral auction at the opening.	BIA Agency & Field Office Policy Procedural	Bid process usually takes a longer elapsed time and substantially more work than merely negotiating with a single or few known operators. It also reduces the percentage of repeat leases with the same operator, reducing the continuity of stewardship. Approximately 30% of the tracts put up for bid require rework through a 2 <sup>nd</sup> bid process. This requires an additional 45-60 days.	Medium	Medium
BIA Anadarko and Concho Agencies	Process	The Agencies follow unique practices in collecting fees and allowing permittee access to the property. Lease administrative fees are collected up to 12 months in advance, and are deposited to FFS in Reston, VA. If the lease rental is below the appraised FMV, then terms are renegotiated during this period up to the lease date to ensure any non-consenting owners will receive the difference between the FMV and the originally agreed-	BIA Agency & Field Office Policy Procedural	The unique and complex procedures require an additional level of work from agency resources.  Conflicts arise from the permission to allow multiple lessees operate on the same tract under separate leases at the same time.	Medium	Medium





Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		<p>upon lease payment. Provisions are included to allow operation of grazing up to six months prior to the expiration of the previous lease, supporting multi-use of different operators under different leases at the same time. Rentals for the first year are then collected in the subsequent December or January. Direct payments are made from the lessee to the ownership-interests, and the lessee must submit proof of payment (e.g. cancelled check) to the BIA Agency.</p>				
Southern Plains BIA Agencies, Field Offices	Control Process	Approximately 75% of the Agencies and Field Offices interpret the regulations to require a positive consent from a majority of the ownership-interests, once the terms and lessee selection are finalized.	BIA Agency and Field Office Policy	This requires substantial repetitive mailings and follow-up to obtain a sufficient response rate, potentially delaying the approval of the lease.	High	Minor
Southern Plains BIA Agencies, Field Offices	Outputs Process	Bills of Collection are not prepared for lease payments.	BIA Agency and Field Office Policy	Minimal. Collections are generally managed directly from the terms in the lease. However, without any systematic generation of an invoice, balanced to an amount due, traced to a	High	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				collection, there is little control or tracking of amounts due (accounts receivable management).		
Southern Plains BIA Agencies, Field Offices	Process	Each lease has a monitoring inspection performed three to four times during its term. This is a substantially higher percentage of tract monitoring than identified at any other region.	BIA Regional Policy	This requires a substantial additional workload on agency and field office resources, but provides significantly better and more timely tracking of land condition and operator stewardship.	Medium	Medium
Southern Plains BIA Agencies, Field Offices, and Tribal Offices	Process Obligation	Tract sizes are relatively small, normally between 40-160 acres, and are leased under short-term agricultural leasing, even though intended use for many is grazing. No attempts are made to aggregate these tracts into larger range units under a unitized lease or permit. Grazing is managed under the regulations provided by farm/pasture leasing under 25 CFR 162. The exception to this is where livestock trespass occurs, and BIA resources document and perform enforcement activities under 25 CFR 166, even though the contracts are perfected through 25 CFR 162 as a lease.	Land Characteristics Federal Regulation	Due to “checkerboarding” of small tracts with heavily fractionated ownership, the condition of the land, tracts which are landlocked and do not have easements for use, and the consent requirements under 25 CFR 162 and 25 USC 2218 (ILCA 2000), most of the property goes idle. Up to 50% of the tracts in the region are not leased. Approximately 1500 tracts comprising 184,000 acres of a total of 453,000 acres is idle (40+%). This results in invasive flora and other	High	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				effects from lack of use and stewardship, resulting in tracts not commercially leasable.		
Pawnee BIA Agency	Process	Many tracts are less than 10 acres and are heavily checkerboarded or landlocked.	Land Characteristics	The lack of size and accessibility to these tracts make them extremely difficult to market and lease, resulting in a very high percentage of idle land.	High	Major
Wichita, Caddo, and Delaware Tribes	Process	The Wichita, Caddo, and Delaware Tribes have jointly held land interests whereby they all share a division of interest in the same geographic tract of land.	Land Characteristics Ownership Characteristics	The sharing of multiple Tribe ownership-interests in the same land makes leasing a problematic venture. It is difficult to get a majority of ownership within one Tribe to agree for planning or contracting on a tract, let alone across Tribes. The net result is a high percentage of idle land, and reduced income to beneficiaries, both Tribal and individual.	High	Major
Kiowa, Commanche, and Apache Tribes	Process	The Kiowa, Commanche, and Apache Tribes have jointly held land interests. The Kiowa, Comanche and Apache Tribes have a chartered land use		Minimal	Low	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		committee appointed by the three Tribal governments who are authorized to grant leases on behalf of the three Tribes. There is no requirement to obtain majority consent from the Tribal members of each Tribe.				
Southern Plains BIA Agencies, Field Offices, and Tribal Offices	Process	Large backlogs and long cycle times exist on appraisal requests and requests for TSRs from Title Plant. TSR turnaround averages about 6 months or more.	Procedural	Many leasing specialists work overtime to perform informal appraisals, or contract out the appraisal work. Likewise for TSRs, land operations resources develop ownership lists to support consent and distribution advices from whatever manual files they have at their agency or field office (e.g. A&E cards, local lease files). A few have access to IRMS, which is not consistent with Title Plant records and OST/OTFM information.	High	Major
Concho BIA Agency	Process Mechanism	The Agency performs the consent process on all leases before approving. Approximately 76,000 ownership-interests exist on approximately 600 leases. Average number of consent	Procedural	This represents a large workload to send out the letters and compile results. It takes approximately one to two weeks to generate and send out the consent	High	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		letters per year runs about 16-20,000. Only A&E cards, manual lease files, and a PC-based stand-alone system are available to support this effort.		letters, but approximately four months to complete the compilation process before the lease can be approved, elongating cycle time for the lease process and motivating applicants to look elsewhere (e.g. for other privately-owned fee property).		
Southern Plains BIA Agencies, Field Offices, and Tribal Offices	Location Process	A majority of land operations and Agricultural Leasing processes are performed at BIA Field Offices, not at agencies as in most other regions.	Procedural	Minimal.	Low	Medium
Southern Plains BIA Agencies, Field Offices	Mechanisms Inputs Outputs	The region BIA offices use an Idle Lands Report generated by the RES system (Real Estate System). The RES module is a dBASE program that assists in the tracking of leases, ownership interests, and associated land schedules. Some Tribes and BIA Agencies in Great Plains and Western regions (e.g. Salt River Tribe) also use this system to support Leasing activities.	System Capabilities	This is a significant aid in monitoring land utilization and planning land use. Ownership, realty records and management reporting are integrated. The largest negative impact is the lack of integration with Title Plant and OST/OTFM systems, resulting in data inconsistencies requiring substantial reconciliation efforts.	High	Medium
Ponca Tribe	Mechanism	The Ponca Tribe uses A&E cards to manage all leasing, ownership,	System Constraint	Leasing activities become more labor intensive to	High	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		and distribution of revenues. They lack access to governmental (e.g. IRMS) systems, do not request TSRs due to the large backlog at Title Plant, and rely exclusively on A&E cards.		compile information from manual files. Data inconsistencies and error rates occur more frequently, and some errors go undiscovered, for example, using an incorrect ownership list to send consent letters to individual landowner-interests.		
Kiowa Tribe	Process	The Kiowa Tribe does all its own leasing activities, and does not involve the BIA, even for approval/signature.	Tribal Policy	Eliminates workload for the local BIA resources, but limits visibility to Trust land utilization, and whether individual beneficiaries are receiving proper distribution payments.	High	Major
Southern Plains BIA Agencies, Field Offices, and Tribal Offices	Control Role Process	Most Tribes in the region require a separate Tribal Resolution for each lease before approval.  Noted exceptions are the Kiowa, Commanche and Apache Tribes and the Wichita, Caddo and Delaware Tribes served by the Anadarko Agency.	Tribal Policy	This adds approval step(s) to the leasing process, elongates cycle time for approval, and motivates applicants to look for other property alternatives as first choice before attempting to lease Trust lands.	High	Major
Southern Plains BIA Agencies, Field Offices, and Tribal Offices	Process	Very little Tribal land is used for agricultural leasing. Where leases are contracted, there is no BIA	Tribal Policy Procedural	Minimal	Low	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		involvement. The Tribe performs all Tribal-land leasing activities.				

**Table 4.3.5.4- 8 Rocky Mountain Region Range Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Rocky Mountain Region BIA Regional, Agency and Field Offices	Process	The bid process is not publicly advertised like other regions, and notice is provided via a mailing list. After sealed bids are submitted, an auction is conducted for all tracts available through that Agency (or Field Office), which is open to all qualified bidders. The Blackfeet Agency limits its initial bid auction to Tribal members. For remaining unleased tracts (about 10-15%), a second auction is held open to the entire public. This bid process takes about six months cycle time.	BIA Agency & Field Office Policy	Minimal	Low	Minor
Rocky Mountain Region BIA Regional, Agency and Field Offices	Process	Most offices hold the lessees responsible to obtain consent and signature from the ownership-interests.	BIA Agency & Field Office Policy	Results in a substantial reduction of effort by BIA staff, but does not provide the same level of “independent solicitation	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				and verification” of consent.		
Fort Peck Agency	Process	SDA balance reports are sent to the Agency every week for reconciliation.	BIA Agency Policy	Frequent reconciliations reduce the buildup of large suspense balances of funds received by the BIA.	High	Minor
BIA Fort Peck Agency	Process	A \$5 fee is charged all owners, candidate lessees and other interested parties who wish to be on the mailing list for agricultural leasing notifications.	BIA Agency Policy	Additional funds are collected to offset the significant mailing costs of the bid and consent processes.	Medium	Minor
Rocky Mountain Region BIA Regional, Agency and Field Offices	Process Outputs	Leases are required for owner use on any fractionated land. Some owner use still exists without BIA knowledge, and hence without a lease.	BIA Regional Policy	Where owner notification or complaints have made the BIA office aware of owner use, a lease is requested with proper consent obtained from co-ownership-interests. Such leases generally reduce conflicts between co-owners, since explicit consent is obtained and terms are negotiated. This creates a nominal amount of extra work for the local BIA office. Where no such leases exist (owner use without notification), there typically are greater workloads due to trespass,	High	Medium





Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				complaints, and improper use of the property.		
Rocky Mountain Region BIA Regional, Agency and Field Offices	Mechanisms Outputs	The regional policy is to keep a separate set of manual files (lessee cards) to track performance history of each lessee, separate from tract files.	BIA Regional Policy	Such performance tracking aids program resources in doing a better job of selecting lessees in the future, as well as negotiating specific stipulations and terms where known operator problems have occurred in the past.	High	Minor
Rocky Mountain BIA Regional, Agency and Field Offices	Process	If Direct Pay has been agreed to for billing and collection terms, the BIA requires the lessee to submit proof of payment. A Direct Pay listing is prepared and monitored periodically. Direct Pay may be suspended and reverted back to BIA collection in cases of a decedent owner.	BIA Regional Policy	Direct Pay is tracked and managed more effectively.	Medium	Minor
BIA Crow and Wind River Agencies	Role	The collection process does not segregate duties, primarily due to staffing constraints. At Crow, a budget analyst prepares bills, collects, and prepares distribution advices. At Wind River, the Superintendent usually performs these activities.	Budget	Minimal	Low	Minor
Rocky Mountain Region	Process	Written observations have proven	Case Law	This places an enormous	High	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
BIA Regional, Agency and Field Offices	Outputs	inadequate to support compliance monitoring efforts resulting in non-compliance enforcement actions. Regional policy has been changed to require either two independent observers witnessing the same written observation, or photographic evidence, in order to escalate a monitoring report to an enforcement action.		burden on resources to provide this level of evidentiary support. Frequently, the result is a reduced level of monitoring, or, limited pursuit of enforcement authority and action when non-compliance is encountered.		
Crow Tribal Office, BIA Crow Agency	Obligations Process	The Act of June 4, 1920 as codified in 25 CFR 162.500 classifies Crow Tribal members as competent to lease without BIA involvement. Landowners perform tract use planning and negotiate their own leases. Agency activities are limited to collecting fees (on leases which are not direct pay), and performing compliance inspections. Typically, although lease terms are usually five years, the leases are cancelled every year and new leases signed with the same operator/lessee. This applies to approximately 2500 leases on 1500 tracts.	Federal Law	Visibility of leases is limited to Tribal and BIA offices, making overall land use planning and monitoring problematic. Tribal members also typically negotiate leases for less value than leases processed through the BIA, which are compared to a FMV appraisal.	Medium	Major
Rocky Boys Tribal and BIA Field Office	Obligation Process	Rocky Boys land is 100% Tribally owned and managed by	Federal Law	The Tribe performs all land use planning and	High	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		the Tribe under compact. There are 226 land assignments to individuals.		agricultural leasing activities as agreed to in the Compact. This substantially empowers the self-determination of the Tribe in the use of its land, reduces the workload on the local BIA resources.		
Rocky Mountain Region BIA Regional, Agency and Field Offices	Process Inputs	Large backlogs and long cycle times exist on appraisal requests and requests for TSRs from Title Plant. TSR turnaround averages about 6 months or more.	Procedural	Many leasing specialists work overtime to perform informal appraisals, or merely apply the regional minimum rental rate established by the OST regional appraiser. Likewise for TSRs, land operations resources develop ownership lists to support consent and distribution advices from whatever manual files they have at their Agency or Field Office (e.g. IRMS, A&E cards, local lease files).	High	Medium
BIA Wind River Agency	Process Inputs	Land operations resources use a leasing calendar as a tool to assist scheduling and managing events relevant to leasing and land management. Activities such as	Procedural	Assists resources to perform required leasing activities on a timely basis.	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		<p>notices, consent, tillage dates, and stipulation monitoring, are scheduled on the calendar, since leases do not come up for expiration in a common five year block.</p>				
<p>Rocky Mountain Region BIA Regional, Agency and Field Offices</p>	<p>Mechanisms</p>	<p>Agricultural leasing program and realty resources all use TAAMS and IRMS for ownership, realty and lease information. Exceptions are Blackfeet, Crow, and Fort Peck Agencies, which use their own local databases.</p>	<p>Procedural</p>	<p>The systems are of significant benefit in assisting agriculture and realty resources in performing and tracking their Leasing activities. Information inconsistencies result from replicated data between systems, between organizations, and between locations and regions. This causes errors and reconciliations in processing distribution advice for individual beneficiaries.</p>	<p>Medium</p>	<p>Medium</p>
<p>BIA Fort Peck Agency</p>	<p>Process</p>	<p>Ownership and distribution advice errors are encountered due to the ownership interests of enrolled members of other Tribes, especially those who are Canadian citizens and enrolled in Canadian Tribes.</p>	<p>System Constraints</p>	<p>Systems between nations (Canada / U.S.), regions, and organizations have data inconsistencies and these must be resolved to accurately record distribution information to the rightful ownership-</p>	<p>High</p>	<p>Major</p>



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				interests. Substantial effort is required by Agency resources to research the blood quantum, marital relationships with impact to ownership, enrollment, citizenship, and other information necessary to reconcile and correct these errors.		
Rocky Mountain Region BIA Regional, Agency and Field Offices	Mechanisms Role Process Inputs	<p>The regional policy is to utilize the TFAS system to prepare distribution advices, and, the OST/OTFM accounting clerk must sign off on all distribution advices before submission to OST/OTFM in Albuquerque and transfer of funds.</p> <p>TAAMS, IRMS and local file information for ownership has a material amount of data inconsistencies with the TFAS system used by OST/OTFM to perform the individual beneficiary distributions. This policy is meant to manually identify and resolve such discrepancies before processing the distribution advice.</p>	System Constraints	Where the budget, staff, and time allow, adherence to this policy significantly reduces errors and future timing and reconciliation issues. Elapsed time to complete the distribution to beneficiaries is accelerated. Where resources do not permit this process, errors and rejections occur, requiring a substantial amount of reconciliation effort.	Medium	Minor
Blackfeet Tribe and BIA	Process	All land planning and suitability	Tribal Policy	Significantly reduces time	High	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Agency		assessments for agricultural leasing receive Categorical Exclusions from NEPA compliance, and the Tribe hires private appraisers to develop their own FMV to support negotiations.		and workload to assess land and approve leases.		
BIA Fort Belknap and Blackfeet Agencies	Outputs Process	An additional Tribal “right to do business” or “execution” fee is billed and collected by the BIA and forwarded to the Tribe. Blackfeet has a Memorandum of Understanding (MOU) with the Agency to collect this fee to help reimburse the Tribe for employees hired to perform leasing activities.	Tribal Policy	Minimal	Low	Minor

**Table 4.3.5.4- 9 Navajo Region Range Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
BIA Eastern Navajo Agency	Process	Rental rates for agriculture leases and permits are adjusted every one to two years for current market conditions. Specific tracts are usually not appraised separately, and blanket	BIA Agency Policy	Allotment owner-interests occasionally complain of underpayment.	Low	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		percentage increases or decreases are applied.				
BIA Eastern Navajo Agency	Process	The lease or permit applicant is responsible for obtaining documented consent from the fractionated ownership-interests. The BIA provides the applicant with a list of the owners, addresses, census numbers, but does not supply the percentage of ownership-interest held by each owner.	BIA Agency Policy	This motivates the applicant to contact and seek consent from the entire ownership base, instead of “cherry-picking” the minimal number of owner-interests to obtain a majority).	Medium	Minor
Navajo Region BIA Agency and Tribal District Land Board Offices	Organization Roles	Agricultural leases, permits, and other land actions require reviews –Tribal Land Board/Farm Board, then the BIA Agency Natural Resource Manager, then the BIA Regional Natural Resource Specialist, then the Tribal Council. A Tribal Resolution is required for each lease or permit.	BIA Regional Policy Tribal Policy	The additional reviews are time-consuming and significantly delay any land actions.	High	Major
Navajo Region BIA Agencies and Regional Office	Role Process Location	There are no Superintendents at Agencies.	BIA Regional Policy	All lease and permit approvals are forwarded to the BIA Regional Natural Resources Specialist for approval and signature. This significantly elongates the approval cycle. Agency staff feels a lack of empowerment for decisions	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				and responsibility.		
BIA Eastern Navajo Agency, Tribal District Land Board Offices	Process Outputs	Farm/pasture leases (about 80) are documented in land districts 16, 19, and 20. Allotment owner use is prevalent within most of the Eastern Navajo area. Significant portions of the land are not fenced and remain as “open range”. Enrolled member owner-interests may fence off tracts in which they have an interest, or operate an area of “customary or established use”. The Agency encourages the land user to sign a lease or permit to better delineate rights, establish boundaries with other adjacent land users, but there is no formal policy or process to enforce recordation.	Cultural	Much of the land is not actively managed and monitored.	High	Medium
Navajo Region BIA Agency and Tribal District Land Board Offices	Process	There are few Tribally negotiated leases. The majority of agricultural contracts are land use permits (over 5,000) for Navajo Tribal land. Unlike other regions where the land is managed by the Agency and/or Tribe by proactively seeking lessees, Navajo Nation land use is documented only when enrolled	Cultural	Much of the land is not actively managed and monitored. No revenue is generated from land use.	High	Major





Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		members request recordation of a customary use area. Most of these requests are for small agricultural plots, or gardens.				
Navajo Region BIA Agency and Tribal District Land Board Offices	Organization Process	The Tribe maintains the responsibility for enforcement. Although the BIA retains authority to cancel permits, any enforcement actions are recommended and approved by the Tribal District Land Board or Grazing Committee.	Cultural	Agency requests and recommendations for enforcement sometimes go unmet. As a result, most Agency resources no longer request enforcement actions or request cancellations. The land condition suffers from non-compliant operation.	High	Major
Navajo Region BIA Agency and Tribal District Land Board Offices	Process	Inspections for compliance monitoring are rare (less than .5% of land use permits are inspected), and performed exclusively on irrigated tracts. Dry lands are generally left unmonitored.	Cultural	Much of the land is not actively managed and monitored.	High	Medium
BIA Eastern Navajo Agency	Process Inputs	Direct payments from lessees / permittees to owner-interests without notifying the BIA creates substantial difficulties in reconciling payments. Particularly problematic are where some interests are direct pay and others are to be collected by the BIA, but the BIA is unaware of which payment terms	Cultural	Difficulties exist in reconciling collections, and sometimes it is not possible to ensure accurate collections and distributions to individual beneficiaries.	High	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		each interest has.				
BIA Shiprock Agency	Process	Most permittees do not live on the property, and are “weekend farmers”. Other Navajo Agencies agreed that similar problems exist on their tracts, but were unable to quantify or identify the relative materiality of the problems.	Cultural	Lack of persistent presence on the tracts by the operators leads to inadequate time, labor and effective land practices. Approximately 70% of the permitted tracts have land degradation to non-sustainable-use status.	High	Major
Navajo Region BIA Agency and Tribal District Land Board Offices	Process Outputs	There is no documentation for inactive lands.	Cultural	Minimal	Low	Minor
Navajo Region BIA Agency and Tribal District Land Board Offices	Outputs Process	Approximately 30% of the Navajo tracts leased or permitted have a conservation plan of operations. The rest of the tracts are in conflict with regulations and BIAM guidelines, which require plans. Where plans are drafted, Tribal District Farm Boards or Land Boards review and approve each plan.	Culture	Much of the land is not actively managed and monitored. Lack of documented land planning and conservation management practices reduces leverage on operators to change unsatisfactory practices. The land condition suffers from non-compliant operation.	High	Major
Navajo Region BIA Agency and Tribal District Land Board Offices	Process	25 CFR 167 allows permits to be renewed. Most permits are of short duration, between 12 months and 3 years, and are automatically renewed in	Federal Regulation Cultural	Many permit terms and land conditions are not actively reviewed or monitored. Land planning and conservation	High	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		perpetuity. Renewal rates run around 98%, with the balance where the permittee requests non-renewal, or, on irrigated land, where the permittee never brought the tract to production status.		management practices are of limited use, since there is little leverage on operators to change non-compliant practices.		
Navajo Region BIA Agency and Tribal District Land Board Offices	Process	Permits may be bought and sold, and are probated upon death. The names on the permit are changed to the heirship.	Federal Regulation Tribal Law Tribal Policy	There are often complications involving the permits in probate. Resolving heirship disputes, fractionation of the permit, and then approving the modifications to the permit can be a lengthy process. There are many permits in estate status for years, allowing lands to fall into idle status. Conflicts within the family relations also deter potential heirs from initiating probate actions.	High	Major
Navajo Region BIA Agency and Tribal District Land Board Offices	Controls Process	There is no billing or collection for enrolled member use of Tribal land. Frequently, this is also true on fractionated land in Eastern Navajo. Collection of funds may occur where co-owners have requested compensation on	Tribal Policy	Undetermined	Low	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		Eastern Navajo farm/pasture tracts, or, miscellaneous permits to non-members on the rest of Navajo (e.g. telecommunications tower permits, revocable use permits for filming movies, food vending).				

