

BUSINESS SITE LEASE

BUSINESS SITE LEASE APPLICATION REQUIREMENT AND PROCEDURES CHECK LIST

FUNCTIONS BY APPLICANT

DATE RECEIVED

1. Submit Business Proposal (includes application, business plan and sources of funding) _____
2. Location Clearance - ONLA-Secure land users (Customary/Permittee) consent. _____
3. Archaeological Clearance (AC)-Navajo Nation Cultural Resource Office. _____
4. Environmental Assessment (EA) Survey Clearance. _____
5. Navajo Business Procurement Act Clearance. _____
6. Sanitation Clearance-IHS/OEH-Sanitation Permit, Sanitation Evaluation Review. _____
7. Road Clearance (turnouts)-BIA/State. _____
8. Utility Clearance (electric, water and sewer)-NTUA. _____
9. UST Compliance Report-EPA, if required. _____
10. Official Chapter Resolution, if required. _____
11. Partnership Agreement, if required. _____
12. Articles of Incorporation, Corporate Leasing Resolution, if required. _____
13. Registration with Business Regulatory Department if foreign (not Navajo Nation) corporation. _____
14. Legal Land Survey _____

FUNCTIONS BY RBDO AND BIA

1. Completed Application Package Received (Review). _____
 1. ONLA Site Clearance. _____
 2. Archaeological Clearance. _____
 3. EA Survey Clearance. _____
 4. Road Clearance (turnouts)-BIA/State. _____
 5. Utility Clearance (electric, water and sewer)-NUTA. _____
 6. Navajo Business Procurement Act Clearance. _____
 7. UST Compliance Report-EPA, if required. _____
 8. Review Partnership Agreement and/or Corporation to Articles/Registration, if required. _____
 9. Obtain current appraisal report from an Appraiser. _____
 10. Obtain current and accurate survey of business site for use in lease documents. _____
2. Appraisal Report (Negotiates rental). _____
3. Negotiate Lease terms and conditions. _____

BUSINESS SITE LEASE PACKAGE (Assign SAS No.)

1. Executive Summary. _____
2. Request for Services-Department of Justice _____
3. Prepared Business Site Lease _____
4. Navajo Business Procurement Clearance _____
5. Official Chapter Resolution, if required _____

- 6. Appraisal Evaluation _____
- 7. Archaeological Report _____
- 8. Environmental Assessment _____
- 9. Negotiated Term and Conditions _____
- 10. Legal Survey _____
- 11. Any other required documents _____

LEASE REVIEW AND APPROVAL PROCESS (164 REVIEW PROCESS); ASSIGN SAS NO.

- a. Program Manager and Department Director. _____
- b. Division of Economic Development-Executive Director. _____
- c. Department of Justice (Economic Development Unit). _____

**ECONOMIC DEVELOPMENT COMMITTEE OF THE NAVAJO NATION COUNCIL
RESOLUTIONS PROCEDURE**

- 1. Staff request sponsorship by a Council Delegate _____
- 2. Legislative Counsel review and draft proposed Resolution _____
- 3. Legislative Services assign a number to the proposed Resolution _____
- 4. Speaker of the Navajo Nation Council assigns the proposed
resolution to Economic Development Committee _____

FOLLOWING ECONOMIC DEVELOPMENT COMMITTEE RESOLUTION APPROVAL

- A. Prepare lease documents (six sets).
- B. Secure Lessee’s Signature.
- C. Acquire appropriate documents / or fees

TRANSMIT LEASE DOCUMENTS TO OFFICE OF THE PRESIDENT FOR SIGNATURE

- 1. Official EDC Resolution. _____
- 2. Business Site Lease Agreement (6 sets). _____

AFTER SIGNATURE OF THE NAVAJO NATION PRESIDENT

Obtain:

- 1. Performance Bond. _____
- 2. Certificates of Insurance, if required. _____
- 3. Construction bond, if required. _____
- 4. Lease Filing Fee. _____

**Transmit (all signed original) lease documents along With the required
documentations to bia agency for their Review and approval**

- 1. Approval by BIA Agency Superintendent. _____
- 2. Distribution of Lease Documents. _____

