2016

**BUREAU OF INDIAN AFFAIRS**

**CENTRAL CALIFORNIA**

**AGENCY**

**Alternatives to Land Buy**

**Back Program**

WHAT THE LBBP ACCOMPLISHES AND WHAT ALTERNATIVES BIA CAN OFFER:

LBBP:

Sale of interest to Tribe

Disposal of ownership

No regulatory requirements for consent

Appraisal provided

WHAT THE LBBP ACCOMPLISHES AND WHAT ALTERNATIVES BIA CAN OFFER:

BIA alternatives:

Exchanges

Gift Deeds

Life Estates

Joint Tenancy

Partition

Exchanges:

Landowners need to identify interest they want to dispose of and locate a landowner who is interested in an exchange

Landowners should review their TSR’s to identify co-owners who own on common tracts – they can exchange their interest in one tract for their interest in the other tract. Ex: Terry and Mary both own an undivided interest in RV101 and RV-102. Terry gives his interest in RV101 to Mary and Mary gives Terry her interest in RV-102. Now they each have a greater interest in 1 allotment instead of smaller interests in 2 allotments.

Exchanges:

Its not a requirement for the parties to the exchange be related

Requires landowners to agree on interest to exchange

Exchange for comparable value and comparable acreage is required

Anyone foreign to title must have consent from the other co-owners

Appraisals may be required, unless waived.

Gift Deeds:

Anyone foreign to title must have consent from the other co-owners

Appraisals may be required, unless waived.

Recipient of interest must be related by blood or special circumstances or relationship must exist, i.e. adoption

Any non-tribal member must have Tribes consent

Life Estates:

Life Estates can be created to convey interest, in accordance with all other regulations and requirements, to preserve an interest after death. Ex: Mary has 4 children, she also has an interest in 4 allotments, according to AIPRA, only her oldest child will inherit when she dies. Mary can gift convey one allotment to each of her children reserving a Life Estate for herself. The Life Estate preserves her right to use the property for her Life and benefit from any income derived from the land, and prevent having to go through probate when she dies.

Joint Tenancy:

Joint Tenancy is also a way of avoiding probate. Joint Tenancy is not a perfect solution! It does keep an interest in the family, but at some point someone is going to get left out, that’s just the reality. Ex: Mary has 4 children and only interest in 1 allotment. When she dies her interest will go to her oldest child in probate. She could convey her interest, by gift deed, to all her children as Joint Tenants.

Joint Tenancy (cont.):

Her 4 children would own until their death, then they would simply be removed and it would remain with the other 3, and so on. Joint Tenancy is ownership with Rights of Survivorship. The last one alive will have the entire interest and it is their heir who will eventually inherit. So all the other children of the previously deceased 3 siblings will not inherit.

Partition:

Partition is a VERY difficult process!

Partition is dividing the allotment according to everyone’s interest. The division can be made amongst individuals or in family groups.

100% participation and consent is required (in certain situations, the Secretary can force a partition, but that’s another subject, for another time.)

The division must be equitable to the co-owner(s) proportionate share.

An appraisal is required (could be at landowners expense)

A Survey by a licensed surveyor is required (landowners expense)

Accomplished by Gift Deed

# ACQUISITION AND DISPOSAL

## Acquisition is covered by 25 CFR §151 Disposal is covered by 25 CFR §152

FOR MORE INFORMATION:

Send an inquiry to:

Bureau of Indian Affairs

Central California Agency

Attn: Real Estate Services

650 Capitol Mall, Ste. 8-500 Sacramento, CA 95814