**Table 4.3.5.4- 10 Southwest Region Range Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Southern Ute BIA Agency and Tribal Office	Process Outputs	The Agency performs collections for allotted lands. Checks and a distribution advice are prepared and sent directly to OST/OTFM in Albuquerque. If ownership is not very fractionated, checks are made out at the Agency and held there for local ownership-interests to pick-up.	BIA Agency Policy	Sole owners or small fractionation ownership-interests receive their payments much more rapidly.	High	Medium
Southern Ute BIA Agency and Tribal Office	Process Outputs	There is no billing. Payment terms are written into the lease, and the following must be collected prior to lease approval: administrative fees, bid deposits, first year O&M costs for irrigation, and first year rental	BIA Agency Policy	Reduction of workload in billing / invoicing. Large up-front fees before approval eliminate borderline operators, minimize collection problems and damage	Low	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		payment, and a bond in the amount equivalent to a year of rental and irrigation O&M costs. Once the lease is in place, the only annual billing is for O&M.		recovery costs.		
Southwest Region BIA Agency and Tribal Offices	Locations Process	With the exception of the Southern Ute Agency, there are no agricultural leases in the region and little miscellaneous permitting.	Land Characteristics	The only regional location with process volume of significance is the Southern Ute Agency.	Low	Major
Southern Ute BIA Agency and Tribal Office	Process Mechanisms Inputs	Realty staff reviews and corrects inconsistencies in distribution advice before submission to OST/OTFM, via manual validations between the local source information, and TFAS.	Procedural	This virtually eliminates any distribution advice errors or rejections by OST/OTFM, and eliminates the need for the Agency to perform any distribution reconciliation. Suspense accounts are cleared quickly and do not build to amounts which need reconciliation.	High	Medium
Southern Ute BIA Agency	Process Outputs	Consent notices are sent prior to lease expirations on allotments, to ensure owners wish the BIA to negotiate a new lease. This is not the standard 90-Day Notice, but a unique form developed by Southern Ute Agency to cover both 90-day notification and consent processes in one activity.	Procedural	Landowners can make more informed consent decisions. Response rates are very high compared to other regions and agencies. The beneficiary involvement is condensed to a single activity (rather than separate 90-Day	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		The form includes an estimated value to be distributed to the IIM account for that specific owner-interest, based on the set value of the lease and ownership share.		Notices, followed by consent letters), reducing workload for the Agency.		
Southern Ute BIA Agency and Tribal Office	Mechanism	The Tribe has its own Land Department Database, and the Agency uses LRIS for leasing records.	System Capability	Minimal	Low	Medium
BIA Southern Ute Agency	Controls	Southern Ute covers approximately 700,000 acres of which 30% is used for agriculture and another 30% for grazing. Agricultural leases are issued on both Tribal and allotted lands. The Tribe has contracted agricultural leasing on Tribal lands, while the BIA Agency retains responsibility for leases on allotted lands. The Tribe has maintained a tradition of “land assignments” to individual Indians, which act similarly to the granting of a life estate. These are Tribal lands controlled by the enrolled member, who may lease the land. The Tribe is responsible for working with the assignee to issue the leases.	Tribal Contract	Process impact is minimal. No organization (Tribe or BIA) has a holistic set of information of land use for the reservation.	Low	Major
Southern Ute BIA Agency	Organization	The Tribe performs all	Tribal	Enforcement duties are split	Low	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
and Tribal Office	Roles	compliance monitoring and enforcement activities for Tribal lands. The BIA still performs compliance and requests enforcement action support from the Tribe on allotted lands.	Contract Procedural	between the BIA and the Tribe. Sometimes there are disputes and lack of clarity as to jurisdiction or responsibilities.		
Southern Ute BIA Agency and Tribal Office	Obligation Process	The Tribe has contracted agricultural leasing within the last year.	Tribal Contract	The Tribal resources face training and computer literacy issues. The Tribe effectively manages land assignments of enrolled members on Tribal land, but the BIA still performs or assists most leasing of allotted lands, and provides assistance as needed.	Medium	Major
Southern Ute BIA Agency and Tribal Office	Process Organization Role Inputs	The Tribe sets a rental rate for an area of tracts. No appraisals are performed.	Tribal Contract Tribal Policy	Negotiations are accelerated since there is either a set rate or set minimum rate. No waiting for an appraisal is necessary. The Tribe has based valuations described as fair and are comparable to similar adjacent private, fee land.	Medium	Minor
Southern Ute BIA Agency and Tribal Office	Obligation	Southern Ute Tribe has developed a Land Code, and an IRMP guiding all land use. Additionally, they compile tract	Tribal Law	Agency agricultural leases generally obtain a CatEx (categorical exclusion) from NEPA compliance	High (positive)	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		compliance reports, and notify the Agency and potentially impacted parties whenever they propose a change in land or land use.		activities. If new lands are acquired for use, or if major ground-altering improvements are planned, then archeological surveys and FONSI clearances are obtained.		
Ute Mountain, Jicarilla, and Mescalero Tribes	Process	These Tribes issue hunting permits for big game, without BIA involvement.	Tribal Policy Land Characteristics	Minimal.	Low	Major

**Table 4.3.5.4- 11 Western Region Range Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
BIA Western Region Agencies, Field Offices	Process	Most Agencies and Field Offices do not issue 90-Day Notices or obtain consent from allotment-owner-interests.	BIA Agency & Field Office Policy	Individual beneficiaries have limited participation in decisions for land use.	Medium	Minor
Western Region BIA Agencies, Field Offices, Tribal Offices	Process	Monitoring, land utilization reporting, compliance and enforcement activities are nominal.	Budget Land Characteristics	Many leases and tracts have non-compliance and poor land-use practices. The land condition suffers from non-compliant operation. There is limited effort to escalate enforcement activity to resolve non-compliance.	High	Major





Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Fort Mohave Tribe	Obligation	Tribe has authority to grant leases up to 25 years without BIA approval. A 10% subsidy is provided to Tribal members.	Federal Law	BIA does not participate in agricultural leasing programs, and nominal visibility to land utilization.	Unknown	Major
Western Region BIA Agencies, Field Offices, and Tribal Offices	Process	Most of the region's Tribes have irrigation systems. Land utilization is highly dependent upon the market prices for the specific commodities for which individual tracts have been planned, and the economic comparison to the related costs, including the irrigation. For example, several locations cited problems with cotton prices falling, and a glut in certain nuts (e.g. pistachios) impacting their economics enough to force the tracts to go idle.	Land Characteristics	Lack of market stability and water availability cause land to go idle.	High	Major
BIA Fort Yuma Agency	Process	The Agency performs entire leasing cycles twice each year. Approximately half the leases expire in July, and the other half at the calendar year end, due to rotating crops and certain tracts getting two crops per year. Appraisals are done for each tract before lease expiration, and requests are made to the regional OST appraiser 7-12 months in	Land Characteristics	Total workload does not change significantly, but unlike other regions and agencies, Fort Yuma resources must multi-task to a greater extent, as many processes overlap.	Medium	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		advance.				
Western Region BIA Agencies and Salt River Indian Community	Inputs Process	Fort Yuma requests are made to Title Plant only for uncertified TSRs, since the backlog for certified TSRs is about 2 years. Pima and Colorado River don't request TSRs any more due to their experience in long turnarounds. Salt River performs its own uncertified TSR in less than a week. Its realty resources compile the TSR from access to IRMS, and Tribal GIS and ownership systems.	Procedural	Ownership information used for consent and distribution advices is uncertified. When turnaround on Title Plant on the uncertified TSR may impact the ability to lease, realty resources at the Agency research locally available ownership records and use that for the lease and future distribution advices on that lease.	High	Medium
Salt River Indian Community	Role Process	The Tribe hires a contractor to secure consent signatures of owners. There are 24,000 acres of allotments with up to 300 owner-interests per allotment. Most allotments are around 10 acres or less.	Procedural	A dedicated resource with sole responsibility for consent increases the response rates and timeliness, hence accelerating the timeframe to complete draft and approval of leases.	High	Minor
BIA Fort Yuma Agency	Process	Has the most active bidding program of all Agencies in the region. Land is high value due to a commercially competitive agricultural base (e.g. almonds, pistachios, fruits, etc.). All bidders and owners are requested	Procedural	Bid process is more effective at maximizing revenue from high-value, irrigated, specialty-crop land, but is significantly more time-consuming and requires additional	High	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		to attend the bid opening, where a mediated auction is conducted to complete the lessee selection process. The Agency does no billing or collections, as all leases are direct pay.		resources. Direct pays eliminate Agency billing and collection workload, and provide more timely distribution to beneficiaries.		
BIA Western Region Agencies, Field Offices; note Pima example	Process	Standard processes and policies are not defined or applied consistently across the region. The largest difficulties are policies and procedures to process leases where multiple tracts have been aggregated into a single Farm Unit for lease. For example, Pima issues 2 leases to the same operator for the same Farm Unit. Most other Agencies have only a single lease. Sometimes allotment interests are not contacted for authority or consent to lease. Sometimes the Agency takes on the responsibility to reimburse allotment-interests, who do not consent, for the difference between FMV and a lower lease rental rate. In almost all cases, Agency resources are unclear on policy, procedures, and calculation standards for these	Procedural	Distribution advices may be calculated inconsistently and individual beneficiaries receive inconsistent value. This is particularly relevant to small-tract Reservations with highly-fractionated interests, e.g. the Pima Agency, which has 7,800 different landowners with 152,000 tract-owner-interests. A typical agricultural tract has 500 interests, with some having up to 5,000. This significantly increases error rates, and causes large reconciliation workloads. Pima has some suspense accounts unreconciled and undistributed for over 20 years, with current balance of approximately 200 SDA totaling \$5million.	High	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		unitized agricultural leases.				
BIA Western Region Agencies, Field Offices, Salt River & Gila River Indian Communities, Colorado River and San Carlos Apache Tribes	Process Organization Roles Outputs	Billing for O&M of federally-funded irrigation projects is done by Agencies and Field Offices. Rates are set by the federal registrar, except for the Colorado River and San Carlos Agencies, where the San Carlos Irrigation Project board sets the rates. The fees are billed every six months by the BIA land operations resources. For Tribally-developed irrigation projects, like Salt River and Gila River, the Tribe sets O&M billing rates and does the billing and collection itself.	Procedural	Minimal	Low	Medium
BIA Pima Agency, Gila River Tribe	Role Organization	The Agency retains an external, contracted agent to perform collections for the Tribe.	Procedural	More rapid collection of funds due focused responsibilities. Delinquency rates are lower.	Medium	Minor
Salt River Indian Community	Mechanism	The Tribe has developed a sophisticated GIS system integrated with ownership, land management, leasing, and IRMS systems	System Availability	Land planning and management are based on highly informed decisions. Land utilization is high, complaints are few, errors and data inconsistencies are very low due to the integration of the various	High	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				systems.		
BIA Salt River Agency	Mechanism	A version of the Anadarko RES system is used to support land ownership and leasing records.	System Availability	Significant improvements in accuracy and timeliness of information compared to previous manual files. Data inconsistencies still exist with OST/OTFM information.	Medium	Medium
Tribes: Salt-River Tohono O'odham White Mountain Apache San Carlos Apache Te-Moak of Western Shoshone (Duck Valley) Chemehuevi Hopi Fort Mojave	Obligation	Tribes have compacts or have contracted leasing and realty programs.	Tribal Compact Tribal Contract	BIA has nominal involvement, and Tribes determine, plan, and contract their own land use.	High	Major
Salt River Indian Community	Process	The Tribe does all its own collections and distributions, with average cycle time of two to five days (receipt to payment in mail).	Tribal Compact Procedural	Individual beneficiaries receive their distributions in a more timely manner.	High	Major
Colorado River Tribe, Salt River Indian Community	Roles Controls	Agricultural leases are reviewed by Tribal General Counsel before approval.	Tribal Policy	Increased processing time for lease approval.	Low	Major
BIA Colorado River Agency	Process Inputs	Bonds are not required for leases to Tribal enrolled members. Approximately 90% of the leases are direct pay. Proof of direct payment is required by the	Tribal Policy	Beneficiaries are paid in a more timely manner.	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		Agency.				

**Table 4.3.5.4- 12 Pacific Region Range Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
BIA Central California Agency, BIA Palm Springs Field Office	Process	CCA sends out three separate iterations of mailings seeking consent, in order to obtain adequate response rates (simple majority is deemed adequate). Even with this policy, response rates for CCA average about 20%. Palm Springs attempts to get 100% response rate but settles for rates above 90%.	BIA Agency Policy	Significantly increases Agency workload, but increases individual owner-interest awareness and involvement in decisions regarding their land.	Medium	Minor
BIA Northern California Field Office	Controls Roles	Invoicing and collection are not segregated – the same person performs both.	Budget Procedural	Minimal	Low	Minor
BIA Southern California Agency	Process	The cost of appraisals or surveys is borne by the lessee applicant, as the Agency does not have the funds or the staff to perform them in a timely manner.	Budget	Timely completion of appraisals and surveys, and accelerated cycle for lease approval. Extra costs sometimes drive prospective lease applicants away.	Medium	Medium
Pacific Region BIA Agencies, Regional and	Process Outputs	Recent statutes have resulted in the BIA offices being flooded	Federal Law	Large workload demands are incremental to the	High	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Field Offices		with FOIA reporting requests. There is a current backlog of 350 or so. Each requires anywhere from 8 to 500 hours of effort.		primary job descriptions, activities and objectives of the office resources. Efforts channeled to FOIA responses directly reduce the amount of effort available for primary responsibilities.		
Hoopa Valley Tribe	Process	The Tribal land planning resources perform in-depth NEPA compliance processes for any land use planning involving Federal funding. Where land use does not involve such funding, most assessments result in a rapid CatEx or FONSI.	Federal Law	Substantial reductions in workload for leasing and realty resources.	Medium	Medium
Pacific Region BIA Agencies, Regional and Field Offices	Process Location	Agencies cover a large geographic area and generally are not in close proximity with much of the land base they support. Land bases are relatively small and scattered. With a few notable exceptions (e.g. Palm Springs), nominal levels of land use planning and monitoring are done, due to this type of land base and no special funding.	Land Characteristics	Tribes have formed consortiums to pool funds to provide compensation for several staff positions at the BIA Regional Office, in order to get several vital land services (e.g. environmental scientist, leasing specialists)	High	Medium
Pacific Region BIA Agencies, Regional and Field Offices	Process Location	There are numerous PDAs (Public Domain Allotments) which, due to their small size of	Land Characteristics	Most PDAs receive little attention, and are purported to have	High	Major



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		10-20 acres, scattered locations, and lack of visibility in many of the BIA systems of record, receive virtually no land management support.		substantial trespass. BIA resources are not clear whether their Trust responsibilities include non-reservation lands, and lands for non-Tribal-members.		
Pacific Region BIA Agencies, Regional and Field Offices	Inputs Process	Agencies request certified TSRs, but seldom receive them. Agencies have stopped requesting certified TSRs for the last year. They now request uncertified TSRs.	Procedural	Ownership information used for consent and payment distribution advices is uncertified, frequently has errors, inconsistencies and rejects from OST/OTFM.	High	Medium
Pacific Region BIA Agencies, Regional and Field Offices	Process	Since the region's land has relatively high value, there are direct signing bonuses paid to owner-interests. However, this is always performed as direct payment based upon lessee discretion. Northern California Field Office and Palm Springs Field Office do request notice of direct payments, to at least track payments to ownership interests based on lease terms.	Procedural	Limited controls exist over such direct payments, and there is little assurance that the entire ownership-interest base is being treated equitably, and the BIA has poor visibility to these payments, hence not providing input for future valuation negotiations.	High	Major
Pacific Region BIA Agencies, Regional and Field Offices	Process Location Role	All checks are forwarded with the distribution advice directly to the regional OST/OTFM accountants in Sacramento. Few SDAs are	Procedural	No SDA or suspense account buildups of significance.	High	Medium





Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		used.				
BIA Palm Springs Field Office	Process	When lessee selection is through the bid process, the Field Office invites all bidders and owners, and conducts the bid opening as a mediated auction.	Procedural	Bid process is more effective at maximizing revenue from high-value land, but is significantly more time-consuming and requires additional resources.	Medium	Medium
Hoopa Valley Tribe	Mechanism	GIS systems integrate with 2 Tribal databases, one for internal Tribal land assignments, and one for allotted lands. Hoopa has contracted with the LTRO for access to LRIS systems, which are integrated with the Tribal databases. They are also implementing an electronic document repository for better contract and key record access and retrieval.	System Capabilities	Land planning, utilization reporting, ownership information, billing, collections, distributions, and compliance all have integrated information support for better decisions and transactional integrity. This substantially reduces “non-value-added” workload (e.g. error correction, reconciliations).	High	Medium
Pacific Region BIA Agencies, Regional and Field Offices	Mechanism	No shared computer systems are available, or accessible by realty staff. Problems include lack of integrated or interfaced systems, lack of network infrastructure, or lack of security clearance.	System Constraints	Consent and distribution advices are prepared using locally available data, usually manual files, resulting in uncertified data with frequent errors or inconsistencies, and rejects from OST/OTFM.	High	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
BIA Palm Springs Field Office	Obligation	Various Tribal ordinances help govern and provide guidance for land use planning and leasing. For example, the Outdoor Structure Ordinance includes a billboard saturation plan to encourage development of miscellaneous permit revenue for billboards, while at the same time limiting their shape, size, density, locations, etc.	Tribal Law	Clear objectives and criteria are set for Agency resources to use in leasing. Negotiations are rapid and relatively simple due to the extra clarity provided by Tribal use plans.	High	Medium
Hoopa Valley Tribe	Process	The Tribe is able to perform a high level of compliance monitoring and integrated, timely enforcement, as they closely integrate their land use and realty resources with their Tribal law enforcement staff, and have funded these programs adequately from Tribal funds.	Tribal Policy Federal Law	Unlike most BIA land operations monitoring and compliance, a high percentage of monitoring is consistently performed and rapidly enforced.	High	Medium



#### **4.3.5.5 Long-Term Leasing (L.4)**

The overall process starts with: Plan land use.

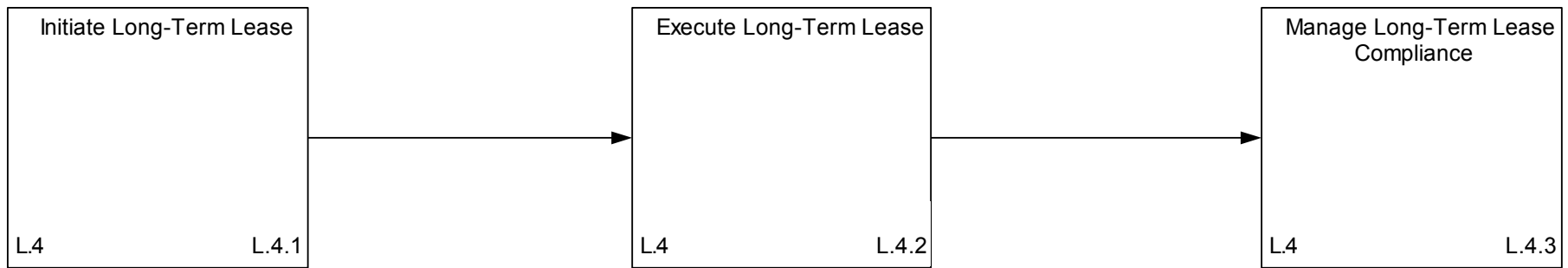
It ends with: Close long-term lease.

The Long-Term Leasing process is comprised of three major functions. They are the initiation of a long-term lease, the execution of that lease, and the management of long-term lease compliance. Long-term leases considered in this process focus on both commercial and residential leases. In uncommon instances where commercial leases did not qualify as “long-term” (generally 10 years or more in duration) all other aspects of lease initiation, execution and compliance management were included as part of our understanding of commercial leases.

For these types of long-term leases, the first major component of the leasing process involves the initiation of the lease. Activities included in this stage are general land use or specific tract planning, the application process for a commercial or residential lease, obtaining consent from the beneficial owners of the property in question, the drafting and negotiation of terms for each lease, bidding for a long-term lease if no qualified applicant or owner has indicated interest in the property, and awarding the long-term lease. If a qualified owner does indicate interest in the property, that owner may pursue use of the land either without permit or with a long-term lease. Owner use without permit usually involves simple cases where there are limited owner-interests or sole ownership of the tract where land is intended for uncomplicated use such as residing on their own land. Owner use, such as when Tribes use tribal land for economic development, is a common occurrence with or without a long-term lease.

The second major component of the Long-Term Leasing process is the execution of the lease. Execution involves preparing any necessary pre-lease billing and collection, forwarding the lease package to DOI for long-term lease approval, and following up with operational lease billing and collection of lease revenues. In certain cases, a Direct Pay scenario may be included whereby lease revenues go directly from the lessee to the beneficial owners of the property being used. Direct Pay, allowed by regulation, present difficulties for the DOI in tracking all Trust revenues and protecting Beneficiary interests.

The final component of this process involves management of long-term lease compliance. Management of compliance includes monitoring the lessee for compliance of lease terms and payments according to the lease schedule, modifying lease terms if such modification benefits and is agreeable to all parties of the lease, performing enforcement actions if the lessee is found not to be in compliance with lease requirements, and finally, closing leases for either non-compliance or for natural termination stipulations.



**Figure 4.3.5.5- 1 Long-Term Leasing High Level Diagram**



#### 4.3.5.5.1 Initiate Long-Term Leasing (L.4.1)

Starts with: Plan land use.

Ends with: Award long-term lease.

In general, the initiation of long-term leases may start with an element of regularly scheduled land use planning. This planning may happen on a yearly basis, as part of land development activities or even as part of Tribal economic development plans. The more formal components of long-term lease initiation begin with the lease application process. During this step, processes outside of leasing, such as title, survey, and appraisals may be conducted.

Once an application is in process, the BIA realty program staff (sometimes in conjunction with the potential lessee) pursues beneficial owner interest consent to the lease. Total consent is determined as a percentage of the owner-interests identified for a tract of land. The application process also involves significant collaboration with many outside organizations including environmental protection, regulatory, cultural or historic preservation agencies, and/or HUD and related local zoning boards. Application processing or administration fees may be charged.

If a sole owner intends to use his/her property, the owner may express to the BIA that he/she intends to use the property in question *without permit*. In this particular case, the Long-Term Leasing process ends and the owner proceeds to use the land as indicated. Otherwise, the process continues with the drafting of terms. Many BIA Regions have several standard long-term leases with pre-developed terms. It is particularly common for a Region or Tribe to have standard residential leases, with 25, 50 or even 99-year lease periods with automatic extensions stipulated.

Generally, residential lease terms are not “negotiated,” but rather an agreement is reached regarding any lease payments. Almost always a residential lease stipulates an annual payment of \$1. Some regions require a lump sum payment up front for the entire rent on the lease (e.g., \$65 for a 65 year lease), others actually collect the yearly rental fee, while many waive the rent entirely.

On commercial leases, the next step in the process is to conduct long-term lease negotiations. The draft or standard lease package is updated with mutually approved stipulations.

On Tribal lands, the Tribe may lease property for numerous uses that bring services and programs beneficial to the life of the Tribe onto the reservation. Examples of these types of uses include Tribal Council offices, day care centers, houses of worship, and schools. Tribes and individuals may also lease their own lands. Tribes often lease Tribal lands to a Tribal Enterprise, an incorporated business owned by the Tribe itself. Individuals may lease property in which they have an interest for commercial uses. Unless they are the sole owner, consent must be obtained from the other tract interest owners.