**DIVISION OF ECONOMIC DEVELOPMENT
Regional Business Development Offices (RBDO):**

Aneth RBDO

P.O. Box 676
Montezuma Creek, UT 84534
(435)651-3520/3521
FAX NO.: (435)651-3522

Chinle RBDO

P.O. Box 565
Chinle, AZ 86503
(928)674-2240 to 2243
FAX NO.: (928)674-2244

Eastern RBDO

P.O. Box 250
Church Rock, NM 87311
(505)863-6400/6405
FAX NO.: (505)863-6401

Fort Defiance RBDO

P.O. Box 663
Window Rock, AZ 86515
(928)871-6486/6546
FAX NO.: (928)871-6476

Shiprock RBDO

P.O. Box 1864
Shiprock, NM 87420
(505)368-1315 / 1319
FAX NO.: (505)368-1324

Western RBDO

P.O. Box 485
Tuba City, AZ 86045
(928)283-3010 / 3011
FAX NO.: (928)283-3015

Whippoorwill RBDO

P.O. Box 1004
Pinon, AZ 86510
(928)725-3707/3708
FAX NO.: (928)725-3709

Bureau of Indian Affairs Branch of Real Estate Services (RES):

BIA – Navajo Area Office

Real Estate Services
P.O. Box 1060
Gallup, NM 87305
(928)871-5940
FAX NO.: (928)871-5943

BIA – Fort Defiance Agency

Real Estate Services
P.O. Box 619
Ft. Defiance, AZ 86504
(928)729-7247
FAX NO.: (928)729-7246

BIA – Chinle Agency

Real Estate Services
P.O. Box 7H
Chinle, AZ 86503
(928)674-5151
FAX NO.: (928)674-5158

BIA – Shiprock Agency

Real Estate Services
P.O. Box 3538
Shiprock, NM 87420
(505)368-3374
FAX NO.: (505)368-3312

BIA – Eastern Navajo Agency

Real Estate Services
P.O. Box 328
Crownpoint, NM 87313
(505)786-6121/6122
FAX NO.: (505)786-6115

BIA – Western Navajo Agency

Real Estate Services
P.O. Box 127
Tuba City, AZ 86045
(928)283-2229
FAX No.: (928)283-2319

Office of Navajo and Hopi Indian Relocation

ATTN: Chris Bavasi
P.O. Box KK, Flagstaff, AZ 86002
(928)779-2721
FAX NO.: (928)774-1977

BUSINESS SITE LEASE REQUIREMENTS AND PROCEDURES
Navajo Reservation and Tribal Trust land

I. GENERAL LEASING INFORMATION

Prospective applicants inquiring about filing an application for a business site lease should contact their respective Regional Business Development Office (RBDO), which has responsibility over the area in which the proposed business site is to be located. General information and assistance will be given to the prospective applicant at the RBDO office when processing an application. Each respective RBDO office should coordinate the leasing transactions with the Accounts Receivable Section of the Division of Finance, the Navajo Land Department, the Bureau of Indian Affairs (BIA) Agency of Real Estate Services (RES) offices (see page "3" for addresses).

Applicants can be an individual, a group of individuals, a partnership, or a corporation chartered under state or Navajo Nation law, although corporations formed under State law must register with the Navajo Nation as foreign corporations. Applicants can be Navajo or non-Navajo.

The BIA also has Agency offices which are under the jurisdiction of the Navajo Regional Office, headquarters located in Gallup, New Mexico. The Agency areas include the main reservation and Tribal trust lands that are located off the main reservation in Eastern Navajo Agency, such as Tohajiilee and Alamo. Alamo, Ramah, Tohajiilee's leasing are done out of Albuquerque Pueblo region, depending on the land status. Leasing in the New Lands is usually handled by Office of Navajo and Hopi Indian Relocation, except for Pinta Road (Road King). ONHIR is supposed to go out of business and the Navajo Nation will get leases. Authority to approve rights-of-way, business and surface leases, and revocable use permits has been redelegated to the Agency Superintendents in some cases, effective June 01, 1988. Consult RBDO for processing of application with appropriate BIA Office.

II. PRELIMINARY CONSIDERATION BY PROSPECTIVE APPLICANTS

- A. A sincere personal interest and a desire for a successful business venture on tribal lands.
- B. Business Plan which shows the feasibility of potential success of the proposed business (technical assistance available from DED Support Services, RBDO, and BIA Agency RES, If needed).
- C. Source of financing for business start-up, proposed improvements, insurance and bonding requirements.
- D. Land status of proposed business site.
- E. Site location compatible with type of business and existing or proposed infrastructure.
- F. Site plan which includes optimum use of land and protection of environment.