The final step of the Initiate Long-Term Lease subprocess is focused on obtaining final permission from the Tribe or Beneficiaries to execute the lease. This step involves providing the beneficial owner of the land with the finalized lease package and negotiated terms for their approval. When a Tribal governing body provides a Tribal Resolution to proceed with the lease or Beneficiaries sign consent forms or the lease itself, the long-term lease is considered “awarded” to the applicant or lessee. Legally, the lease is not approved until signed by the BIA Line Official.

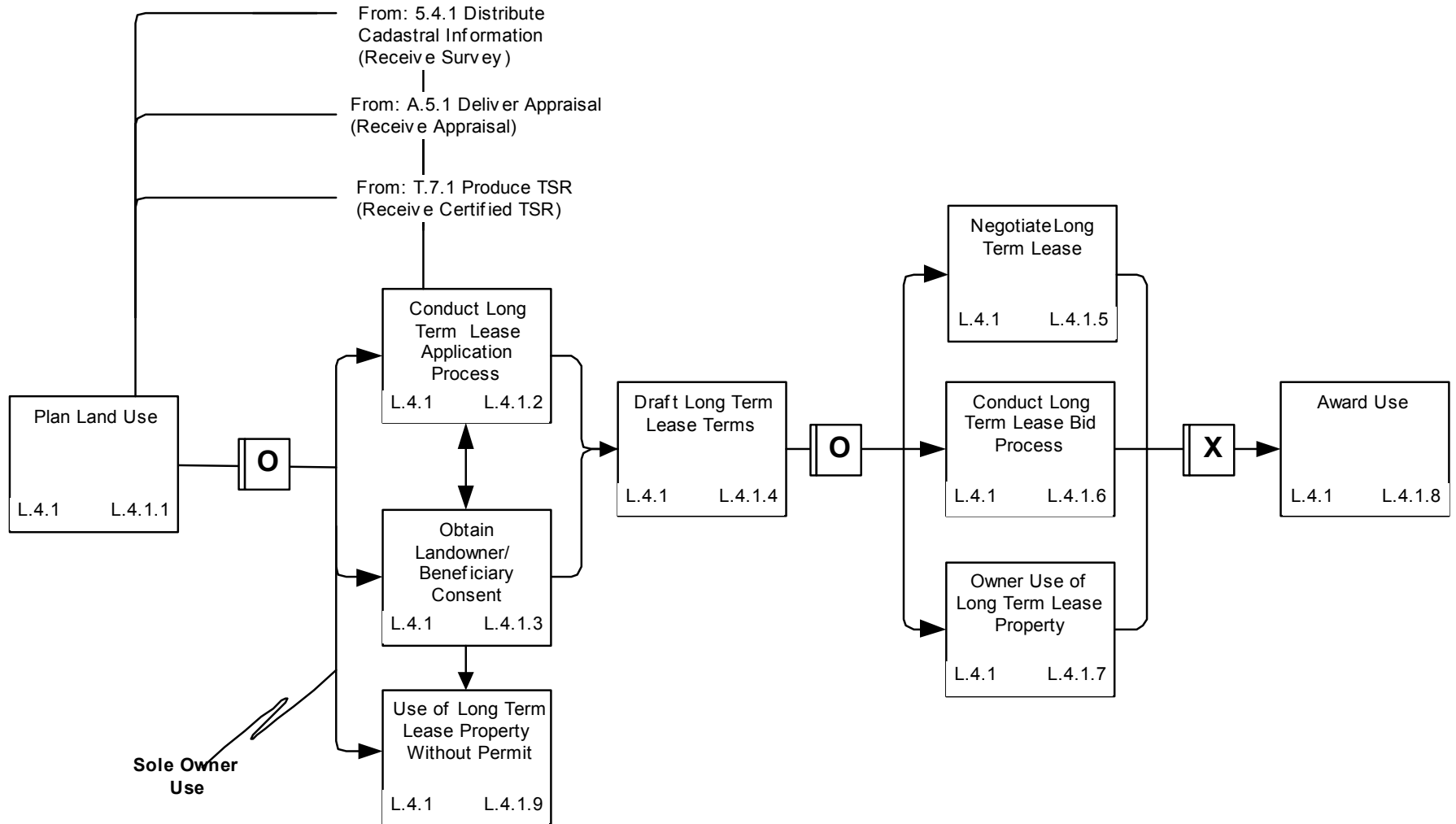


Figure 4.3.5.5- 2 Initiate Long-Term Lease IDEF(3)



## **Beneficiary Involvement for Initiate Long-Term Leasing**

Beneficiaries are significantly involved in initiating long-term leases. Tribes engage in economic or land development, and for residential leases, Tribal zoning boards and housing development activities with HUD may be pursued. Long-term lease applicants who are also beneficiaries are often required to obtain appraisals, surveys, clearances and consent on their own to fulfill the requirements of the lease application package. Beneficiaries may also provide consent to a long-term lease applicant or may lease their own property without permit. When terms are being drafted and negotiated for a specific lease, beneficiaries may place requirements on the lessee as stipulations of the lease. When Tribes intend to use their own property under lease, they act on their own behalf within the Tribal government committees and the Tribal governing body to promote economic development and growth often through creating Tribal Enterprises and bringing programs and services onto the reservation that will benefit their Tribal members and beneficiaries.

For leases of Tribal lands, Tribes may perform their own solicitation, negotiation and selection of a lessee, or they may choose to provide input and guidance to the BIA while these activities are occurring. If a long-term lease is going out for bid, beneficiaries actively participate in defining terms and parameters of the bidding process. Tribes may also create “blanket resolutions” regarding commercial leases by which the Tribal Enterprise has “first right of refusal” on all bidding performed for Tribal land.

In many cases, beneficiary “consent” is obtained twice during this subprocess—first to obtain *permission* to pursue a long-term lease or a particular applicant, and finally to “award” the lease after all terms have been negotiated. The Tribal governing body will often provide a Tribal Resolution as part of the package that is forwarded to DOI for lease approval.

## **Initiate Long-Term Leasing Significant Notes**

- a) The long-term lease application and consent steps are often conducted at the same time. This decreases the overall time required to produce a lease package because certain tasks can be done simultaneously, such as determining land availability and viability, identifying landowners to obtain permission to proceed, ensuring an applicant’s qualifications, and ensuring proper land use.
- b) Formal negotiations are rarely performed for residential leases. Most lease packages and terms are standard according to local BIA Agency and Tribal requirements and needs.
- c) Recordation of “owner use without permit” is infrequent. This practice contributes to a lack of historical use documentation or information.
- d) Generally, Indian Trust long-term leases are not the result of proactive land development, but rather in response to interested applicants or Tribal economic development activities.



## Initiate Long-Term Leasing Detail Description

### Plan Land Use (L.4.1.1)

Starts with: Develop a plan for a specific land base or tract.

Ends with: Disseminate a land use plan or tract plan.

The BIA realty staff works with Tribal realty staff to identify opportunities for land use or development. Often, housing authorities/entities or Tribal committees initiate specific tract planning in order to accomplish land or economic development. Planning results in creation of development plans for a specific land base or tract of land. A decision to investigate tract availability or suitability to pursue use is performed. Residential and commercial long-term leases projected and planned for will vary widely according to expected use.

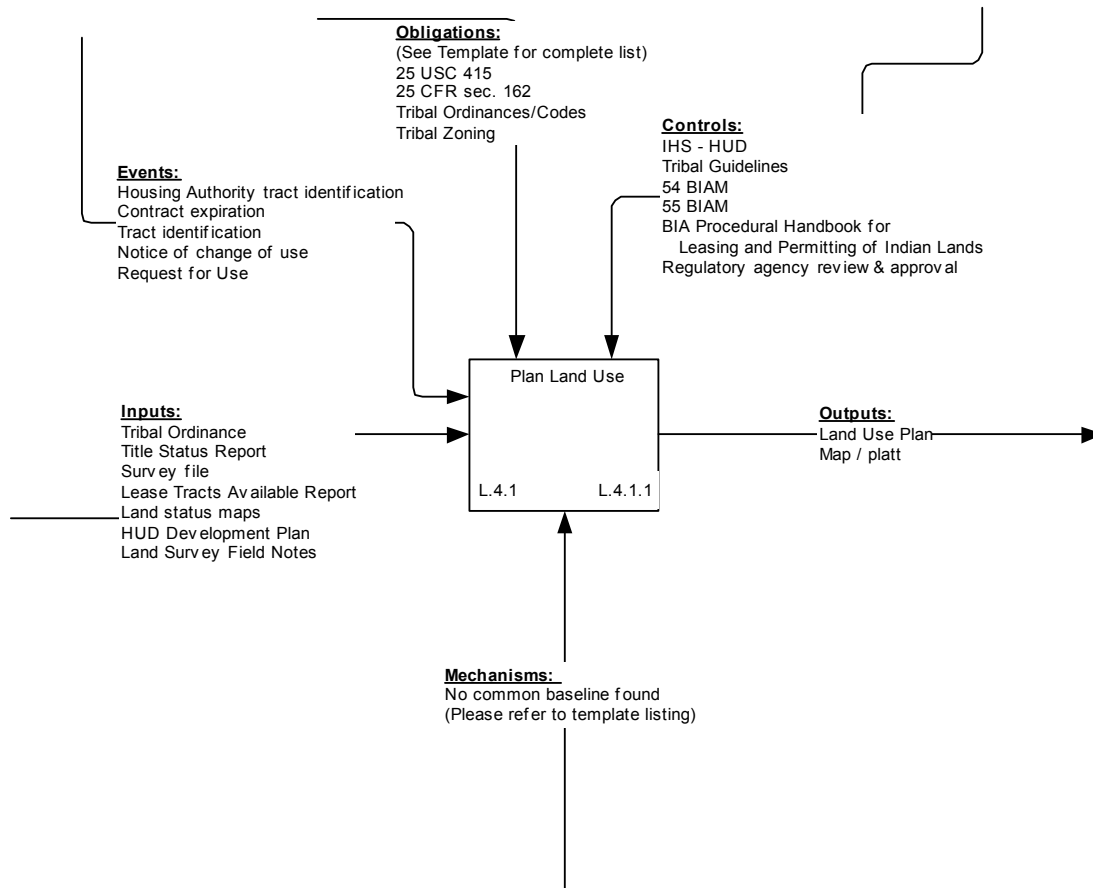


Figure 4.3.5.5- 3 Plan Land Use IDEF(0)





## Conduct Long-Term Lease Application Process (L.4.1.2)

Starts with: Request for long-term lease application.

Ends with: Ascertain potential site suitability and lessee eligibility.

Specific sites are reviewed in response to an application request. Otherwise, BIA and the Tribe work together to select a commercial lease site, lease assignment, or homesite or residential lease tract. This process is generally conducted simultaneously with the process of obtaining landowner consent. The application process may involve an environmental assessment, determination of site suitability, numerous regulatory “field clearances,” surveys, appraisals and ownership title reviews. The application process is essentially concluded when potential site suitability and lessee eligibility has been ascertained.

Note: Next step (L.4.1.3) identified in process may take place concurrently with L.4.1.2.

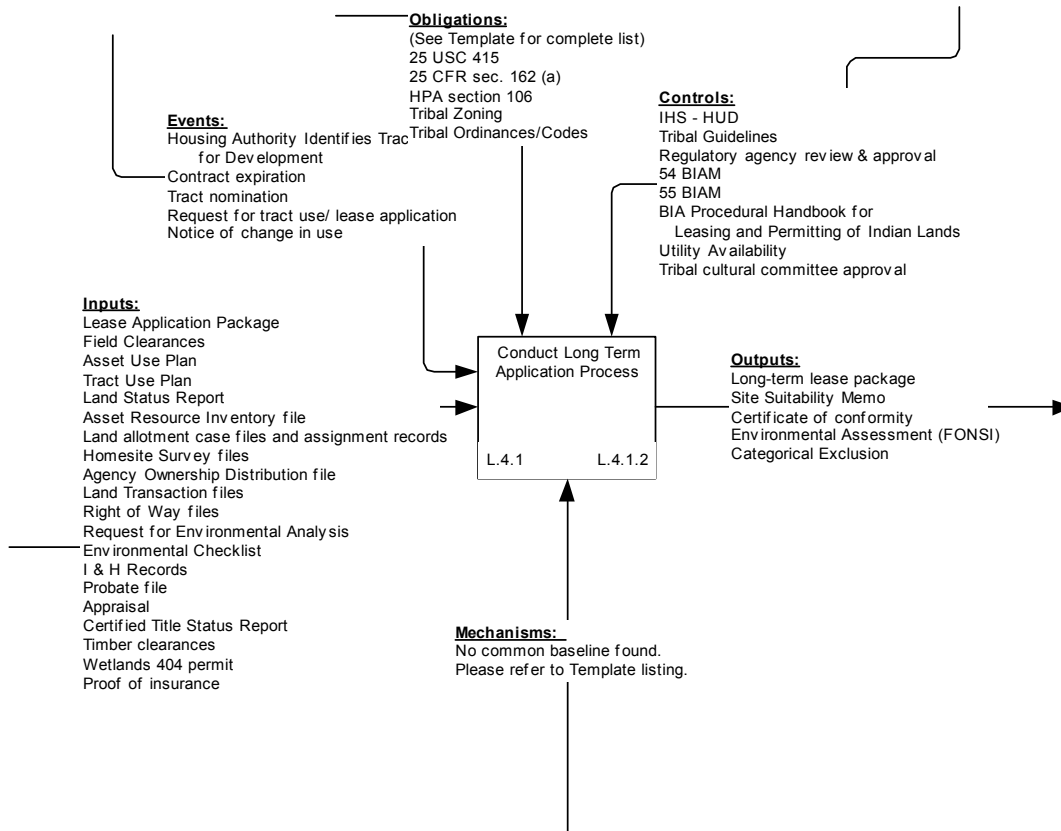


Figure 4.3.5.5- 4 Conduct Long-Term Lease Application Process IDEF(0)

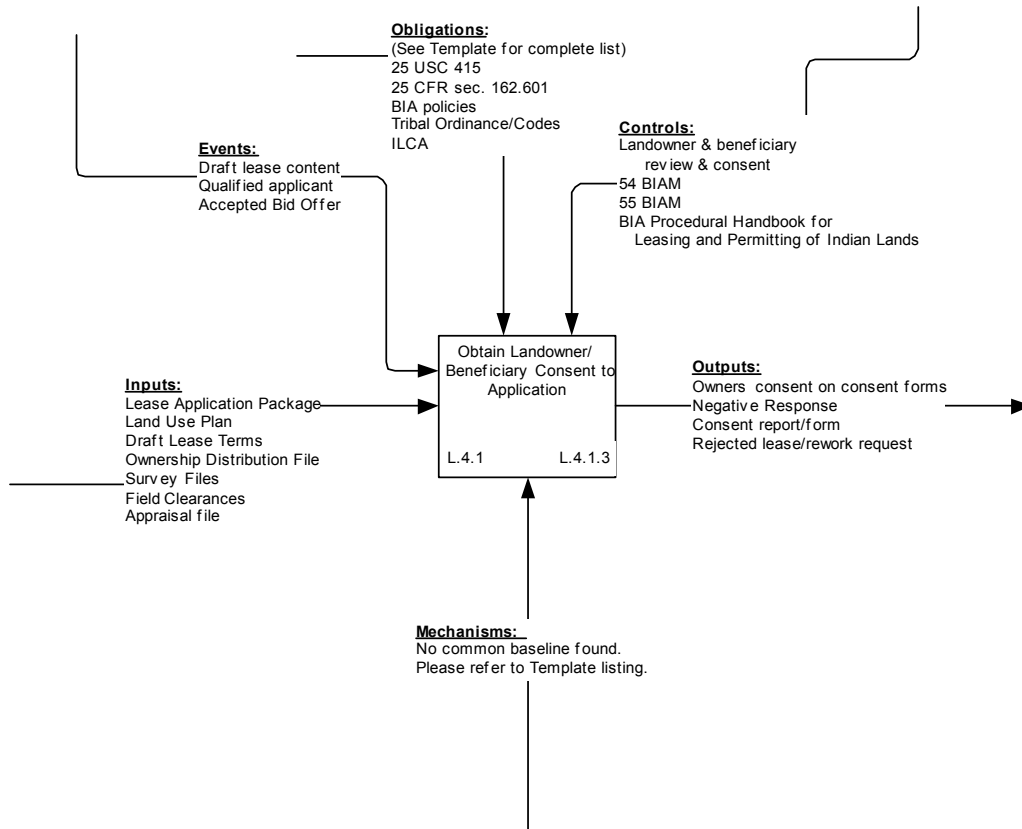


### **Obtain Landowner Beneficiary Consent (L.4.1.3)**

Starts with: Begin long-term lease application.

Ends with: Obtain the required percentage of owner-interest consent to the lease.

Once a site use has been identified and the potential site suitability ascertained, a candidate application or request for use must be accepted by the landowner beneficiaries. The process ends when beneficiary consent is obtained for the lease. To obtain beneficiary consent, consent notices are sent to all Trust interest landowners. If objection is received from any of the notices, the objecting party is solicited to provide a potential secondary (backup) lessee. Approaches to consent vary widely from Agency to Agency. Some Agencies assume that historical use implies consent therefore no current consent is required. Others use an implied consent, whereby non response to the 90-day notice is considered an assumption of consent. Still others attempt to obtain a “positive confirmation” with majority consent.



**Figure 4.3.5.5- 5 Obtain Landowner Beneficiary Consent IDEF(0)**



### **Draft Long-Term Lease Terms (L.4.1.4)**

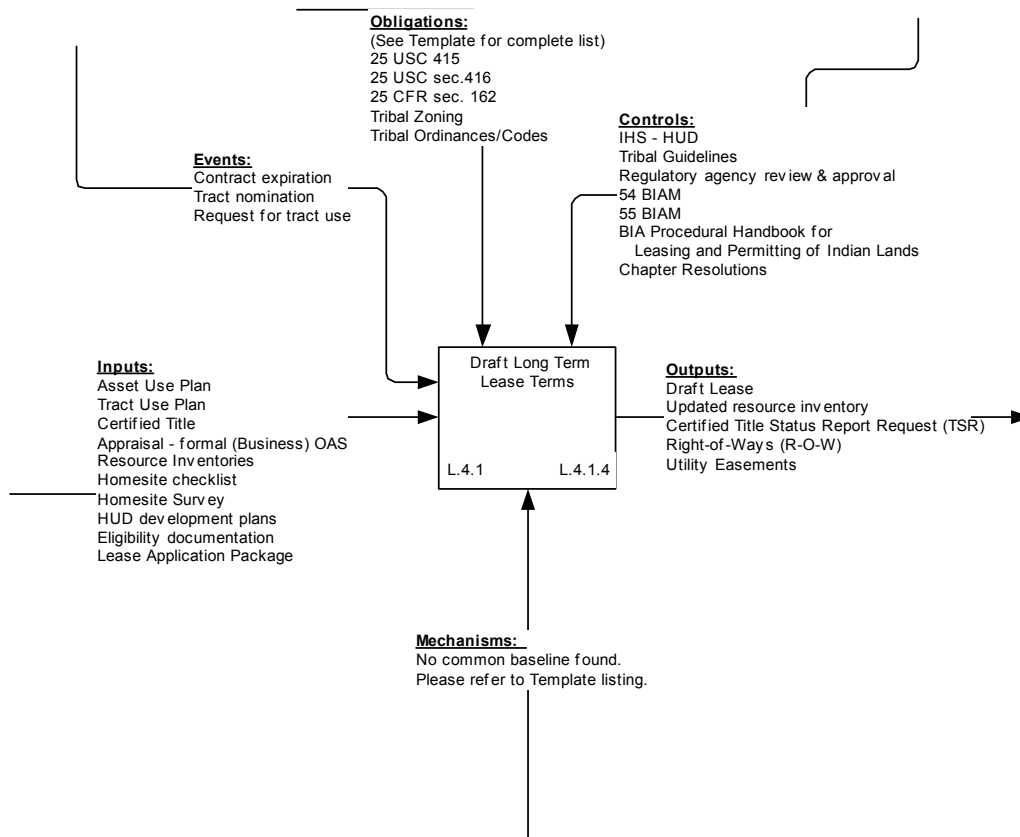
Starts with: Begin drafting long-term lease terms.

Ends with: The process ends when Draft lease terms have been developed.

Once a decision has been made that the site is available and suitable for the prospective lease, drafting of lease terms is performed. Realty specialists assess available information and complete a draft lease package, including but not limited to a pre-lease action item checklist, the lease content and terms, bonding requirements, pre-lease payments, and a lease payment schedule. The draft lease package is made available to candidate lessees. Long-term leases are generally contracted for significant property improvements such as the following:

- a) Lumber mills, schools, social programs (e.g., daycare) centers
- b) Private businesses
- c) Residential homesites
- d) Tribal enterprises

This process of drafting lease terms includes the beginning of negotiation with the requesting party or identified probable user of the property, and generally is not completed until consent has been established. The process ends when Draft lease terms have been developed.



**Figure 4.3.5.5- 6 Draft Long-Term Lease Terms IDEF(0)**

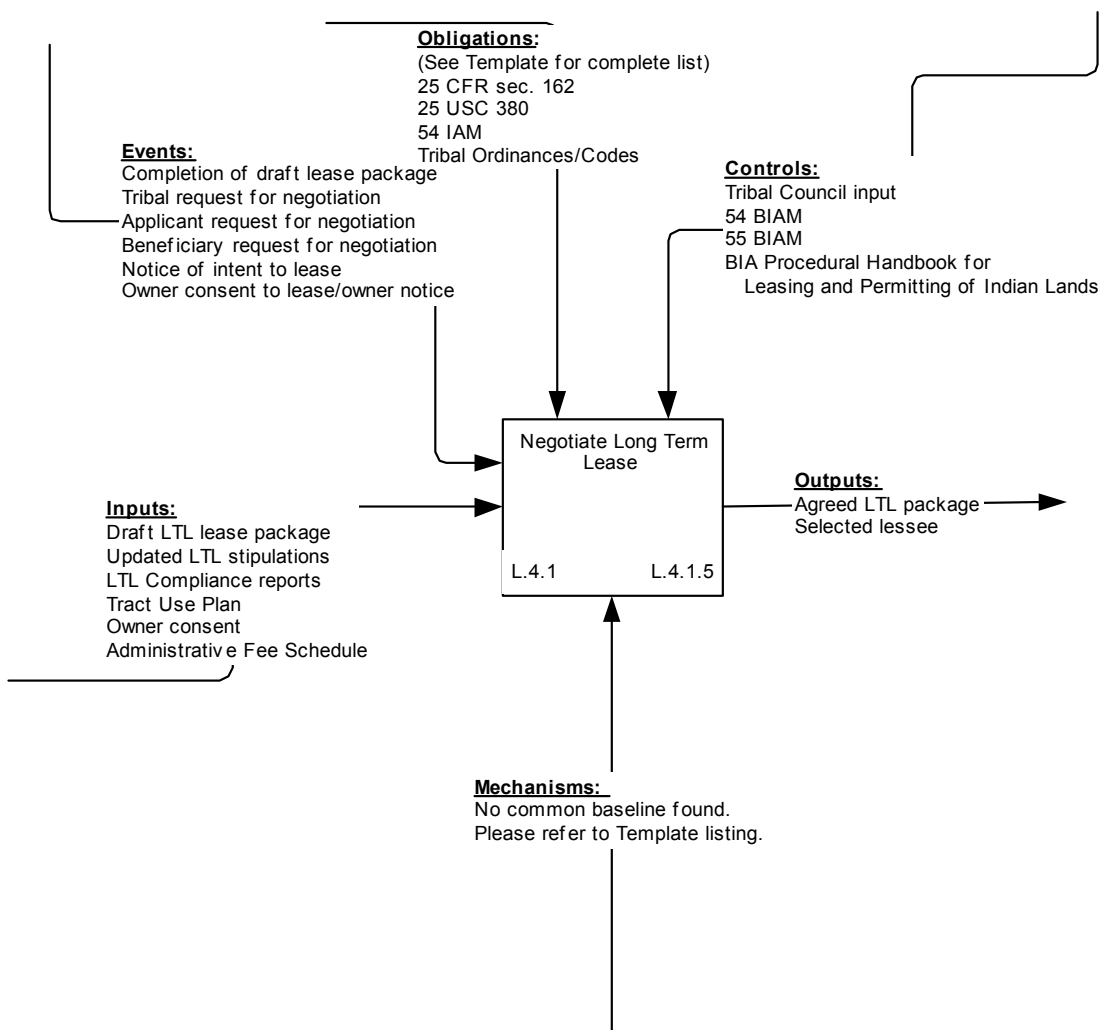


## **Negotiate Long-Term Lease (L.4.1.5)**

Starts with: Complete a draft lease package.

Ends with: Select a lessee.

Either the completion of a draft lease package or notification from a beneficiary to lease land initiates long-term lease negotiation. The process may include the beneficiaries' receipt of a notice of intent to use their property or even in certain cases an application for use of a site (or subset of a site) of land. Negotiation may result in selecting a user/operator of the property with or without lease. Use of Trust property without a lease is generally allowed at beneficiary discretion, dependent upon the history of the beneficiaries' relationship with the potential applicant. Negotiations are conducted with a candidate in order to meet leasing requirements and acceptable terms.



**Figure 4.3.5.5- 7 Negotiate Long-Term Lease IDEF(0)**

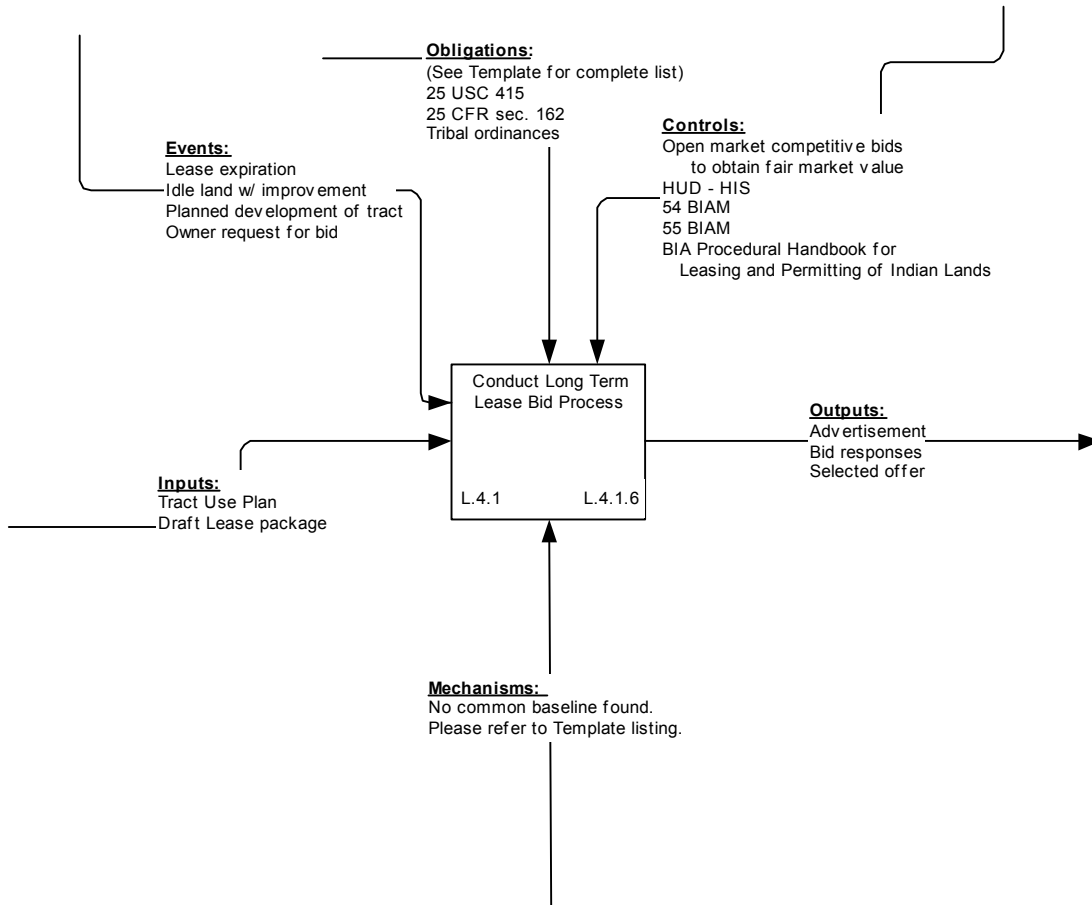


## Conduct Long-Term Lease Bid Process (L.4.1.6)

Starts with: Nomination of parcel for bid.

Ends with: Select a bidder as the lessee.

There are instances on Indian lands when sites are determined suitable for long-term lease and no qualified applicant or owner-use applicant is interested. In order to promote land use, a bidding process for long-term leases is then conducted. Specifically, bidding is common in two cases: where leasehold improvements exist on the property and land has become idle, and where suitability assessment has determined that development of a property is appropriate, consistent with Tribal plans and culture, and bidding is the most appropriate method of ensuring a fair market value is received. The bidding process is completed when a lease offer is selected for award (although the lease is not yet signed).



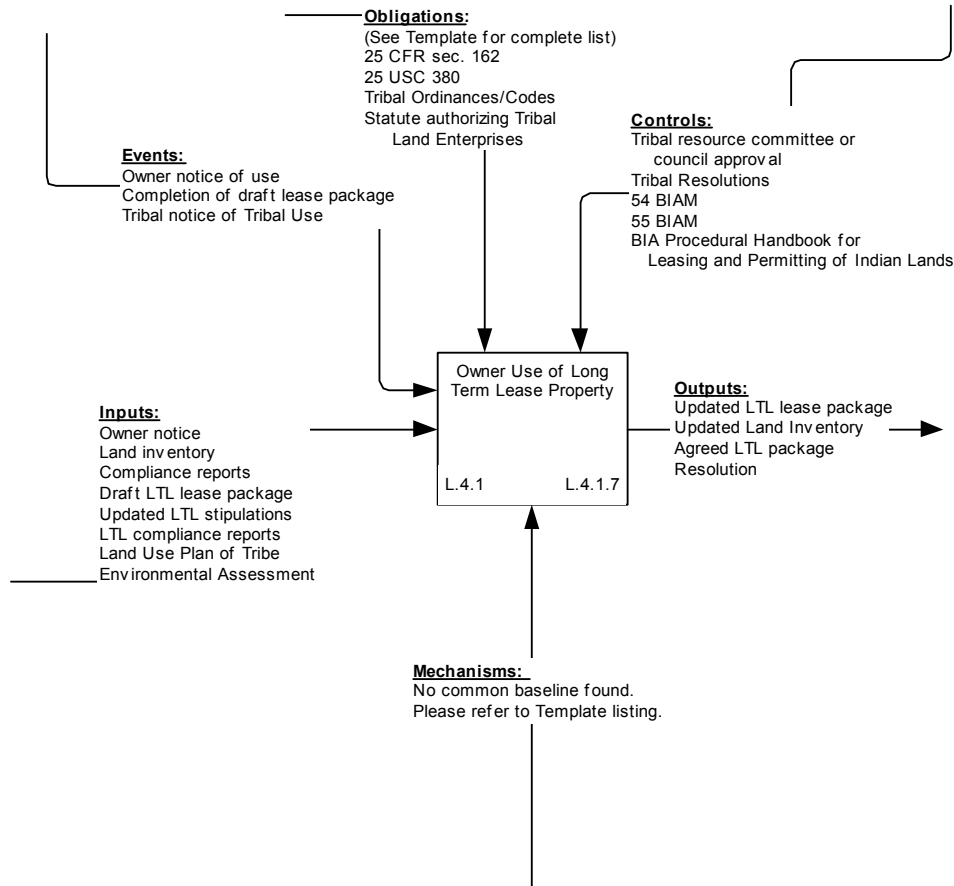
**Figure 4.3.5- 8 Conduct Long-Term Lease Bid Process IDEF(0)**



### **Owner Use of Long-Term Lease Property (L.4.1.7)**

Starts with: Beneficiary expresses interest to obtain a lease.  
Ends with: Grant the lease.

A beneficiary may express interest to engage in a long-term lease on their own Trust land. For Tribes, a lease is frequently entered into with a Tribal corporation or enterprise, and usually involves the Tribal governing body selecting and approving the leasing option, agreeing to the stipulations and lease terms and/or passing a Resolution to allow a specific operation or activity to occur on Trust Land. For other landowners/beneficiaries, formal lease agreements on allotted lands are required prior to individuals obtaining leasehold mortgages or site building privileges.



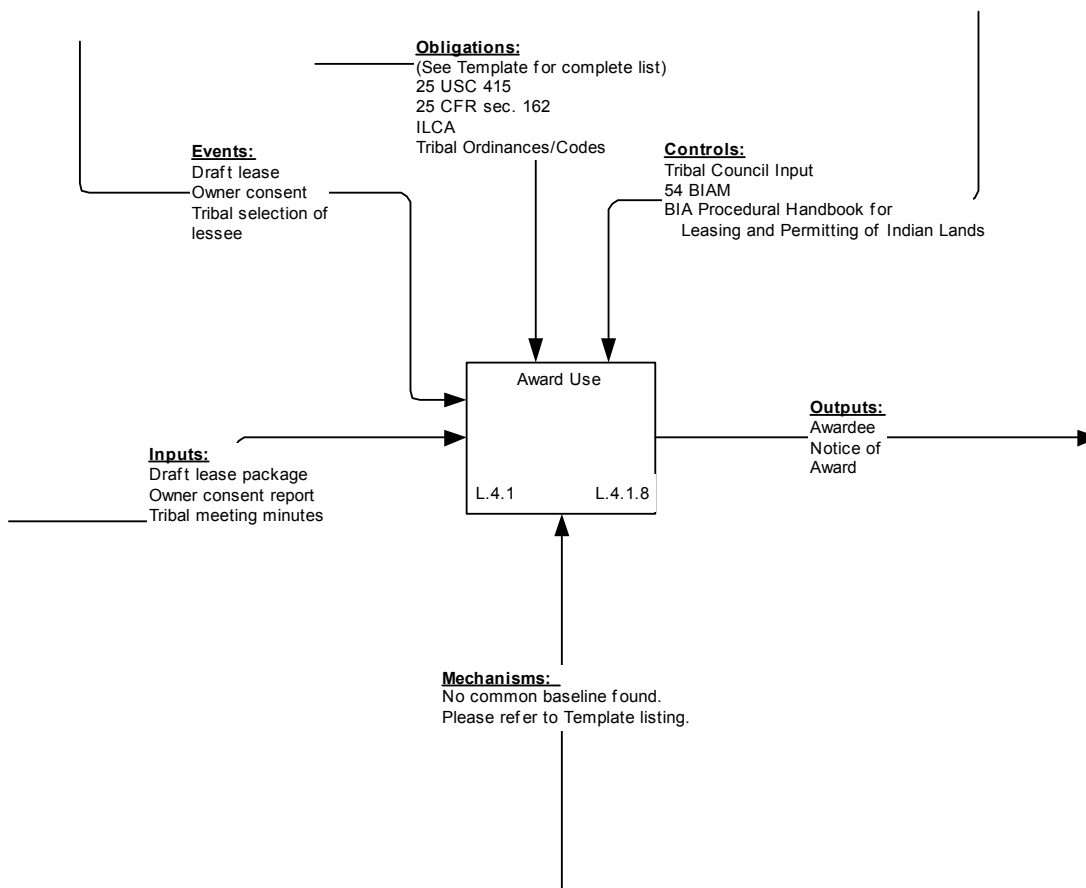
**Figure 4.4.5.5- 9 Owner Use of Long-Term Lease Property IDEF(0)**



### **Award Long-Term Lease (L.4.1.8)**

Starts with: Review long-term lease package.  
Ends with: Award long-term lease.

The beneficiary(s) review the negotiated lease package signed by the lessee. A long-term lease is considered awarded when the beneficiary and the lessee are in concurrence of the lease terms. The lease must subsequently be approved by the BIA to be considered valid.



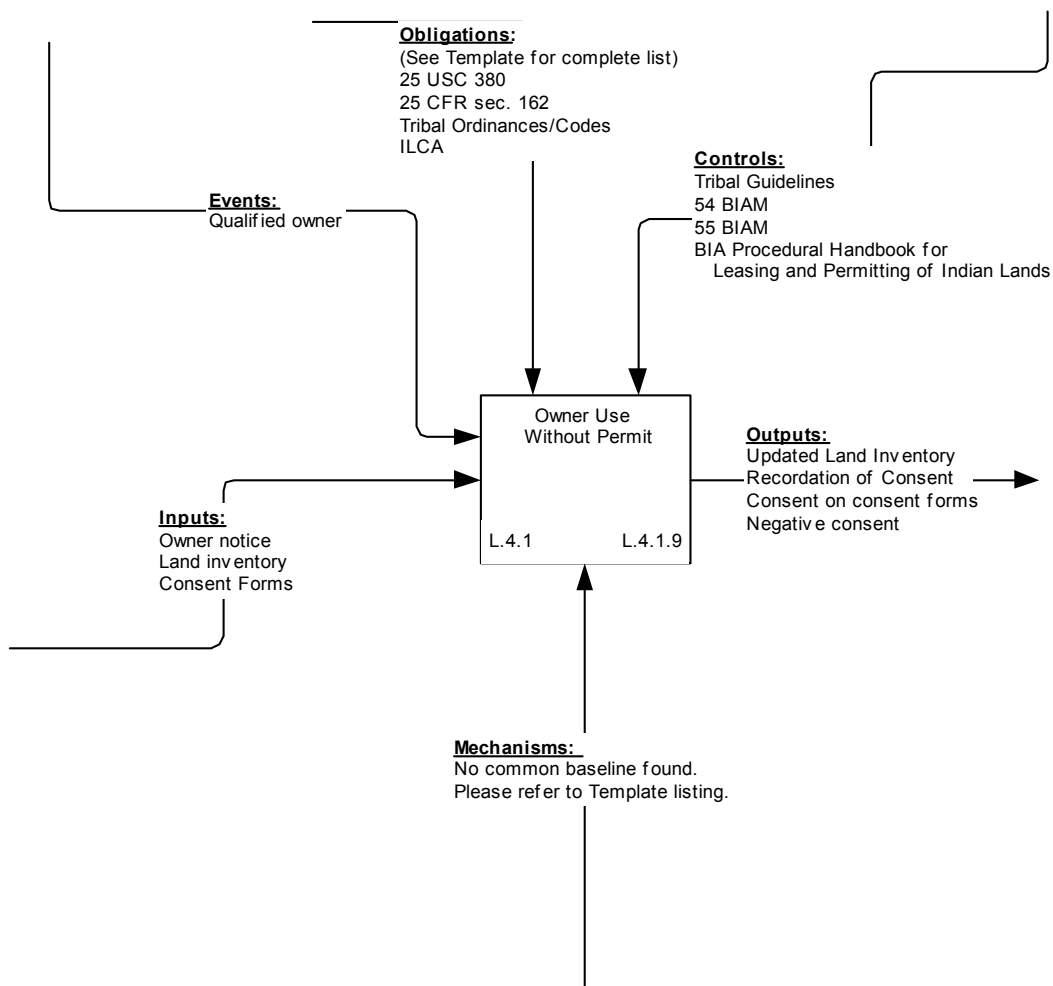
**Figure 4.3.5.5- 10 Award Long-Term Lease IDEF(0)**



### **Owner Use Without Permit (L.4.1.9)**

Starts with: Beneficiary expresses interest to use property without permit.  
Ends with: Landowner use Trust property without a permit.

This process begins with a beneficiary expressing interest to use their own Trust land without a permit. Historical use of Trust lands describes a situation in which land is being utilized without formal documentation or an encumbrance vehicle. Consent of other landowners may be obtained, although permission to proceed with land use is normally conferred at the time interest is first expressed by other landowners.



**Figure 4.4.5.5- 11 Owner Use Without Permit IDEF(0)**





#### **4.3.5.5.2 Execute Long-Term Lease (L.4.2)**

Starts with: Bill for Collection of pre-lease payments.

Ends with: Lease revenues are deposited in beneficiary accounts.

The second major step in the Long-Term Leasing process is the execution of the long-term lease. Execution involves two steps prior to submission of the lease to the Department of the Interior. Certain leases require up front payments of earnest monies, performance bonds, lines of credit, insurance bonds, etc. These funds or cash equivalents are required in order to be considered for the lease. BIA program staff prepares billing and the potential lessee provides the required funds or cash equivalents to the BIA. Because these funds are collected prior to DOI approval of the lease, they are considered non-Trust funds. Therefore, BIA collects these funds into a special non-trust deposit account (“suspense account”) within the Department of the Treasury’s Federal Financial System—not into the DOI Trust fund accounts managed by the Trust Fund Accounting System (TFAS).

When all lease application documentation is consolidated, environmental and cultural clearances are obtained, Tribal Resolutions or Beneficiary Consent forms are obtained, and any pre-contract monies are collected, the long-term lease package is forwarded to the designated DOI Line Official for signature on behalf of the Secretary of the Interior. BIA prepares operational billing cycles to collect lease revenues, or where a Direct Pay scenario has been negotiated, the lessee pays revenues directly to the Beneficial Owners. As appropriate, the pre-lease funds collected are transferred into TFAS as trust funds to be deposited into Beneficiaries’ Trust accounts.

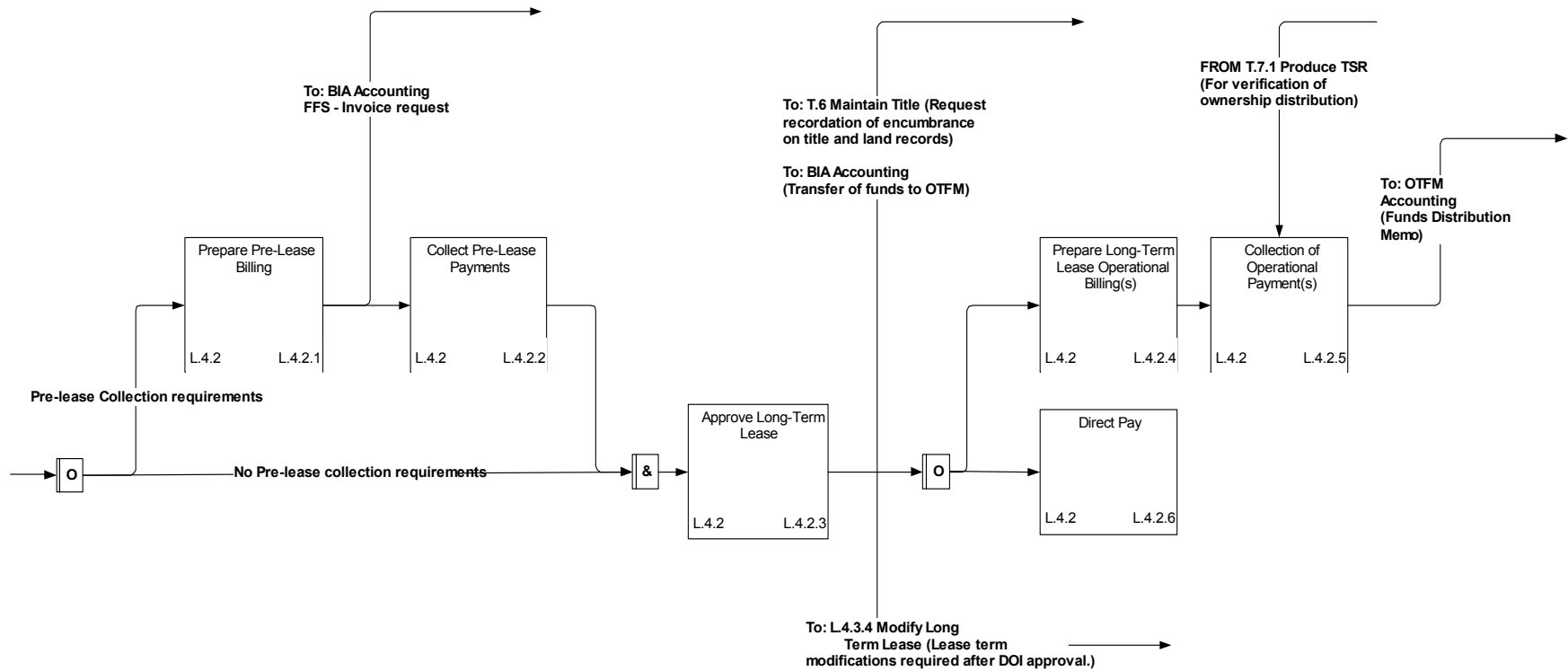


Figure 4.3.5.5- 12 Execute Long-Term Lease IDEF(3)



### **Beneficiary Involvement for Execute Long-Term Lease**

Beneficiaries may insert stipulations within a long-term lease that require advance payments, performance bonds, insurance bonds, or cash equivalents prior to the lease being approved by DOI. If Tribes or beneficiaries have developed a Direct Pay scenario for a long-term lease on their lands, these up front payments may be made directly to the Tribe into general fund accounts or to the beneficiary. Operational payments may also be made through a Direct Pay scenario so that beneficiaries are responsible for managing lease revenues on their own behalf. Beneficiaries must provide consent to the lease, and Tribal policy directives may include a final approval by the Tribal Governing body (usually in a Tribal Resolution) prior to the DOI Line Official's approval.

### **Execute Long-Term Lease Significant Notes**

- a) BIA Central Office is conducting an analysis and update of current leasing regulations. There has been a team assembled to develop the new regulations through consultation and hearings with individual Indians and Tribes. At the end of the consultation period, comments and input will be integrated in the resultant regulations. The new regulations, anticipated in 2003, will use plain language in a question and answer format.
- b) Direct Pay is a common method of collection and distribution of funds generated from long-term commercial leases on Tribal lands. These monies are not recorded in TFAS.



## Execute Long-Term Lease Detail Description

### Prepare Pre-Lease Billing (L.4.2.1)

Starts with: Create pre-lease invoice.

Ends with: Receive pre-lease invoice by lessee.

After a long-term lease has been awarded by the Tribe or landowners, pre-lease payments must be billed. Invoices and supporting documentation (e.g., a bond requirement statement) for any pre-lease payments (such as bid deposits, surety or performance bonds, total of the first year lease rentals, and other cash equivalents) are compiled and sent to the potential lessee for payment before the lease is approved. Where appropriate, BIA may also issue a bill for collection of administrative or lease preparation fees. The BIA Division of Accounting Management may set up a special holding account associated with the lease. The process ends with delivery of a pre-lease invoice and/or payment requirements to the potential lessee.