III. LEASE REQUIREMENTS

- A. Applicant must obtain a business site lease application and submit a completed signed application to RBDO office. Business site lease procedures and technical assistance will be provided by the RBDO staff and BIA if required.
- B. Applicant has six (6) months to diligently complete and file the application, including clearances. If no response or significant effort has been achieved during this time, the application shall be canceled and returned to the applicant and the client must resubmit a new application.
- C. RBDO shall request in writing from the appropriate tribal departments that applicant is in compliance with Navajo Business Procurement Act.
- D. Applicant shall furnish a location map of the proposed business site; Must have accurate survey of land, because it is recorded. It must comply with the Navajo Regional RES survey requirement policy.
- E. Applicant shall furnish a site plan showing the dimensions of the site including approximate acreage, location of proposed and/or existing improvement(s), parking areas, access roads, water and sewer layout and other existing utilities. Plan may be in sketch form, but must be as accurate as possible.
- F. Applicant shall furnish preliminary building plans with explanation of how proper sanitation will be provided. Lessee(s) shall comply with Federal and Tribal ordinances and regulations including, but not limited to, public restrooms, handicapped access, building safety, and sanitation requirements.
- G. If applicant is married, application be made in both parties name.
- H. If applicant is a corporation, furnish copies of (absolute prerequisite):
 - 1. Articles of Incorporation-certificate of good standing;
 - 2. License to do business in state, if a foreign corporation, registration as a foreign corporation with the Navajo Nation, if state corporation;
 - 3. Evidence of authority for officers to execute documents; and
 - 4. Resolution of Board of Directors authorizing entering into a lease agreement.
- I. If applicants are a partnership, submit copies of legally sufficient Partnership Agreement.
- J. Applicant shall present business proposal to local chapter and obtain a recommending resolution. Under 2 N.N.C. 724 (C), a chapter resolution is required only at the time a business site is withdrawn for commercial purposes.
- K. RBDO will request an appraisal report from the Agency RES with a copy of the request to BIA Regional Appraiser.

L. Applicant shall secure and furnish the following clearances as required by Navajo Nation Business Site Leasing Regulations and Navajo Nation Business Site Leasing Act of 1987, or any amendments thereto:

1. Location Clearance - Applicant obtains land users consent, with assistance of Project Review Office (PRO), Division of Natural Resources. PRO conducts onsite field investigations and files written report to RBDO. Applicant is responsible for the payment of any service charges.

Exceptions:

- (a) Eastern Navajo Agency. Contact Crownpoint Office of Navajo Land Administration. Also contact Eastern RBDO and RES to clarify land status to ensure that the proposed business site is on Tribal trust land.
 - (b) Western Navajo Agency. For business sites within the 1934 Statutory Freeze Area, Hopi consent is also required. Contact Agency RBDO and RES for further assistance.
2. Utilities Clearance (power, water and sewage) - NTUA or other utility service company; Provides statement to applicant that utilities will be available at business site.
 3. Road Clearance (turnouts or rights-of-ways) - BIA or State Highway Department: Required only if a new road is planned or cuts will be made into existing roads or adjacent sites.
 4. Sanitation Clearance - Contact local IHS Environmental Health Office. IHS issues clearances after review and approval of proposed site and building plans. IHS reviews sewage systems, potential health hazards and compliance with USPHS requirements, safety codes, and existing Tribal regulations.
 5. Archaeological Clearance - It is the applicant's responsibility to have an archaeological survey conducted by a qualified and approved archaeologist and submitted to Navajo Nation's Cultural Resources Office for archaeological clearance. Applicant is responsible for the payment of any service charges.
 6. Environmental Assessment - Applicant is responsible for obtaining of an environmental assessment. Applicant is responsible for the payment of service charges.
 7. Ethics Clearance, if applicable - Federal employees, Tribal elected official and Tribal employees must comply with this requirement.
 8. Underground Storage Tank (UST) Compliance report - applicant is responsible for obtaining a UST compliance report, from Navajo Nation Environmental Protection Agency.

IV. RBDO FUNCTIONS AT THE RESPECTIVE AGENCY. (Coordinated with assistance from BIA Agency RES).

- A. Upon receipt of the lease application package, RBDO will review for accuracy, completeness and compliance with Federal and Tribal laws and regulations.
- B. A complete lease application package must include the following:
 - 1. Archaeological Clearance;
 - 2. Environmental Assessment Report;
 - 3. Appraisal Report;
 - 4. Utilities Clearance;
 - 5. Sanitation Clearance Permit;
 - 6. Road Clearance;
 - 7. Location Clearance;
 - 8. Navajo Business Procurement Clearance;
 - 9. Executive Summary
 - 10. Underground Storage Tank Compliance Report, if required;
 - 11. Partnership Agreement, Corporation Documents, etc., if required.

NOTE: If there is no prior archaeological or environmental clearances for an existing business establishment, the potential Lessee must secure and furnish both clearances before obtaining a business site lease.
Appraisal Reports shall be kept confidential.

- C. Negotiates the Lease terms and conditions with the prospective Lessee. Request by justification letter to BIA Area or Agency approval of rental which is negotiated at less than the Fair Market value as determined by the BIA Area appraiser. This must be included in both resolution and SAS review.
- D. Prepare the proposed Executive Summary, the proposed lease instrument and supporting documents for committee's action.
- E. Upon receipt of the Executive Summary and lease package from RBDO, Regional or Agency RES and RBDO staff will jointly review for accuracy and completeness. Regional/Agency RES may request legal review from the Solicitor's Office, if necessary.
- F. Initiate Signature Authorization Sheet (SAS) Process and recommendation for 164 Review Process.
The SAS package shall be reviewed for compliance with the guidelines by the Division of Economic Development, and requires Department of Justice's legal review prior to obtaining a Council Delegate sponsor, as provided for in Navajo Nation Executive Order No. 01-2004.
- G. Obtain a Council Delegate to sponsor the proposed Business Site Lease with all supporting exhibits. The Office of Legislative Counsel shall review and draft the proposed Business Site Lease Resolution for the Council Delegate. The Executive Director for the Office of Legislative Services will assign a number to the proposed resolution, the Speaker of the

Navajo Nation Council will assign the proposed resolution to the Economic Development Committee for their consideration.

H. Economic Development Committee (EDC) requires the applicant to be present at their meeting during the approval process.

1. If not previously submitted, RBDO notifies applicant that upon EDC approval, applicant must furnish six (6) copies of survey plat and legal description. The survey shall be performed by a licensed land surveyor, certified in the state said site is located. Applicant is responsible for the payment of any service charges.
2. Finalize and prepare six (6) original sets of lease instruments and secure Lessee(s) signature on all documents.
3. Forward lease instrument(s) with copy of resolution, including transmittal letter to the Office of the President for signature approval of the lease agreement on behalf of the Navajo Nation.
4. Upon President's signature approval, forward all original lease documents to BIA Agency Superintendent or Area Director for final approval.

V. FUNCTIONS PERFORMED BY THE BUREAU OF INDIAN AFFAIRS

A. Agency/Regional RES office and RBDO staff will review the lease instruments after EDC approval.

B. Upon satisfactory completion of all requirements, Agency/Regional RES will recommend approval to the RES Regional Director.

C. Upon approval of the lease, assigns business site lease number and notifies Lessee of the requirements to be met, as follows:

1. Performance Bond to be in an amount (not less than the minimum annual rental) as stated in the Lease, before lease goes for signature.
2. Remittance of lease Fee (amount varies depending upon annual rental) payable to the Bureau of Indian Affairs.
3. Evidence of Public Liability, Personal Injury, and Property Damage and other Insurance coverage in the amounts stated in the lease. The Navajo Nation (Lessor) is included in the policy as additional insured.
4. Copy of Fire and Casualty Insurance with extended coverage endorsements covering not less than full insurable value of all improvements on the leased premises, written jointly to protect Lessee, Lessor and the United States of America.
5. Lessee(s), if non-Navajo, must comply with provision of 25 CFR, Part 141, as follows:
 - a. File application for Trader's License with BIA Licensing.
 - b. Obtain and submit \$10,000 Trader's License Bond.

D. Upon receipt of required documents, Regional RES will distribute two approved lease documents as follows and will transmit three approved lease documents to RBDO for distribution.

1. Lease is distributed as follows by Regional RES.
 - a. Lessee.
 - b. Regional Real Estate Services (copy shall be recorded in Albuquerque Land Titles and Records Office.)
2. Lease is distributed as follows by RBDO
 - a. Lessor (RBDO).
 - b. Office of Navajo Land Administration.
 - c. Financial Service Department/Accounts Receivable Section.

E. Regional RES will coordinate lease compliance action with appropriate RBDO who has jurisdiction over the area in which the business site lease is located.

VI. LESSEE(S) RESPONSIBILITY

- A. Make final arrangements for financing the proposed permanent improvements.
- B. Submit general plans and architect's design for approval by Navajo Nation within 180 days or otherwise stipulated in the Lease after approval of the Lease.
- C. Submit guaranteed minimum annual rental in advance, and pay rental covering percentage of gross receipts promptly when due, as required by the Lease.
All Lease payments shall be made to the following address: The Navajo Nation, Accounts Receivable Department, Division of Finance, Post Office Box 3150, Window Rock, Arizona, 86515.
- D. Submit evidence of fire insurance with extended coverage endorsements before commencement of improvements.
- E. Submit annual certified financial statements of gross receipts when due.
- F. Shall not modify, sublease, transfer, mortgage the leasehold interest, or enter into a management agreement without prior written approval of the Lessor, Secretary and Surety of the Lease.
- G. Comply with all the terms and conditions of the Lease.
- H. Maintain liaison with Regional Branch of Real Estate Services and Regional Business Development Offices.

VI. MODIFICATION OF GUIDELINES

These guidelines may be modified from time to time as the need arises upon written recommendation from the Executive Director and Small Business Development Director.