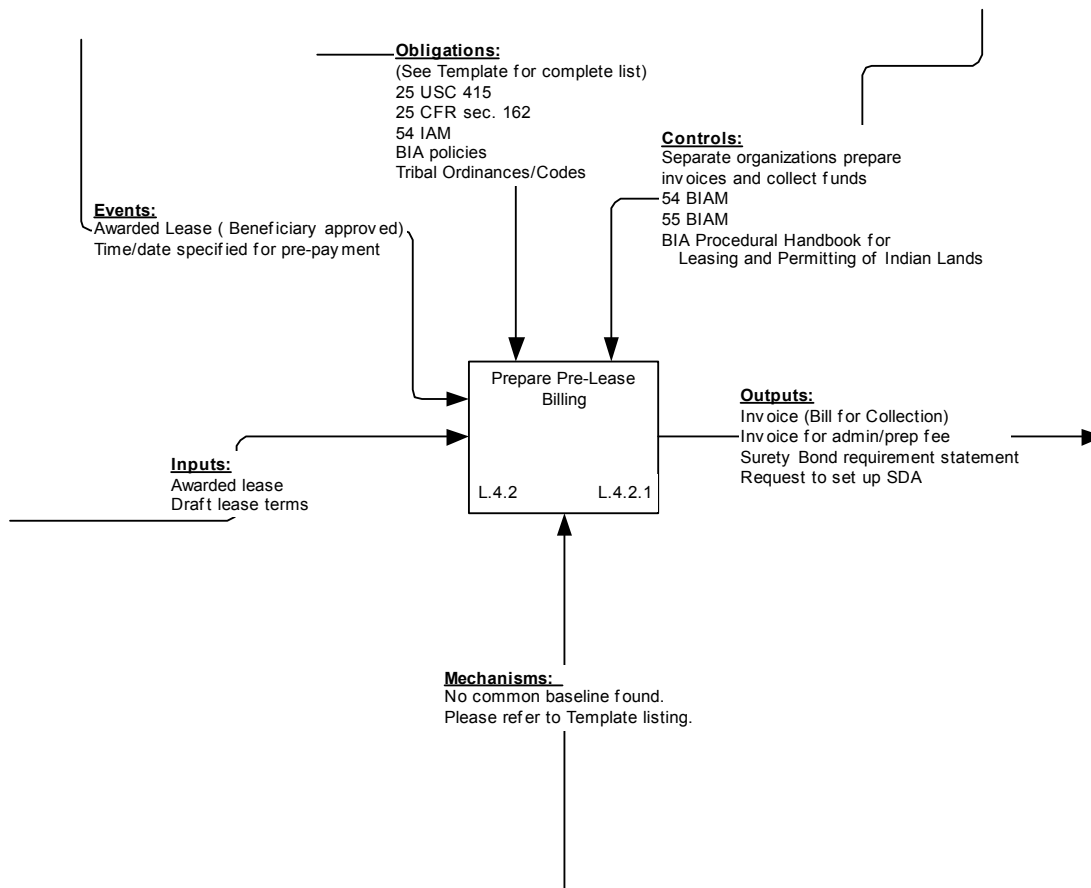


Figure 4.3.5.5- 13 Prepare Pre-Lease Billing IDEF(0)

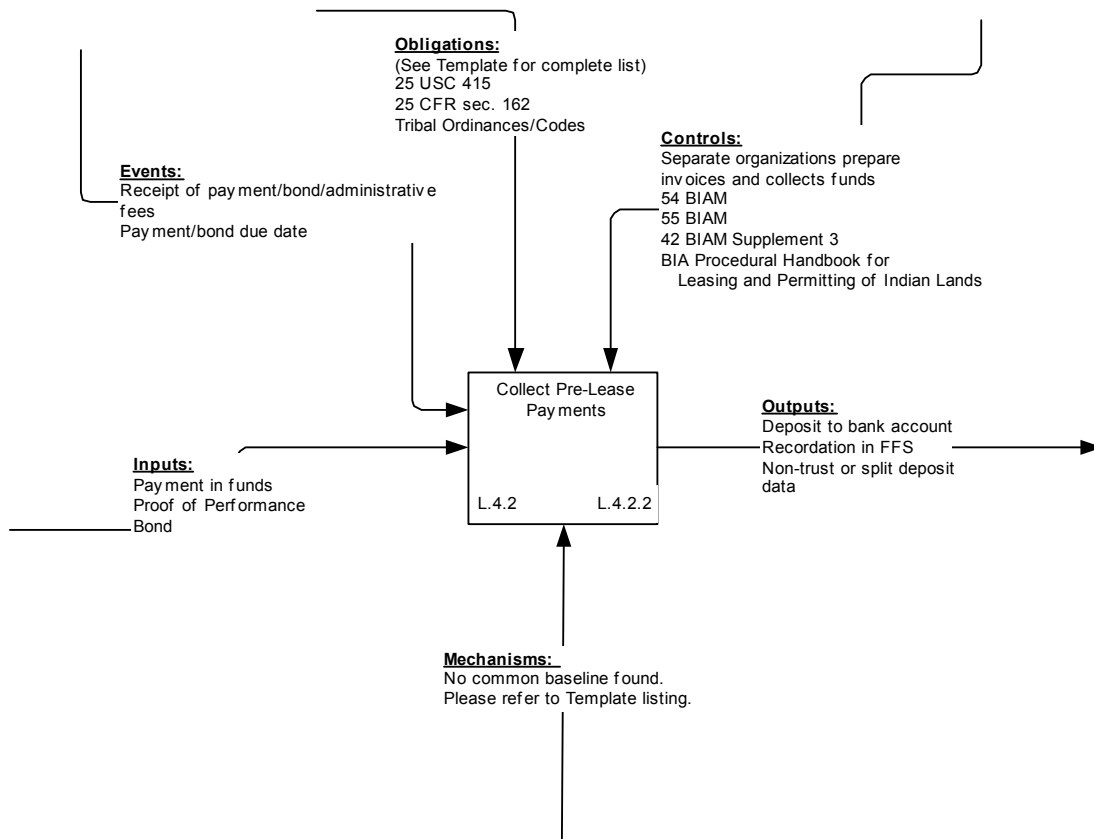


## **Collect Pre-Lease Payments (L.4.2.2)**

Starts with: Send pre-lease payments to BIA Agency Office or Regional Office.

Ends with: Collect and forward pre-lease payments to BIA Division of Accounting Management.

This process begins once a potential lessee has been notified that he/she is required to make pre-lease payments before the lease has been approved. Pre-lease payments may include earnest monies, first year rental, bid deposits, administration or preparation fees, cash bonds or surety deposits (bonds are usually exempted for residential leases). This process ends when the pre-lease payment(s) have been made. Monies and cash equivalents are collected and deposited into a Federal Depository escrow account.



**Figure 4.3.5.5- 14 Collect Pre-Lease Payments IDEF(0)**



### **Approve Long-Term Lease (L.4.2.3)**

Starts with: Forward lease package and consent forms to the DOI Line Official.  
Ends with: Sign lease by DOI Line Official.

After the lease application has been completed, land use has been consented to by the owners, and any pre-lease payments/administrative fees/bonds have been collected, the lease package must be presented to the designated DOI Line Official for review to ensure that the intended lease protects Trust assets and is in accordance with Trust responsibilities. The process ends when a designated DOI Line Official approves the lease on behalf of the Secretary of the Interior. **Error!**

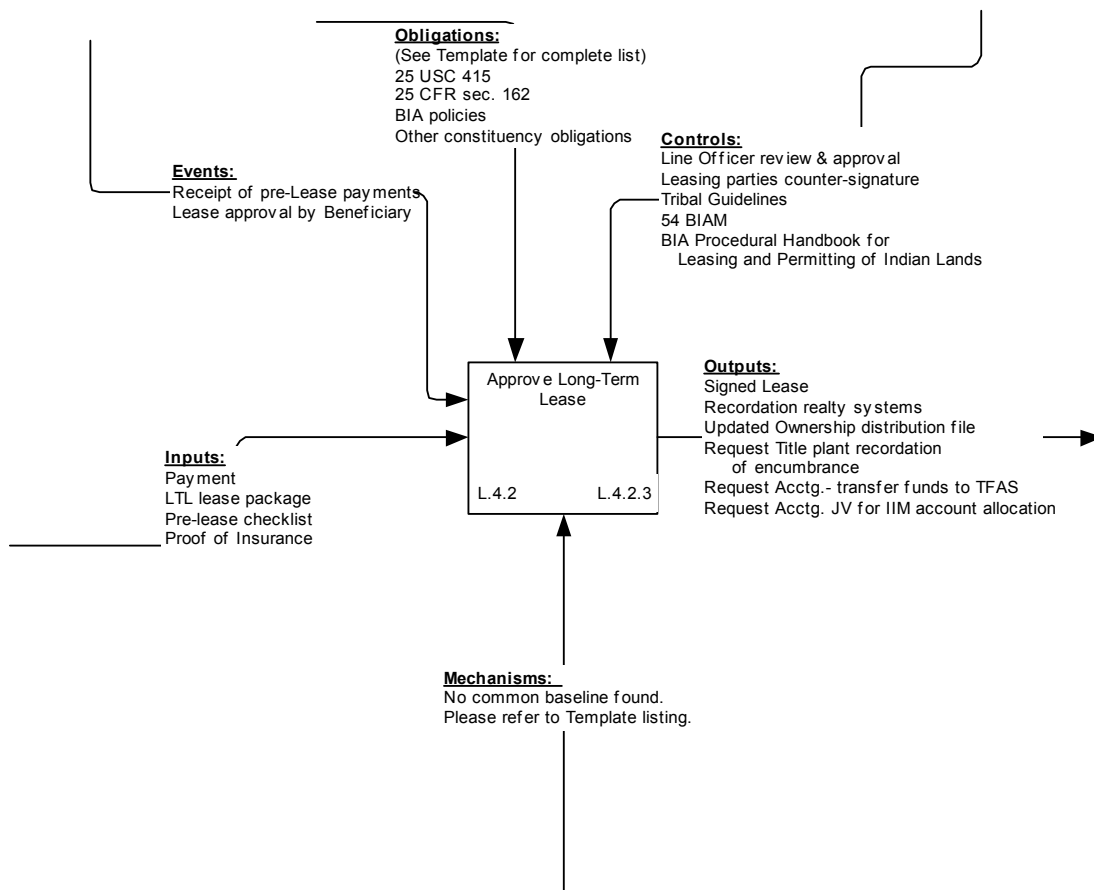


Figure 4.3.5.5- 15 Approve Long-Term Lease IDEF(0)



### Prepare Long-Term Lease Operational Billing(s) (L.4.2.4)

Starts with: Create lease invoice.  
Ends with: Lessee receives lease invoice.

Long-term lease billing is performed approximately 30-45 days prior to a lease payment due date. The schedule for lease payment is determined by the terms of the approved lease. Invoices are usually created in the form of a Bill for Collection, which is sent to the lessee to trigger lease payments to beneficiaries. For residential leases engaged in by landowners, it is common to waive operational payments, or to collect all lease payments as a lump sum up front. The billing process ends when the invoice is received by the lessee.

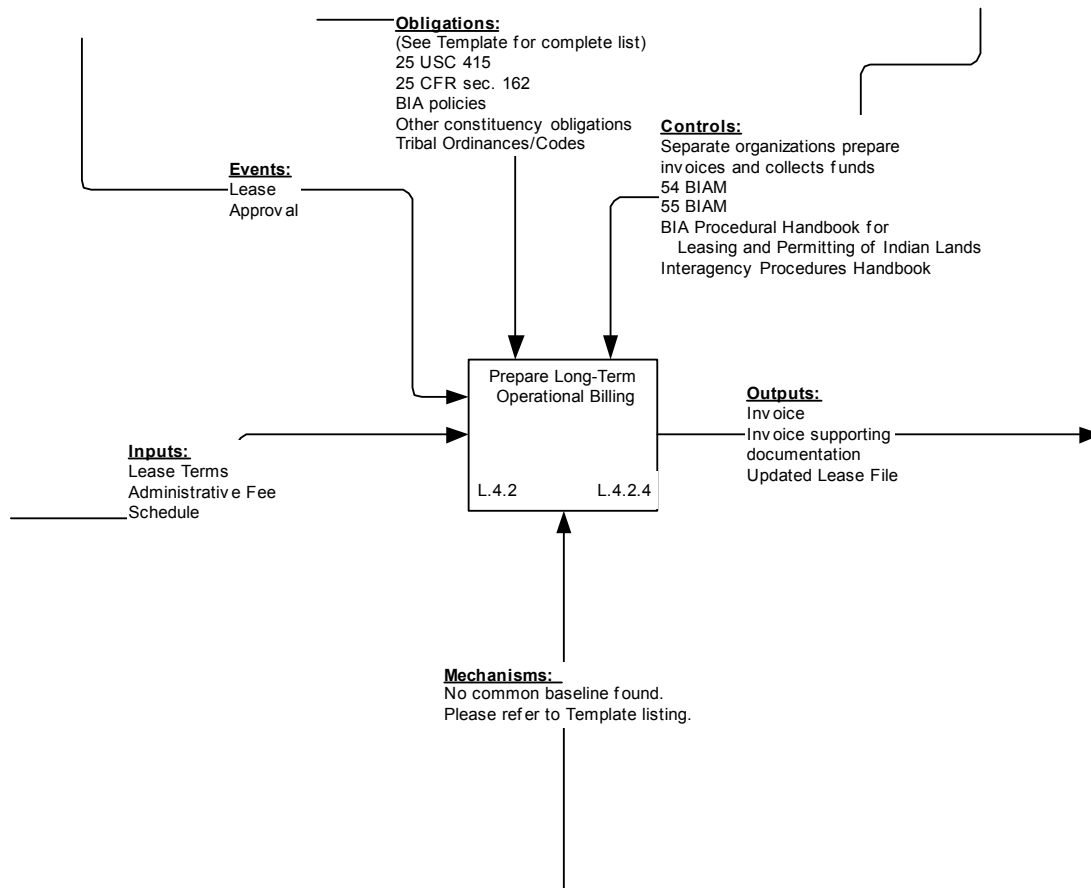


Figure 4.3.5.5- 16 Prepare Long-Term Lease Operational Billing(s) IDEF(0)



### **Collection of Operational Payments (L.4.2.5)**

Starts with: Receive payments at the BIA Agency or Regional Office.

Ends with: Payments are deposited and distributed by OST/OTFM to beneficiary(s).

A payment due date or a regularly scheduled lease invoice received by the lessee triggers a collection. The process ends with recordation of receipt of collected funds and transfer of collected funds to OST/OTFM Accounting for distribution to the beneficiaries' trust accounts. Due dates are recorded as a term on the long-term lease. Operational payments may include rent or other payments made by the lessee to the beneficiaries in lieu of the lessee performing certain lease terms. Examples include payments made in lieu of leasehold improvements, or payments made to a Tribe where the Tribe performs certain functions required by the lease. All payments received for invoices generated by the BIA Agency are deposited and recorded. [Please note that procedures for receipt and accounting of "Direct Payments" are documented in the section for L.4.2.6, Direct Pay.]

Where no payment is received, payment is not made in full, or payment does not arrive on a timely basis, an escalated set of collection processes are executed to obtain funds due. A verbal or written reminder usually occurs first, followed by a 10-day show-cause notice, then any other collection procedures deemed appropriate by the BIA Agency Superintendent or Line Official. Primary activities performed in this process include:

- a) Collection of long-term lease operational billing Dunning/10-day show-cause notice (for non-payments, underpayments or late payments)
- b) Updates to the distribution deck (record of which accounts get specific amounts of the collected funds) upon request, or required from reconciliation
- c) Error & reject correction (from the transfer of collections to OTFM, where they are rejected by either the NX/A17 or TFAS systems)

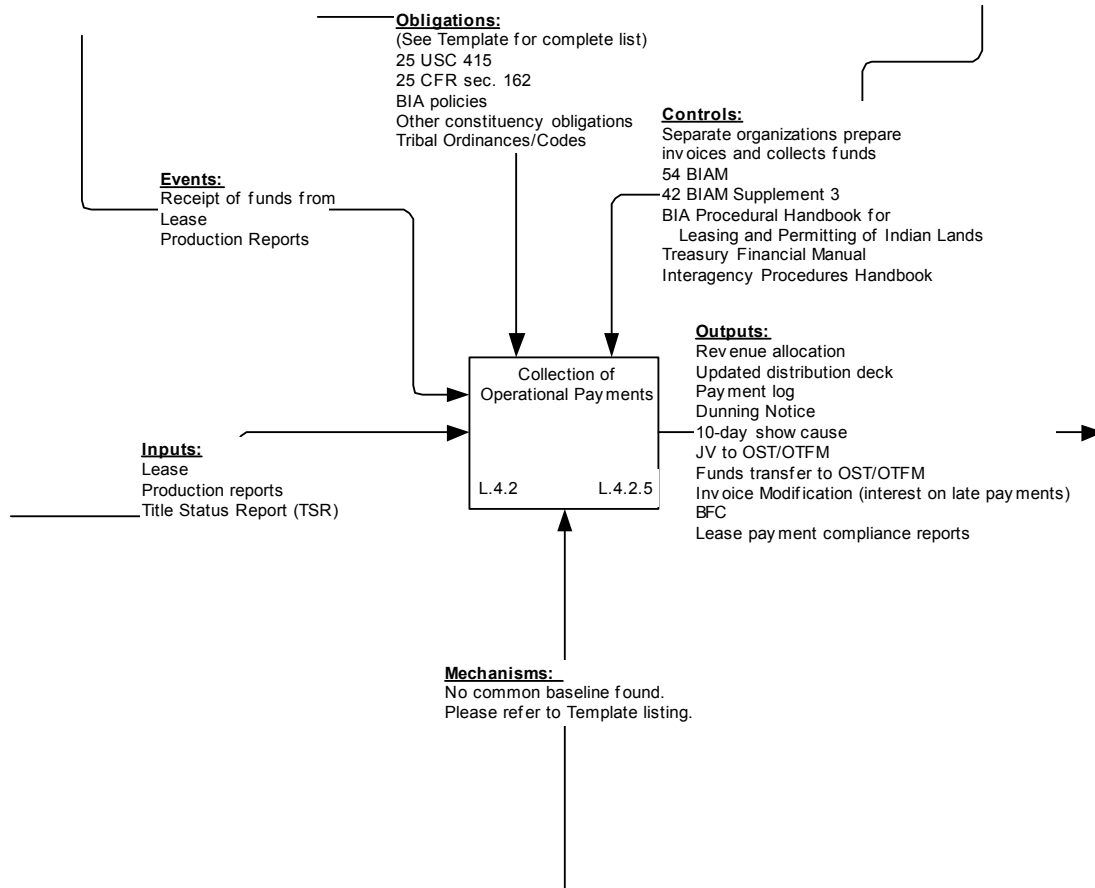
Collections are performed by a Collections Officer apart from the Realty Specialists who prepare the billing, in order to maintain segregation of duties. If payment is not remitted, incorrect or late, the dunning notice is sent. If the dunning notice does not result in proper lease payments and interest owed, lease/permit cancellation or other types of remediation would be taken. The error/reject correction activity occurs during overnight, batch transfers or voucher transfers to OST/OTFM Accounting. Fund collections are reported in local agency systems, usually local or regional in their design and operation. The records of Individual Indian accounts in these systems are frequently not identical in the records used by the OST/OTFM headquarters in the TFAS system. Information first passes through an NX/A17 system, which provides a front-end edit, validation and common interface into the TFAS system. Inconsistencies may exist between each of these three systems (local Agency, NX/A17, TFAS). Hence, an inconsistency may be found in the NX/A17 system, researched, and corrected only to find an additional error rejection found at time of attempted posting to TFAS. Errors are researched, and various agencies, regions and Central Offices are contacted to collect the reconciling information. Corrections are then made and submitted for resolution.

In some instances, the reconciliation may point out a need for an update to the distribution deck (or OST/OTFM may request an update), especially when records between the BIA Agency, the





Land Title Records Office (LTRO/TSO) and OST/OTFM Accounting are inconsistent. For requested updates to the distribution deck, all relevant records are reviewed, and if any questions result, a TSR may be requested from the Title process at the title plant to obtain a current title search to ensure accurate monetary ownership information for appropriate distribution of income.



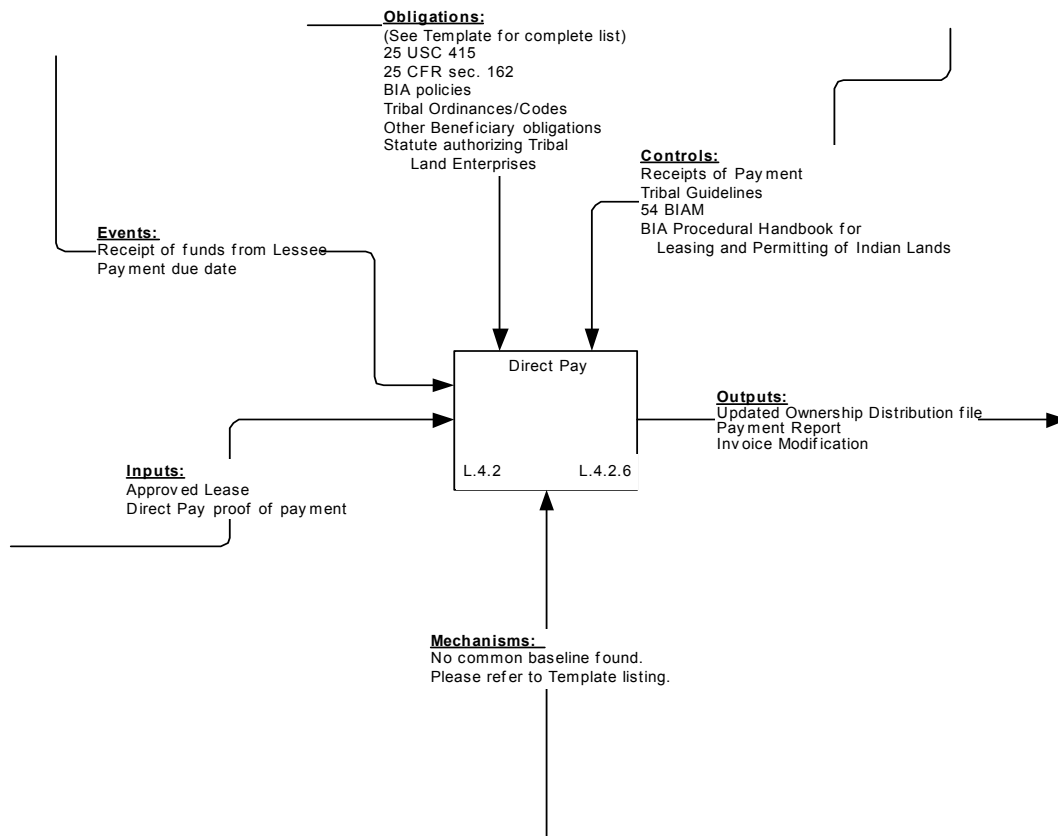
**Figure 4.3.5.5- 17 Collection of Operational Payments IDEF(0)**



## **Direct Pay Lease (L.4.2.6)**

Starts with: Establish a Direct Pay for lease payments.  
Ends with: Receipt of Direct Pay funds.

Approved long-term lease terms stipulate that payments are to be made directly to the Lessor/beneficiary. Some Tribes/Lessors may generate and submit Annual Income reports to the BIA Regional Office. Note that when the leases are negotiated and have “Direct Pay” terms, the BIA has no role in billing or collection. The owners themselves effectively perform this activity. For this direct payment, a payment report is generally received from the lessee as confirmation of the payment. The process ends with collection of payments directly by the beneficiary/Lessor.



**Figure 4.3.5.5- 18 Direct Pay IDEF(0)**



#### **4.3.5.5.3 Manage Long-Term Lease Compliance (L.4.3)**

Starts with: Monitor long-term lease.

Ends with: Close long-term lease.

The final subprocess of the Long-Term Leasing process involves the management of long-term lease compliance. Long-term lease compliance involves monitoring activities as well as potential enforcement activities if a lessee is not complying with all lease terms or is not paying lease rent as required. Also, during this period the lease may be modified if new terms are approved by the lessee, the DOI and the beneficiaries. At the end of a long-term lease period, residential leases and certain commercial leases may have an automatic extension executed, or the lease may simply expire. If the automatic extension is not to be granted, and if modification stipulations cannot be approved or enforcement actions have been necessary, BIA may close the lease formally. When a lease is closed after the lessee has met all lease terms sufficiently, the performance bond is returned.

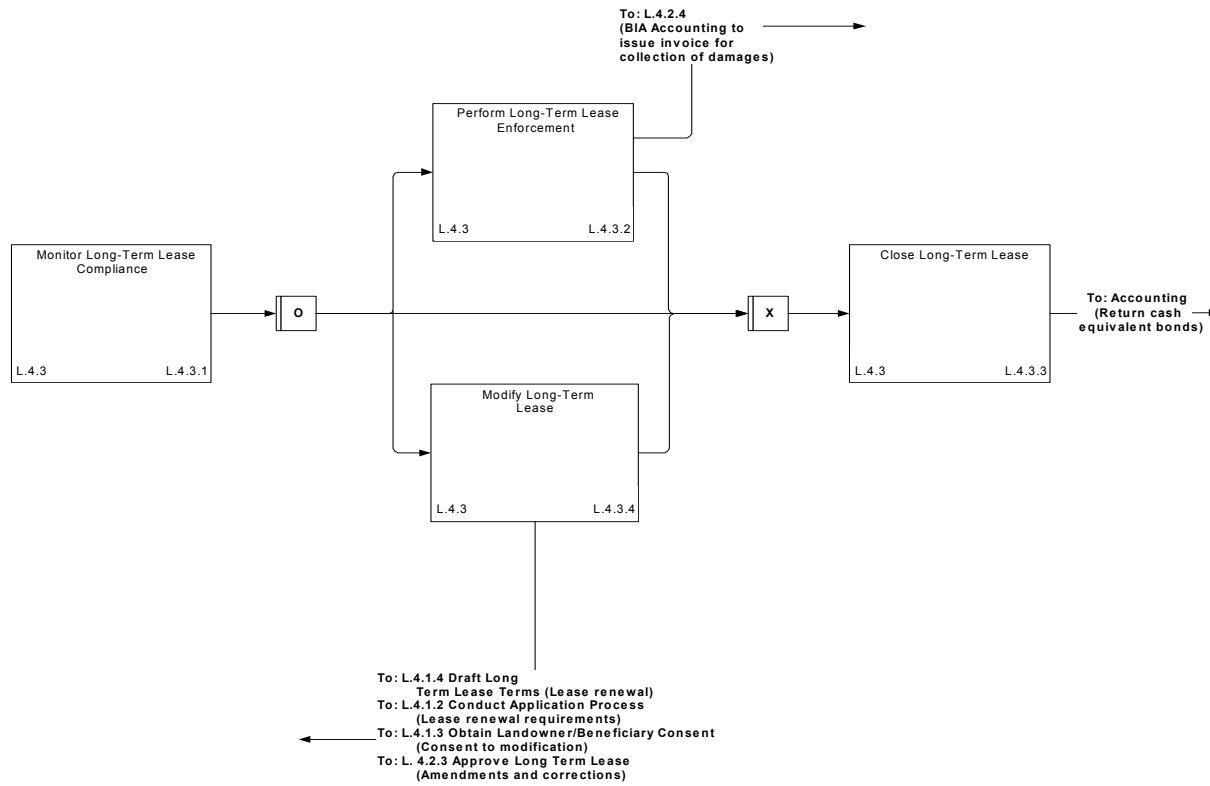


Figure 4.3.5.5- 19 Manage Long-Term Lease Compliance IDEF(3)



## **Beneficiary Involvement for Manage Long-Term Lease Compliance**

Beneficiaries may request the Lands or Realty Office to perform compliance-monitoring activities. For contract modifications, beneficiaries provide input regarding new lease terms, and are generally involved in the same capacity as when the lease was initially negotiated. In the event a beneficiary believes that a compliance issue exists with their land, they provide information regarding the issue or incident. In serious cases where enforcement actions are necessary, beneficiaries provide input with regard to the extent of enforcement actions they would like to be taken in accordance with their needs and interests. Tribal land offices perform their own enforcement activities with the support and direction of the BIA Agency or Regional Office. Beneficiaries may provide similar information if they determine the need for a lease to be cancelled entirely. At the end of a long-term lease, beneficiaries may also help ensure that all lease terms have been met and the land is either returned to its original condition or leasehold improvements have been made, according to the terms of the lease.

## **Manage Long-Term Lease Compliance Significant Notes**

- a) When leaseholds expire on residential leases, lessees may own the house previously mortgaged, but they do not necessarily own the land the home is built on. Regardless of the improvements to the Trust land due to houses with permanent foundations, the lessee has no rights to the land or its use after the residential lease expires.
- b) Monitoring and enforcement of long-term leases falls under the responsibility of BIA, but in some regions BIA may have limited enforcement capabilities.



## Manage Long-Term Lease Compliance Detail Description

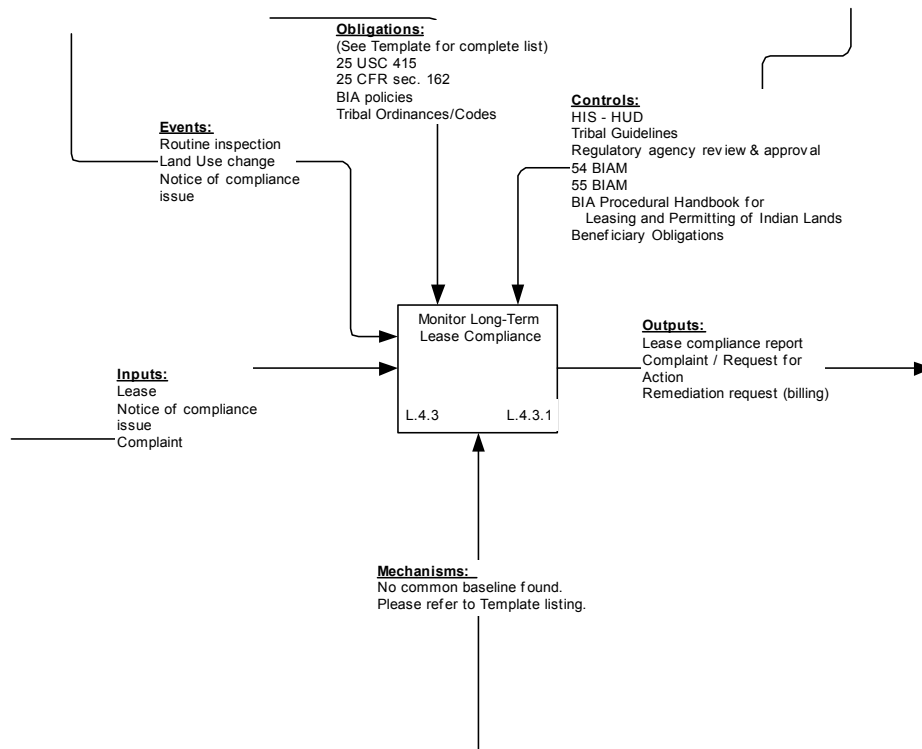
### Monitor Long-Term Lease Compliance (L.4.3.1)

Starts with: Monitor lease compliance or notify BIA of lease compliance incident.  
Ends with: Complete lease compliance report.

Scheduled monitoring activity or notification of an unforeseen and undesired change regarding the leased property may initiate lease monitoring activities. Numerous changes may trigger compliance monitoring. Although some formal, scheduled monitoring activities take place which result in a lease compliance report, most are triggered by informal activities or notifications of the following:

- a) Contract violations
- b) Asset changes
- c) Notice of complaint or compliance issue from drive-by observations

Formal and informal monitoring is based on seasonal schedules, natural or man-caused events, and availability of resources. An inspection then may generate other information on other leases in the same or adjacent geographic areas. A significant number of Tribes perform their own long-term lease monitoring. BIA performs financial compliance monitoring through an annual report of revenues, which the Tribes provide. It should be noted that this reporting may not be comprehensive, and its submission is not strictly enforced. During monitoring, an assessment is made whether to escalate a reported incident for lease enforcement actions. The process ends with completion of a compliance report.



**Figure 4.3.5.5- 20 Monitor Long-Term Lease Compliance IDEF(0)**

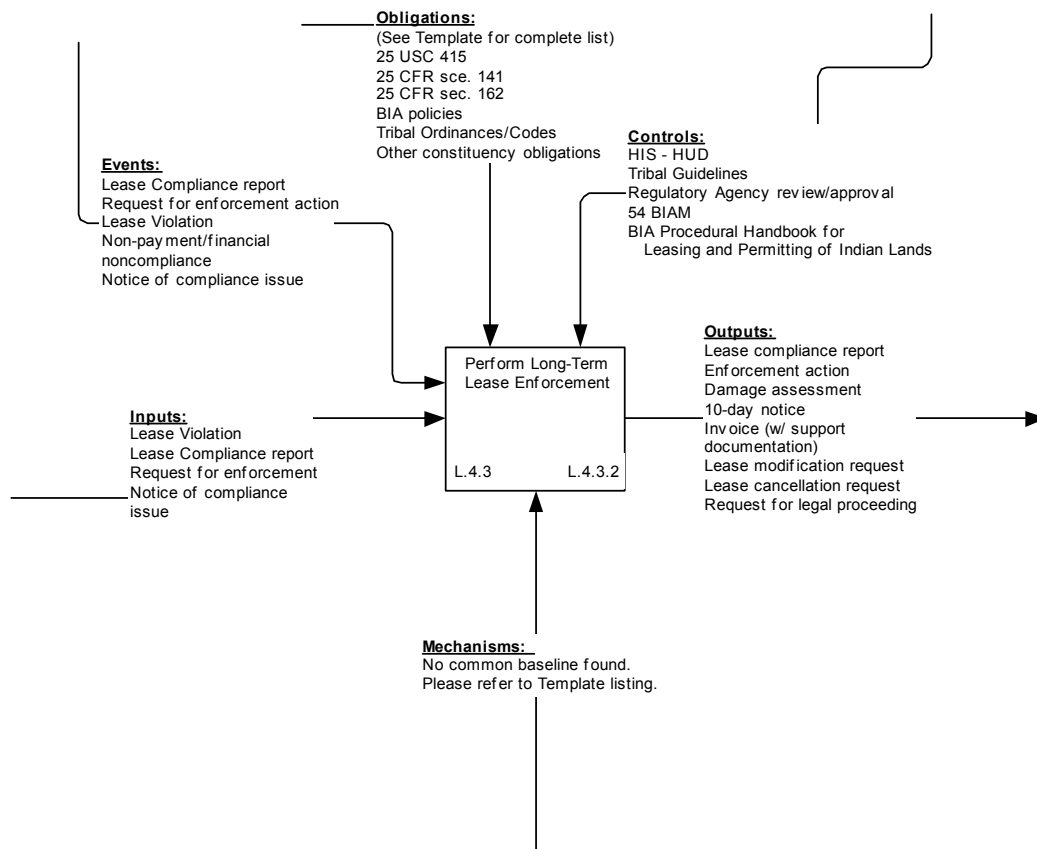


## Perform Long-Term Lease Enforcement (L.4.3.2)

Starts with: Need for enforcement action.

Ends with: Execute a lease enforcement action.

A compliance report may document a need for lease enforcement activity. Typically, a first action is a verbal warning of pending enforcement action with a request to the lessee to resolve the noncompliance issue. If unresolved, a 10-day show-cause notice is issued, giving the offending party 10 days to show good reason for the issue, or resolve and eliminate the issue. Left unresolved, the BIA Agency Realty Specialist may confer with the Superintendent to determine appropriate action. Appropriate actions may include billing for damages, requesting lease or permit cancellation, or requesting the support of local law enforcement. (Where appropriate, Tribal police or civil law enforcement is engaged). For large damages or dollar defaults, or more serious situations, the Regional Director is notified for guidance. In the most serious cases, BIA notifies the Department of Justice of criminally or monetarily significant lease violations. The process ends with one of three outcomes. Either the non-compliance issue is resolved (with reparations made, as appropriate) and a report of the non-compliance event is filed, the lease is cancelled for cause and performance bonds are withheld from the lessee and distributed to the beneficiaries, or serious criminal or civil suits are brought by the Department of Justice against the lessee.



**Figure 4.3.5- 21 Perform Long-Term Lease Enforcement IDEF(0)**



### Close Long-Term Lease (L.4.3.3)

Starts with: Reach the expiration date or cancel a long-term lease.

Ends with: Return performance bonds to the lessee or distribute bonds to the beneficiaries, as appropriate.

Closing of a long-term lease may begin once the long-term lease has reached its expiration date. Prior to lease expiration, the lessee or a beneficiary may request to terminate the long-term lease. The lessee may wish to disengage in the commercial enterprise or move from a residence. The beneficiaries may wish to disengage from the lease based upon unsatisfactory effort by the lessee to meet all of the terms of the long-term lease. Any cancellation for cause can be appealed to the BIA Regional Director. The process ends with a lease cancellation or the closing of a lease on its own terms. Monies are distributed to the beneficiaries as appropriate or to the lessee as defined by the lease terms.

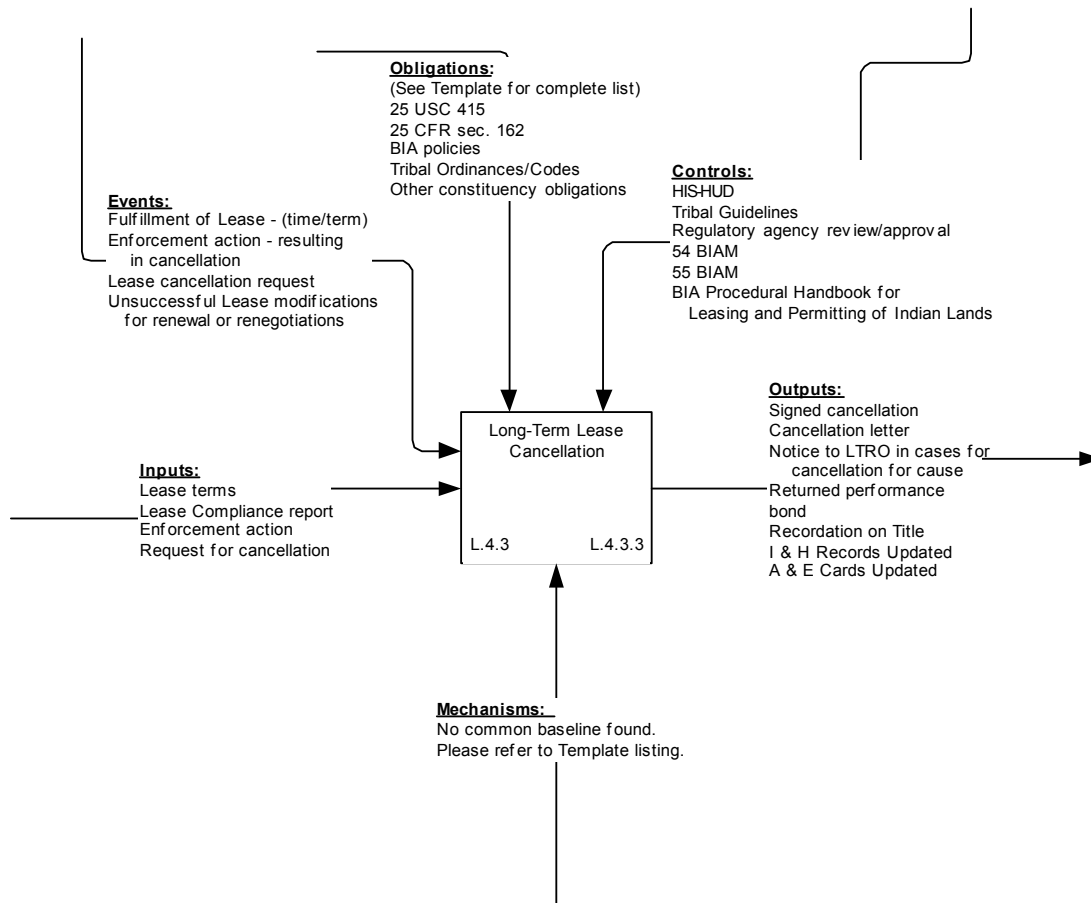


Figure 4.4.5.5- 22 Close Long-Term Lease IDEF(0)





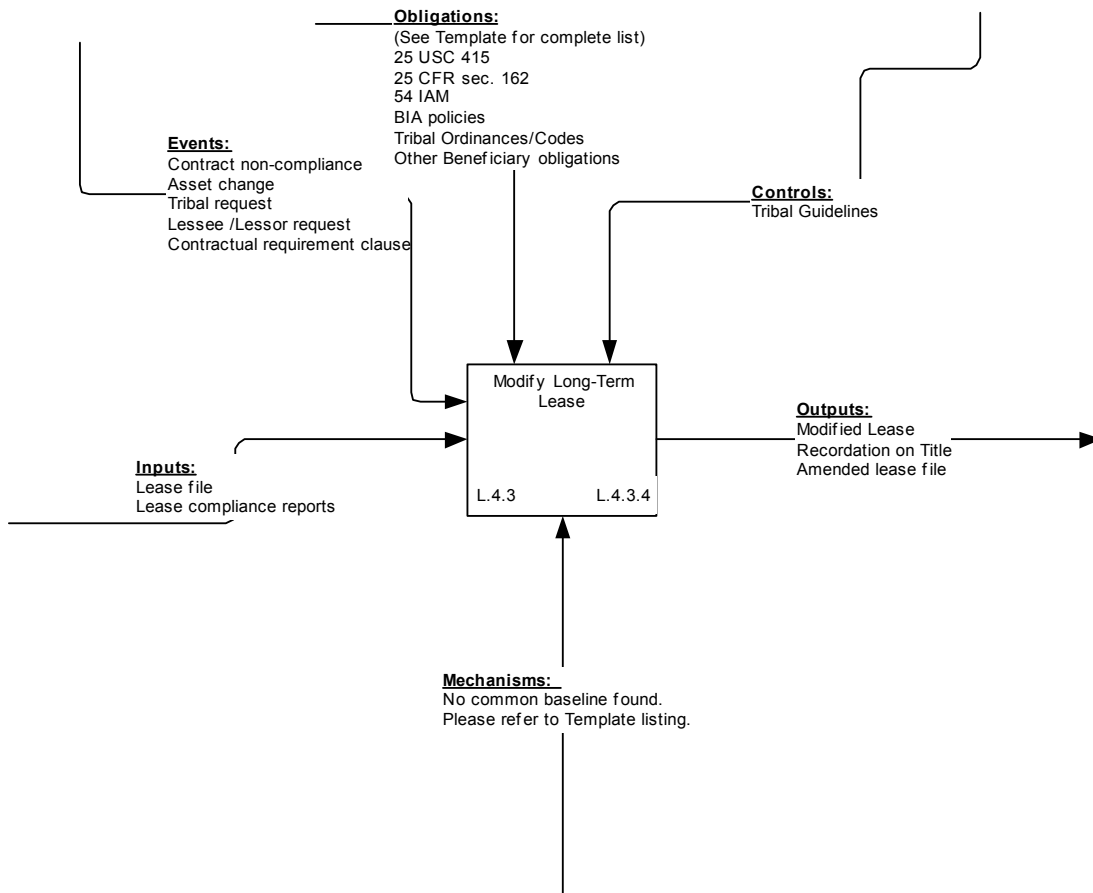
### **Modify Long-Term Lease (L.4.3.4)**

Starts with: Request to modify a long-term lease.  
Ends with: Approve modifications of a long-term lease.

The process to modify a long-term lease begins with a request to change the Long-Term Lease or by the terms in the long-term lease requiring renewal or renegotiation of the said lease in a given period of time. Tribal process of modification may end with a modified contract countersigned by both contracting parties with no further activities required. However, the process may require the re-drafting of lease terms often in the form of an amendment to the lease or by a resolution passed. In addition, modifications to lease terms may spur the responsibilities of obtaining consent as well as initiation of the application process to ensure recordation and analysis of changes in Trust Land's use. Process may end with a lease cancellation in the event that the requested modification for land use has been/is determined to have a detrimental impact to the land or in the event that renegotiation is not successful. Various events may trigger the request to change a long-term lease. Examples include:

- a) Change to a rental rate
- b) Additions or deletions of land or property to the landowner/beneficiary
- c) Encumbrance name changes
- d) Marriage
- e) Matters of probate

Requests for the transfer of rights may occur in the form of an assignment to a third party. Lessees and landowners must provide consent of the assignment and other major modifications of the lease. In some cases, BIA administratively corrects minor errors in the original lease performing unilateral modification without further need of recordation. Tribes conduct their own realty operations under the Compacted/Contracted agreements with BIA. Tribes also initiate modifications to ensure that they reflect their own needs and desires for land use, and development and economical growth.



**Figure 4.3.5.5- 23 Modify Long-Term Lease IDEF(0)**



#### 4.4.5.5.4 Long-Term Leasing 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 4.3.5.5- 1 Great Plains Region Long-Term Leasing Variance Table**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
None						

**Table 4.3.5.5- 2 Midwest Region Long-Term Leasing Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Midwest Region	Process Description	If Tribes decide to allow use of land without lease, the Tribe may negotiate an arrangement directly and select a land operator with no further documentation.	Procedural	Establishes situation in which Trust lands are offered for use without land use or consent officially documented; occurs 30% of time.	Medium	Minor
Menominee Indian Tribe of Wisconsin	Obligations	Menominee Restoration Act	Federal Law	Minimal	Low	Major
Great Lakes Agency	Process Description	Agency Reality Specialists assess lease opportunities and develop draft lease packages, which are made available to potential lessees and landowners.	Procedural	Enhances opportunity to lease Trust property.	Medium	Medium
Midwest Region	Process Description	Frequently long-term leases are appealed after award because owners were not properly notified	Procedural	May not be in compliance with regulations regarding obtaining consent for	High	High



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		for consent.		leasing Trust property.		

**Table 4.3.5.5- 3 Eastern Region Long-Term Leasing Variance Table**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Eastern Region	Process Description	If Tribes decide to allow use of land without lease, the Tribe may negotiate an arrangement directly and select a land operator with no further documentation.	Procedural	Establishes situation in which Trust lands are offered for use without land use or consent officially documented; occurs 30% of time.	Medium	Minor

**Table 4.3.5.5- 4 Alaska Region Long-Term Leasing Variance Table**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Alaska Region	Predecessors	Approximately 3-4,000 allottees do not have a Certificate of Allotment.	Federal Law	Delays assigning title for property to allottees, which can impact almost all Trust services	High	Major
Alaska Region	Process Description	Delivery of long-term leasing Trust services are impacted by geographical disparities and/or remote locations in the region, as well as weather/seasonal impacts on service delivery.	Geographical	Delays and encumbers BIA's ability to delivery of long-term leasing services.	High	Major
Alaska Region	Process	Most BIA agencies in Alaska do	Procedural	Creates a reactive tracking	Low	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
	Description	not prepare annual invoices to bill for operational payments, but rather rely on payment terms included in the contract.		of revenue owed to beneficiaries. Decreases agency workload.		
Alaska Region	Process Description	In Direct Pay scenarios, Beneficiaries are responsible for collected funds due; many beneficiaries do not have copies of the terms or expected receivable amounts.	Procedural	Establishes scenarios whereby beneficiaries may not be receiving proper revenue amounts.	High	High
Alaska Region	Process Description	A simple majority is used to obtain consent for leases.	Procedural	May not be in compliance with ILCA consent regulations	High	Medium

**Table 4.3.5.5- 5 Northwest Region Long-Term Leasing Variance Table**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Northwest Region	Process Description	70-80% of leases are awarded based on majority ownership consent.	Procedural	May not be in compliance with regulations regarding obtaining consent.	High	Medium
Yakama Agency	Process Description	Agency makes a great effort to gain majority consent, which often requires repeated contact with owners and follow up where owners have not responded.	Procedural	May not be in compliance with regulations regarding obtaining consent. Agency staff feels effort is rewarded by better working relationship with the Tribe.	High	Medium
Fort Hall Agency	Process Description	No bidding is conducted for long-term leases due to distrust of the bidding process.	Procedural	Establishes an environment whereby the lack of competitive bidding may	Low	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				decrease revenue on leases.		
Yakama Agency	Process Description	Agency does not collect bonds for long-term leases; generally the Tribe provides a waiver.	Procedural	Minimal	Low	Minor

**Table 4.3.5.5- 6 Eastern Oklahoma Region Long-Term Leasing Variance Table**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
None						

**Table 4.3.5.5- 7 Southern Plains Region Long-Term Leasing Variance Table**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Sac and Fox Nation of Oklahoma	Role	Tribe's Tax Department performs all leasing activities.	Organizational	Minimal	Low	Minor
Horton Field Office	Process Description	No operational payments are collected on long-term leases.	Procedural	May decrease total revenues produced on leases.	Low	Minor
Southern Plains Region	Process Description	No bidding process is conducted in the Region.	Procedural	Establishes an environment in which lack of competition may decrease revenue produced by leases.	Low	Minor
Southern Plains Region Horton Field Office Concho Field Office	Process Description	Do not record a majority of residential long-term leases on allotted lands.	Procedural	Does not provide proper encumbrances on title.	High	High



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Anadarko Agency Pawnee Agency Shawnee Field Office Alabama-Coushatta Tribe of Texas						
Southern Plains	Role	Surveys for commercial leases are usually provided by state licensed officials.	Procedural	May not be in compliance with direction to use BLM surveyors on Trust lands.	High	High
Southern Plains	Mechanism	Region uses a software package called Real Estate Module.	System	Enhances Region's ability to facilitate real estate transactions.	Medium	Medium

**Table 4.3.5.5- 8 Rocky Mountain Region Long-Term Leasing Variance Table**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Fort Peck Agency Rocky Boy's Field Office	Process Description	Do not participate in Direct Pay scenarios for long-term leases.	Procedural	Minimal	Low	Minor
Fort Peck Agency	Process Description	HUD housing requires owners to have a lease; all other types of residences by owners do not require leases.	Procedural	Recordation of encumbrances on title is not conducted for owners.	Medium	Medium
Rocky Mountain Region	Process Description	No bidding is conducted on long-term leases.	Procedural	May not achieve most competitive lease payment terms.	Medium	Medium
Rocky Boy's Field Office	Process Description	No business leases have terms beyond a five-year period of performance.	Procedural	Ensures leases continue to provide fair market value; may make it difficult to attract commercial leases.	Low	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Fort Peck Agency	Process Description	Requires performance bond on residential leases.	Procedural	Enhances security regarding residential lease payments.	Medium	Low

**Table 4.3.5.5- 9 Navajo Region Long-Term Leasing Variance Table**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Navajo Region	Role	Regional Director performs Superintendent activities and signs off on all leases in the Navajo Region.	Absence of Superintendents	Creates strain and increased workload on regional administrative staff.	Medium	High
Navajo Nation	Input	All Tribal homesite assignments are required to have “meets and bounds” determined by a registered land surveyor to verify land suitability and asset availability.	Procedural	Ensures homesite assignments do not overlap one another. Increases wait times. Can elongate lease process times by six to nine months.	High	Medium
Navajo Nation	Input	Applicant must gain consent from current historical land user, grazing permittee and/or the grazing committee as required by the lease application package prior to the drafting of lease terms.	Tribal Ordinance	Establishes precedence of historical land use by individuals encumbering land. May halt leasing process in the event consent from the permittee/ committee is not obtained.	Medium	Medium
Navajo Nation	Input	Certificate of Indian Blood is required to determine use and applicant eligibility prior to the drafting of lease terms. CIB ID #s and Census # is included in	Tribal Policy	Determines land use eligibility by Quantum of Navajo Indian blood. Promotes exclusive Tribal member use of reservation	High	Major





Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		the standard lease package.		lands.		

**Table 4.3.5.5- 10 Southwest Region Long-Term Leasing Variance Table**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Southern Ute Tribe	Role	In the event a Tribal member defaults on a HUD house, the Tribe will decide who will take over the house/loan, not HUD. The individual is selected from a qualified individual waiting list that the Tribe maintains.	Procedural	Policy/ Agreement between HUD program and Tribe. Enables Tribes to select land users of Tribal land assignments.	Low	Minor
Laguna Agency	Role Obligations	Allows for leasehold mortgages on Tribal land. Mortgage is approved by the Regional Director and forwarded to Title / LTRO/TSO for recordation of encumbrance.	Procedural	Encumbers trust lands. Tribal Resolution allowing encumbrances to be made on Tribal land by 3 <sup>rd</sup> party.	Low	Minor
Laguna Agency	Input	Requires no pre-lease payments on residential homesites.	Procedural	Shortens approval time. Alleviates resource initiatives for the billing and collection of administrative fees and token payments normally billed yet not collected.	Low	Minor
Southwest Region	Event	All commercial and residential leases on allotments are set up for Direct Pay to the landowner/beneficiary.	Policy	Decreases BIA resource involvement for the billing, collection and managed distribution of trust monies	High	High



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				through OST/OTFM.		

**Table 4.3.5.5- 11 Western Region Long-Term Leasing Variance Table**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Colorado River Tribe Colorado River Agency	Input	Tribes generate monthly asset availability and upcoming renewal/expiration report from AS 400 System. Submits listing to agency for review.	Procedural	Minimizes idle lands with improvements that would generate trust dollars for the beneficiary.	Medium	Low
Colorado River Tribe Colorado River Agency	Mechanism	Shares AS 400 System mechanism. System is owned, developed and supported by the Tribe. Agency uses the same mechanism to manage Colorado River Tribe leases at the agency level.	System Constraint	Tribally developed software system adopted for the management of leases within the agency sustains the separation of system mechanisms. Hinders recordation of land use information systems at the LTRO/TSO level.	Medium	High
Pima Agency	Event Input	Requires lease applicant to contact Tribal lands department and submit a proposal for lease. Terms of lease are derived from the proposal.	Procedural	Enables Tribes to approve of lessee and land use parameters being requested prior to performing leasing initiatives.	Low	Minor
Pima Agency	Obligations	Uses the rules from the Act of 1940 to obtain consent from landowners. Agency generates 90-day consent notices. If no	Procedural	Conflicts with regulations regarding obtaining consent. Enables less wait time for the receipt of	High	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		consent is received the consent is deemed positive.		consent from landowners. Requires Superintendents to sign on behalf of absentee landowners. May negatively affect landowners that would not provide consent if properly notified. Ownership distribution information is often not current or unverifiable due to information systems being backlogged and out of date.		
Fort Yuma Agency	Role	Grants all leases in the absence of consent from the Tribe. Superintendent provides beneficiary approval without any type of Resolution enabling the practice.	Procedural	Places a large amount of responsibility and accountability on the part of the Superintendent to ensure that the beneficiaries needs and desires are being met.	High	Medium
Salt River Pima-Maricopa Indian Community	Obligations	25 USC Sec. 416 – Leases of trust or restricted lands on San Xavier and Salt River Pima Maricopa Indian Reservations.	Federal Law	Statute allows Indian owners to lease lands including the development or utilization of natural resource in connection with operations under such leases. Enables lease terms to not exceed duration of 99 years including renewal if exercised.	Low	High



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Chemehuevi Tribe	Output	Commercial lease terms are for only one year in duration. Ensures that the beneficiary obtains the optimal value of their asset in accordance with economic factors that are relevant to the duration and term of the lease.	Procedural	Ensures lease payments are continually in line with fair market value. Creates higher resource requirements to reinitiate the leasing process for every commercial leases anniversary date.	Medium	Minor
Colorado River Agency	Event	Performs negotiation of lease terms prior to the application process. Lessee meets directly with the beneficiary to express land use parameters and obtain consent prior to initialization of the application process.	Procedural	Enables beneficiary involvement in developing the lease and provides insight into the requested land use parameters. Ensures beneficiary involvement and knowledge of the land use is upfront and leasing initiatives are not performed in vain in the event the beneficiary is not in approval of the proposed land use.	Low	Minor
Pima Agency	Roles Office	Agency staff performs the negotiation of terms for all long-term commercial leases on Tribal land.	Tribal Request	Puts more responsibility on the realty officers at the agency.	Low	Minor
Western Region	Event	Does not require permits for commercial operations on allotted lands.	Regional Policy	Creates questionable land use information and the protection of trust lands from damage and degradation.	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Salt River Pima Maricopa Indian Community	Role	Tribal President or Vice President signs off on drafted negotiated lease terms to award leases.	Procedural	Can lengthen process times awaiting review and approval by Tribal officers.	Low	Minor
Colorado River Agency	Role	Tribal Chairman and Secretary sign off on the drafted negotiated lease terms to award leases.	Procedural	Can lengthen process times awaiting review and approval by Tribal officers.	Low	Minor
Colorado River Agency	Event	Six months to one year prior to lease expiration, Agency realty office notifies lessee to renegotiate the current lease terms prior to expiration.	Procedural	Enables proactive planning of available leasing units. Alleviates resource heavy activities from occurring in a rushed manner at the point of lease cancellation. Assures continual justified incremental increases in lease payments.	Medium	Minor
Colorado River Agency	Input	All leases, commercial and residential, require some type of pre-lease advanced payment prior to DOI approval of lease.	Policy	Can lengthen process times from award to approval depending upon lessee's fulfillment of the pre-lease terms.	Medium	Medium
Colorado River Agency	Input Obligation	All commercial leases within agency require performance bonds to be posted prior to DOI approval.	Policy	Ensures fulfillment of lease terms by the lessee. Increases resource activity. Can lengthen or halt leasing process.	Medium	Medium
Fort Yuma Agency	Role Process Location	Performs all billing/collection of operational payments for commercial long-term leases on Tribal lands on behalf of the Tribe.	Procedural	Enables complete account management of trust funds collected on behalf of the beneficiary. Increases workload for resources responsible for the billing	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
				collection process at the agency level.		
Colorado River Agency Fort Yuma Agency	Event	Modifies all long term leases on a five year basis for incremental increases in rental payments.	Policy	Policy provides economically supported increases in rental payments so that the trust lands generate optimal return for land use. Increases resource activities and initiatives for renegotiation/ redrafting of lease terms, reinstatement of performance bonds as well as administrative fees collected.	Medium	Low
Fort Yuma Agency	Event	Performs regular routine inspections of trust properties for all residential and commercial active long-term leases.	Procedural	Policy provides continual monitoring of compliance in relation to land use and compliance with lease terms. Requires costly resources. Protects trust lands under contract from damage and/or degradation of land assets by improper land use.	Medium	Medium



**Table 4.3.5.5- 12 Pacific Region Long-Term Leasing Variance Table**

<b>Areas Affected by the Variance</b>	<b>Category</b>	<b>Variance Description</b>	<b>Reason for Variance</b>	<b>Business Impact</b>	<b>Degree of Business Impact</b>	<b>Difficulty of Change</b>
Palm Springs Field Office	Metric – Volume	High level of unsolicited commercial leases. Total number of current unsolicited commercial leases is 120.	Procedural	Due to high commercial leasing demands, the field office has not been required to perform advertising or conduction of bidding.	High	High
Central California Agency Northern California Field Office Southern California Agency Palm Springs Field Office	Input	Requires appraisals for all commercial leases. No appraisals are required or performed for homesite leases on Tribal or allotted land unless specifically requested by a beneficiary/landowner.	Procedural	Can negatively effect the achievement of fair market value for homesite leases with improvements on the land vs. initial homesite lease applications on lands with no improvements. Appraisals performed for homesite leases would be costly and increase lease processing wait times.	Medium	Medium
Southern California Agency Central California Agency	Event	Large volumes of leasing contracts are initiated by an individual trespassing on trust lands. Trespassing is common. BIA attempts to resolve the matter by entering into lease agreements with the trespasser for the legal use of the land.	Procedural	May impact the planning process by not knowing that idle lands are not available for use. Improper land use risks.	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Palm Springs Field Office	Input Event	Lessees and landowners initiate leases in the form of proposals or pre-drafted lease terms. Attorneys acting on behalf of the lessee or the landowner draft 50% of all lease terms for lessees/lessor to present to the field office for review and finalization only. Often negotiation of the lease and lease terms has occurred prior to field office involvement.	Procedural	Landowners are aware that the land is valuable and consult with their attorneys to ensure optimal return on their land assets. Ensures that landowners'/ beneficiaries' interests are represented fully to obtain optimal compensation for their trust land assets.	High	High
Palm Springs Field Office	Metric - Volume	Approximately 10,000 mini lease assignments exist under approximately three sub-division master leases held by HUD.	Procedural	Increases administration of long-term leases.	Medium	Medium
Pacific Region	Input	Generates 90-day notices. Exercises consent based upon the fact that no objection was received.	Procedural	May not be in compliance with regulations regarding obtaining consent.	Medium	Medium
Pacific Region	Input	Owner consent is obtained prior to the application process.	Procedural	Eases resource intensive activities from being initiated in vain in the event consent is not obtained. The initiation of the application process can be costly and resource heavy.	Low	Minor





Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Central California Agency Northern California Field Office	Input	Feasibility studies are conducted prior to obtaining owner consent.	Procedural	May increase costs due to the performance of feasibility studies on lands that may not be available for use due to inability to achieve owner consent. Consent wait times can be long. Sliding scale rules of obtaining consent based upon ILCA.	Medium	Low
Pacific Region	Event Role	Minimal BIA involvement in the negotiation of residential long-term leases. If negotiations are performed it is normally due to the absence of landowners only.	Procedural	Establishes the environment where negotiations are done outside of the BIA process; local market resources may be helpful in ensuring optimal return on trust land assets.	Medium	Medium
Central California Agency Southern California Agency	Input	No business license or permit is required for landowners/beneficiaries to conduct commercial business operations on allotted lands.	Procedural	Effects recordation of land use. Commercial business operations may have a negative impact on the land hindering BIA's responsibility to protect the trust land from damage and degradation.	Medium	Medium
Palm Springs Field Office	Input	Charges pre-lease administrative fees based upon updated Administrative Fee Schedules depending upon the type and location of the lease.	Procedural	Administrative fees charged cover the cost of leasing resources and activities required for the areas.	Low	Minor
Pacific Region	Role	Regional Director signs off on all	Regional	Lengthens DOI approval	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		commercial leases within the region, including Tribal leases.	Policy	process times. High volume of leases creates strain on regional administrative staff.		
Palm Springs Field Office	Input	Coupons are provided to the lessee upon approval of the lease. The lessee makes rental payments with the coupons provided and deposits them in lockboxes located throughout the field office's area.	Procedural	Allows for wide area rent collection. Removes the need of billing preparation for the collection of rental payments. Eases administrative staff resources from having to start/stop work efforts to process and write receipts for payments that trickle in.	Medium	Medium
Central California Agency Northern California Agency	Process Description	Has no Direct Pay scenarios on long-term commercial or residential leases.	Procedural	Increases workload at agencies. Reflects only 1% of commercial leases on Tribal lands in the region that are not direct pay to the Tribe.	Low	Minor
Pacific Region	Event	High volume of rental payment arrearages on commercial leases. Bankruptcy of commercial operations is very high.	Operational	Insufficient staff to manage the financial compliance of commercial lease operations. Makes it difficult to secure funds for the beneficiary in the event of bankruptcy.	High	High



#### **4.3.5.6 Water Management (L.5)**

The overall process starts with: Perform the budget planning cycle for the next fiscal year budget.

It ends with: Complete Water Management projects—or in the case of multi-year projects—expend fiscal year funding.

Water Management focuses on two simultaneous grant programs, collectively called the Water Management Grant Program, that fund water related activities. These programs, the Water Rights Litigation/Negotiation Program and the Water Resources Management Planning and Pre-Development Program, are administered by the BIA Office of Trust Responsibilities, and provide funding to support water-related projects managed by the BIA, Indian Tribes, and Alaskan Native governments. The water management grant program provides funding to help defend Indian water rights and to develop or enhance water resources.

Projects eligible for grant funding focus on technical projects directly related to managing, developing and conserving water resources. Examples of such projects include studies to determine surface and groundwater supplies, identify arable lands, and determine historical water use. Other studies may address trust resource requirements regarding fish, wildlife and other subsistence resources, or studies that determine the amount of water required for irrigated agriculture and the related engineering and economic studies for water delivery. In addition to these studies, other eligible projects include those that involve data collection and analysis for water use planning and development, especially when the development pertains to asserting a water right, solving a water shortage emergency, capitalizing on substantial economic gain, or is required to cooperate with a federal, state, or other local government on water use activities. Finally, projects may be considered that involve water related inventory activities that will assist Tribes in determining who is using water, how much water is being used, and for what purposes the water is used.

The grant process for the above mentioned programs involves four proposal or project management steps: (1) releasing the request for proposal, (2) developing, ranking and submitting proposals from the field to the BIA Central Office, (3) conducting the National Ranking Meeting and tentatively approving proposals for grant funds, and (4) funding and managing the approved projects.

The process begins when the BIA Central Office sends out a memorandum to BIA Regions, which functions as a Request for Proposals for water management grants for the following fiscal year. The memorandum also includes an Excel spreadsheet for ranking proposals against Official Ranking Criteria. The BIA Regional Offices forward the RFP under a cover letter with submission instructions and deadlines for Agency and/or Tribal submission to the Regional Water Resources Coordinator. The Agency water management staff then forward the RFP under Agency cover letter indicating instructions and submission deadlines to all Tribes under the Agency's jurisdiction.

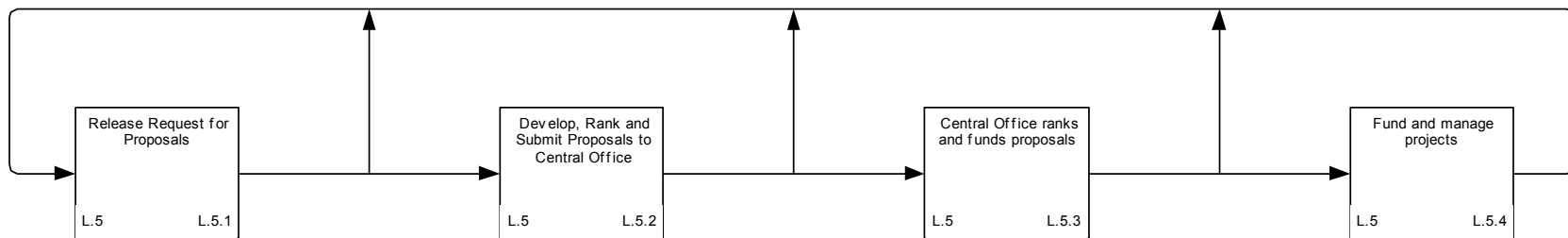
Once all parties have been notified of proposal submission instructions, BIA staff often work with Tribes to develop proposals that competitively respond to the National Ranking Criteria for the next fiscal year. This step involves significant collaboration and coordination, often in a condensed timeframe. After proposal content has been finalized, the Agency or Regional water management staff develops information sheets and evaluation forms for each proposal. The



Regional Water Resources Coordinator provides a prioritized summary of the region's proposals and submits all documentation in a regional package to the BIA Central Office.

After the deadline for submission of all proposals to the BIA Central Office, the Chief of the Division of Natural Resources conducts a National Ranking Meeting to evaluate proposals for the following fiscal year funding. BIA Regional Water Resources Coordinators and their alternates attend the national meeting to provide insights and explanations of the Region's package of proposals. At the conclusion of the three-day meeting, each BIA Region understands which of their proposals are tentatively approved, and for what targeted dollar amount. Often the dollar amount tentatively approved is less than the requested amount for a given proposal.

The last step of the grant process is the actual funding and management of water projects. This step officially begins when the Chief, Division of Natural Resources, sends sub-allocation documents to the Regions or the Office of Self-Governance. Each BIA Region then notifies their Agencies and Self-Governance Tribes of project funding. Agencies notify the direct-service and contracting Tribes within their jurisdiction. BIA Agencies and Tribes may have to modify the scope of the submitted proposal based on decreased allocated funding for the project. Water management projects are then executed, often with oversight and technical support from the BIA Regional Office Water Resources Coordinator. The process ends when Water Management projects are completed—or in the case of multi-year projects—fiscal year funding is expended.



**Figure 4.3.5.6- 1 Water Management IDEF (3)**



## **Beneficiary Involvement for Water Management**

The Water Rights Litigation/Negotiation and the Water Resources Management Planning and Pre-Development Programs grant process involves beneficiaries in two ways. Any beneficiary whose land interests might require program projects are invited to submit proposals for grants. Normally, Tribes are extensively involved in developing such proposals. In addition, beneficiaries, if applicable projects are funded, can undertake and/or subcontract and oversee water management projects involving their land or water rights. Many Tribes have contracted or compacted the water management process, and Tribes may apply for contracts upon project funding. Tribes are then responsible for modifying the project scope of work (if actual allocated funds are less than the originally requested amounts), performing all activities associated with the project, providing management reports as appropriate, and developing the project deliverable(s).

## **Water Management Significant Notes**

The programs associated with this process are centrally mandated and controlled. All BIA Regions participate in the process, following the instructions provided by the BIA Central Office each year. The following notes add insight into certain regional or local participation in the grant process.

- a) In most BIA Regions, water management projects are executed by the Tribes through contracts, with limited BIA oversight or involvement. The annual audit report for contracting Tribes provides limited insight.
- b) Tribes with means often fund or contribute funding to water management projects.
- c) Tribes are competing for limited funds. Estimates indicate that the total grant dollars requested are two to three times greater than the total grant dollars allocated each year.
- d) The Endangered Species Act and requirements for regulatory agency concurrence or approvals complicate water rights issues.
- e) The official national ranking criteria does not always equate to the priorities of a Region.
- f) The majority of grant proposals are to support water rights, focusing on case preparation or litigation. Occasionally, water management projects are required by litigation.
- g) Projects are funded on an annual basis, however, many are multiple year projects. Often, single or 2-year projects may become multi-year projects due to decreased funds provided annually.



### 4.3.5.6.1 Release Request for Proposals (L.5.1)

Starts with: Begin the budget planning cycle for next fiscal year.

Ends with: Receive a copy of the RFP for grants associated with the Office of Trust Responsibilities' Water Rights Litigation/Negotiation and Water Resources Management Planning & Pre-Development programs in the Regions, Agencies and Tribes

The entire water management grant process begins when the budget planning cycle is performed for the next Fiscal Year budget. BIA Central Office sends out a memorandum detailing the Water Rights Litigation/Negotiation and Water Resources Management, Planning and Pre-Development program, the target fiscal year's Official Ranking Criteria, and instructions and deadlines for proposal submission. This memorandum functions as the Request for Proposals communication from the BIA Central Office to the BIA Regional Directors. Regional Directors then develop a regional cover letter for transmission of the RFP to BIA Agencies and Self-Governance Tribes. In turn, BIA Agencies forward the RFP under Agency cover letter to all Tribes within each Agency's jurisdiction. The first step ends when the BIA Regions, BIA Agencies and Tribes have received a copy of the RFP with internal deadlines for proposal submission either to the BIA Agency or Regional Office.

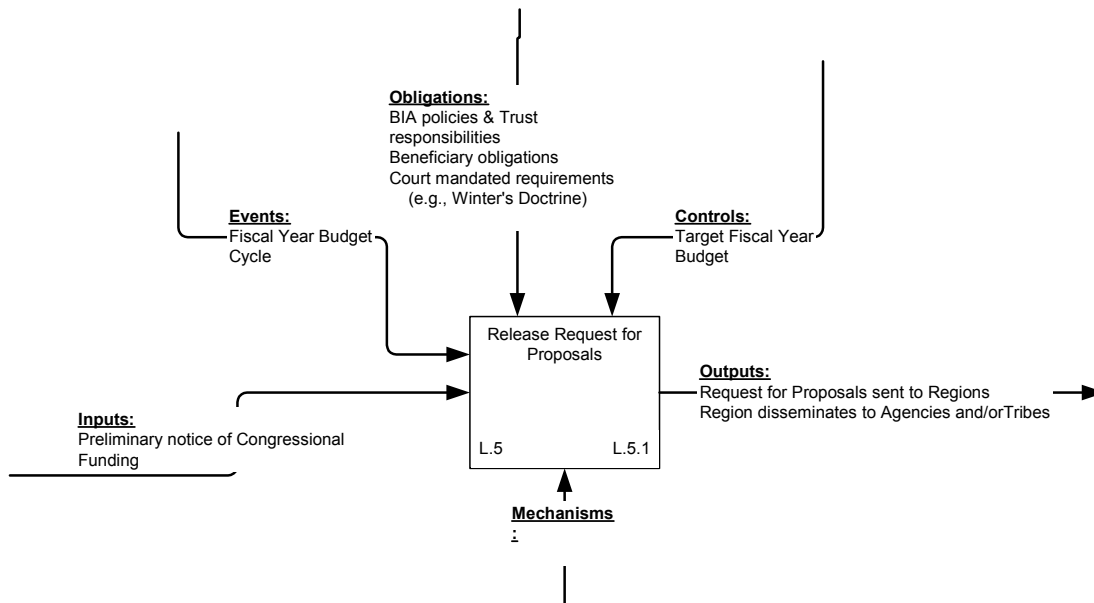


Figure 4.3.5.6- 2 Release Request for Proposals IDEF (0)



#### **4.4.5.6.2 Develop, Rank and Submit Proposals to Central Office (L.5.2)**

Starts with: Begin to develop water management proposals.

Ends with: Submit the Regionally-ranked list to BIA Central Office, based on the National Ranking Criteria.

The second major step of this process is to develop, rank and submit proposals from Tribes and BIA Agencies to the BIA Regional Office, and ultimately to the BIA Central Office. This step involves significant education and coordination with the BIA Agencies and Tribes in order to prepare a set of competitive and compliant proposals from the BIA Region.

Eligible projects include technical projects directly related to managing, developing and conserving water resources (e.g., studies to determine surface and groundwater supplies; identify arable lands, determine historical water use; address trust resource requirements regarding fish, wildlife and other subsistence resources; and determine the amount of water required for irrigated agriculture and the related engineering and economic studies for water delivery). Other eligible projects include those that involve data collection and analysis for water use planning and development, especially when the development pertains to asserting a water right, solving a water shortage emergency, substantial economic gain, or is required to cooperate with a federal, state, or other local government on water use activities. Finally, projects may be considered that involve water related inventory activities that will assist Tribes in determining who is using water, how much is being used, and for what purposes the water is used.

After draft proposals have been developed, the BIA Agency or Regional staff work with Tribes to ensure compliance with submittal instructions, as well as competitiveness against the Official Ranking Criteria. BIA Agency water staff forward the proposals to the BIA Region for review, evaluation, and ranking of all the region's proposals. BIA regional water staff develops proposal Information Sheets and Funding Request Evaluation forms for each proposal. Regional Water Resources Coordinators review, evaluate, rank and recommend proposals based on the Official Ranking Criteria developed by the BIA Central Office. Finally, the Regional Water Resources Coordinator prepares a prioritized summary listing of all regional proposals and submits the proposal package to the BIA Central Office.



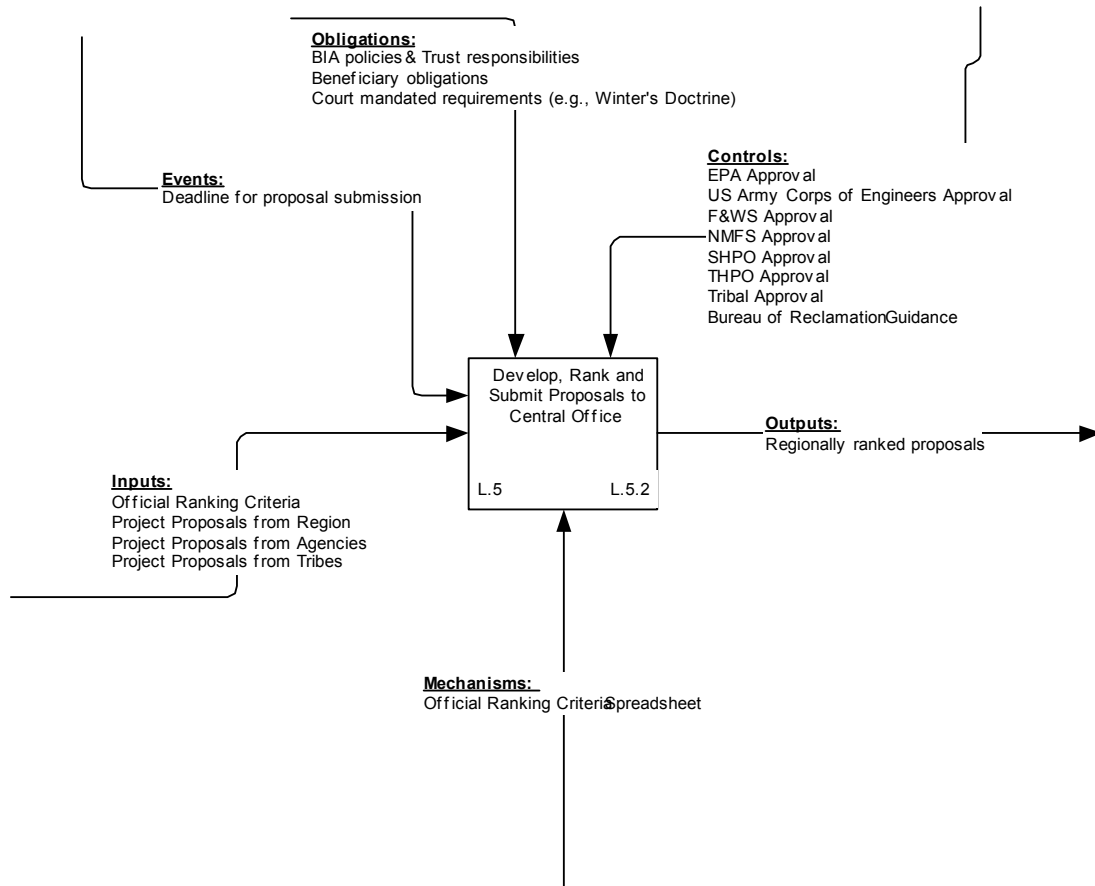


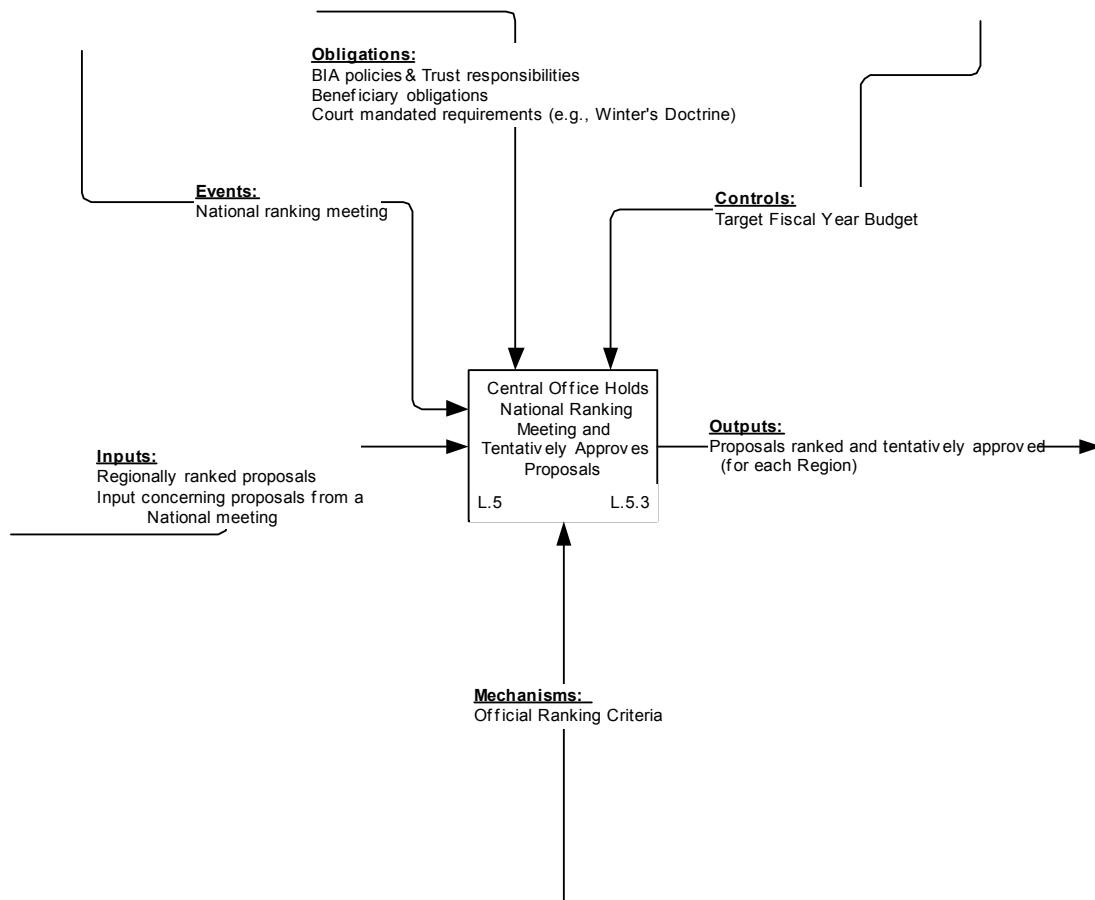
Figure 4.3.5.6- 3 Develop, Rank and Submit Proposal to Central Office IDEF (0)

#### 4.4.5.6.3 Central Office Holds National Ranking Meeting (L.5.3)

Starts with: Receive project proposals from the Regions.

Ends with: Provide tentative approvals for projects and provides funding estimates for those tentatively approved projects.

The BIA Central Office then conducts a National Ranking Meeting to discuss each of the submitted proposals. Each Regional Water Resources Coordinator presents their Region's proposal package and supporting information to explain the current situation and need. This presentation and subsequent discussion gives the BIA staff an opportunity to solicit regional funding while engaging in dialogue about the merits of each proposal as evaluated against the other Regions according to national priorities.



**Figure 4.3.5.6- 4 Central Office Holds National Ranking Meeting and Tentatively Approves Proposals IDEF (0)**

#### 4.4.5.6.4 Fund and Manage Projects (L.5.4)

Starts with: Send sub-allocation documents to the Regions (or Self-Governance).

Ends with: Complete Water Management Projects—or in the case of multi-year projects—  
 expend fiscal year funding.

The BIA Regional and/or Agency water management staff works with appropriate Tribes to accomplish funded projects. Tribes can oversee, undertake and/or subcontract these water management projects. Many Tribes have contracted or compacted the water management process. Tribes are then responsible for modifying the project scope of work (if actual allocated funds are less than the originally requested amounts), performing all activities associated with the project, providing management reports as appropriate, and developing the project deliverable(s). BIA or Tribal staff may provide technical assistance and/or project oversight.

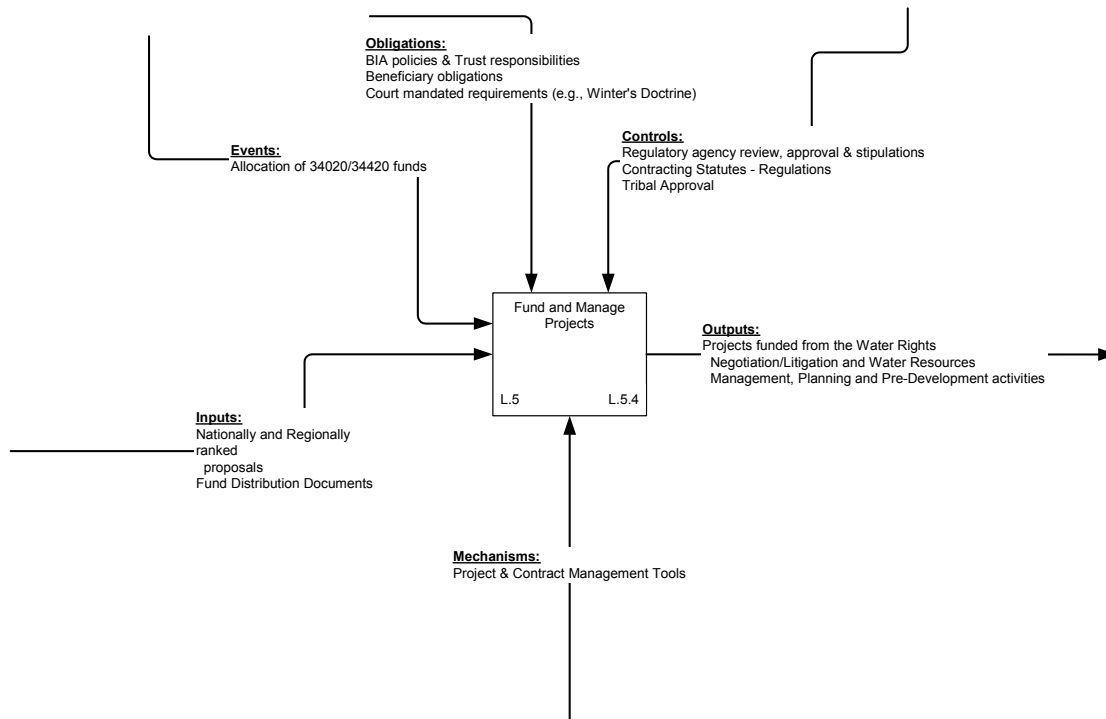


Figure 4.3.5.6- 5 Fund and Manage Projects IDEF (0)



#### 4.3.5.6.5 Water Management 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 4.3.5.6- 1 Great Plains Region Water Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
No Water Management work sessions related to water grant funding conducted in this region.						

**Table 4.3.5.6- 2 Midwest Region Water Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
No Water Management work sessions related to water grant funding conducted in this region.						



**Table 4.3.5.6- 3 Eastern Region Water Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
No Water Management work sessions related to water grant funding conducted in this region.						

**Table 4.3.5.6- 4 Alaska Region Water Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
No Water Management work sessions related to water grant funding conducted in this region.						

**Table 4.3.5.6- 5 Northwest Region Water Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
No Water Management work sessions related to water grant funding conducted in this region.						



**Table 4.3.5.6- 6 Eastern Oklahoma Region Water Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Eastern Oklahoma Region	Process Description	Eastern Oklahoma Region does not have any water litigation or adjudication projects.	Procedural	Decreases water management workload.	Medium	Minor
Eastern Oklahoma Region	Controls	No BIA oversight is provided during the course of any water management projects.	Staffing	Decreases BIA control over execution of water management projects.	Medium	Medium
Chocktow Tribe Chickasa Tribe Delaware Tribe	Process Description	Tribes fund or contribute funding to water management projects.	Procedural	Enhances each Tribe's ability to management water rights and pre-development.	High	Minor

**Table 4.3.5.6- 7 Southern Plains Region Water Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
None						

**Table 4.3.5.6- 8 Rocky Mountain Region Water Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Rocky Mountain Region	Role	Regional Water Resources staff briefs Tribes on national ranking	Procedural	Enhances proposal content and allows Tribes to pursue	Low	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		criteria as well as the USGS cost-sharing program.		other avenues of funding for water management projects.		
Rocky Mountain Region	Role	Agencies do not have Water Resources Coordinators; the role is performed by the Superintendent or Awarding Official.	Organizational	Adds workload to Superintendents, may increase duration of proposal development.	Medium	Medium
Rocky Mountain Region	Organization Role Inputs	Agencies do not submit their own grant proposals.	Procedural	Limits the number of proposals submitted from the region.	Low	Minor
Rocky Mountain Region	Organization	Tribes submit proposals to their respective BIA agencies and do not submit proposals to the Regional Office.	Procedural	Minimal	Low	Minor
Rocky Mountain Region	Controls	Rocky Mountain regional projects are generally for planning and pre-development, and do not require permits or opinions from environmental regulatory agencies.	Procedural	Decreases workload and proposal development duration.	Medium	Minor
Rocky Mountain Region	Role	The regional water management staff is working with the Compacted/Contracting Tribes to build relationships, provide technical assistance and obtain an annual status report on progress	Procedural	Improves collaboration between BIA and the Tribes.	Medium	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		and issues for all water management projects.				
Rocky Mountain Region	Locations	All local BIA Agencies have Contracting Authority. The regional staff has no real authority for project oversight. The only insight gained by the region is the annual audit report for Compacted/Contracting Tribes.	Organizational	Increases oversight responsibilities at the BIA Agency level	Low	Minor

**Table 4.3.5.6- 9 Navajo Region Water Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Navajo Region	Organization Role Process Locations Inputs Outputs	Agencies are not involved in the water management grant process.	Organizational	Increases oversight responsibility at the BIA Regional level.	Low	Minor
Navajo Region	Organization Role Process Locations	USGS submits some proposals on behalf of the Hopi and Navajo Tribes regarding Black Mesa Studies.	Procedural	Enhances Hopi and Navajo Tribes' ability to obtain water management funding.	Medium	Medium





Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
	Inputs Comments					
Navajo Nation	Organization Role	Tribal involvement in water management projects includes coordination with the Federal Water Task Force.	Workload	Enhances Tribal understanding of federal water management issues; increases workload.	Low	Minor
Navajo Nation	Organization Role	Rights Protection Section Chief/ Hydrologist is the Water Resources Coordinator	Organizational	Minimal	Low	Medium

**Table 4.3.5.6- 10 Southwest Region Water Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Southwest Region	Organization Role Process Locations Inputs Outputs	The regional agreement for water management is to work through the BIA Regional Office rather than the agencies. Agencies are not involved in the water management grant process.	Procedural	Increases workload at the regional level; may extend the duration of proposal development or be an inconvenience to certain Tribes.	Low	Minor
Southwest Region	Role	The Southwest Region does not have a Natural Resources or Land Operations Officer, so the Trust Resources and Protection	Procedural	Minimal	Low	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		Manager (“Trust Officer”) perform those functions.				
Southwest Region	Process Description	Most work is related to water rights. Even “planning” proposals are driven by litigation. There have been two planning proposals in the last few years, but they were related to litigation, either directly or in preparation for litigation. However, Tribal proposals have dealt with planning projects (e.g., drought relief planning).	Procedural	Emphasizes the water rights litigation aspect of water management rather than positive water resource development activities.	High	Major
Southwest Region	Inputs	The New Mexico Office of State Engineers provides state engineering input regarding water management projects within the state.	Procedural	Increases necessary collaboration of water management projects.	Low	Medium

**Table 4.3.5.6- 11 Western Region Water Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Western Region	Organization Role Process	Regional staff work strictly through the BIA Agencies, and do not communicate directly with Tribes on the water management	Procedural	May increase proposal development duration.	Low	Minor



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
	Location	grant process.				
Western Nevada Agency	Role	The Western Nevada Agency Fisheries Biologist performs the role of the agency Water Resources Coordinator. At all other BIA Agencies within the region the Natural Resources Officer performs the role.	Procedural	Minimal	Low	Minor
Western Nevada Agency	Organization Role Process Locations	Only the Western Nevada Agency submits a proposal (which is for office funding). No other Agency submits a proposal.	Procedural	Minimal	Low	Minor
Western Region	Role	Ten Tribal Coalitions also submit proposals for water management grants.	Workload	Increases necessary collaboration between BIA water management staff and Tribes.	Low	Medium
Western Region	Role	In the Western Region the Water Rights Specialist performs the functions of the Regional Water Resources Coordinator.	Procedural	Minimal	Low	Minor
Western Region	Controls	Western regional projects do not require permits or opinions from environmental regulatory or historical preservation agencies.	Workload	Decreases amount of collaboration necessary to execute water management projects.	Medium	Medium
Western Region	Process Description	Sometimes water management projects are “decreed” [by litigation] and must be	Case Law	Increases number of water management projects and	Medium	Medium



Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
		administered by the BIA water management staff.		associated level of effort.		
Western Region	Process Description	Projects are funded on a fiscal year basis, but most water management projects are two years in duration.	Procedural	Establishes projects that may not get necessary funding to be completed.	High	Major

**Table 4.3.5.6- 12 Pacific Region Water Management Variances**

Areas Affected by the Variance	Category	Variance Description	Reason for Variance	Business Impact	Degree of Business Impact	Difficulty of Change
Central California Agency	Role	The Natural Resources Officer performs the role of agency Water Staff.	Procedural	Minimal	Low	Minor
Southern California Agency	Role	The Hydrologist performs the role of the agency Water Staff.	Procedural	Minimal	Low	Minor
Pacific Region	Locations Role	BIA Agencies develop Issue Papers for water management grant proposals.	Procedural	Enhances proposal packages submitted and may improve chance of getting proposals funded.	Medium	Minor
Northern California Agency	Organization Role	BIA provides no oversight after award of funding due to limited staff.	Staffing	Decreases BIA staff's ability to contribute to ongoing water management projects.	Medium	High