

(d) An interest included in an approved agreement may not be purchased at probate without consent of the owner of the consolidated interest.

**§ 30.152 May the parties to an agreement waive valuation of trust property?**

The parties to a settlement agreement or a consolidation agreement may waive valuation of trust property otherwise required by regulation or the Secretary's rules and requirements. If the parties waive valuation, the waiver must be included in the written agreement.

**§ 30.153 Is an order approving an agreement considered a partition or sale transaction?**

An order issued by a judge approving a consolidation or settlement agreement will not be considered a partition or sale transaction under 25 CFR part 152.

**Subpart G—Purchase at Probate**

**§ 30.160 What may be purchased at probate?**

An eligible purchaser may purchase, during the probate of a trust or restricted estate, all or part of the estate of a person who died on or after June 20, 2006.

(a) Any interest in trust or restricted property, including a life estate that is part of the estate (i.e., a life estate owned by the decedent but measured by the life of someone who survives the decedent), may be purchased at probate with the following exceptions:

(1) If an interest is included in an approved consolidation agreement, that interest may not be purchased at probate without consent of the owner of the consolidated interest; and

(2) An interest that a devisee will receive under a valid will cannot be purchased without the consent of the devisee.

(b) A purchase option must be exercised before a decision or order is entered and must be included as part of the order in the estate.

**§ 30.161 Who may purchase at probate?**

An eligible purchaser is any of the following:

(a) Any devisee or eligible heir who is taking an interest in the same parcel of land in the probate proceeding;

(b) Any person who owns an undivided trust or restricted interest in the same parcel of land;

(c) The Indian tribe with jurisdiction over the parcel containing the interest; or

(d) The Secretary on behalf of the tribe.

**§ 30.162 Does property purchased at probate remain in trust or restricted status?**

Yes. The property interests purchased at probate must remain in trust or restricted status.

**§ 30.163 Is consent required for a purchase at probate?**

(a) Consent is required for a purchase at probate if both of the following conditions are met:

(1) If the interest in trust or restricted property meets the criteria in § 30.160(a)(1) or (2); and

(2) If the interest an heir will receive by intestate succession in the parcel subject to the probate proceeding meets either of the following criteria:

(i) It is 5 percent or more of the entire undivided ownership interest in the parcel; or

(ii) It is less than 5 percent of the entire undivided ownership interest in the parcel and the heir was residing on the parcel on the date of the decedent's death.

(b) A devisee's consent is always required for a purchase at probate.

**§ 30.164 What must I do to purchase at probate?**

Any eligible purchaser must submit a written request to OHA to purchase at probate before the decision or order is issued.

**§ 30.165 Who will OHA notify of a request to purchase at probate?**

OHA will provide notice of a request to purchase at probate as shown in the following table:

OHA will provide notice to . . .	By . . .
(a) The heirs or devisees and the Indian tribe with jurisdiction over the interest.	First class mail.

**§ 30.166**

OHA will provide notice to . . .	By . . .
(b) The BIA agency with jurisdiction over the interest.	First class mail.
(c) All parties who have submitted a written request for purchase.	First class mail.
(d) To all other eligible purchasers.	Posting written notice in: (1) At least five conspicuous places in the vicinity of the place of the hearing; and (2) One conspicuous place at the agency with jurisdiction over the parcel.

**§ 30.166 What will the notice of the request to purchase at probate include?**

- The notice under § 30.165 will include:
- (a) The type of sale;
  - (b) The date, time, and place of the sale;
  - (c) A description of the interest to be sold; and
  - (d) The appraised market value, determined in accordance with § 30.167(b), of the parcel containing the interest to be sold, a description of the interest to be sold, and an estimate of the market value allocated to the interest being sold.

**§ 30.167 How does OHA decide whether to approve a purchase at probate?**

- (a) OHA will approve a purchase at probate if an eligible purchaser submits a bid in an amount equal to or greater than the market value of the interest. OHA will sell the interest to the eligible purchaser submitting the highest such bid.
- (b) The market value of the interest to be sold at probate must be based on an appraisal that meets the standards in the Uniform Standards for Professional Appraisal Practice (USPAP), or on a valuation method developed by the Secretary pursuant to 25 U.S.C. 2214.

**§ 30.168 How will the judge allocate the proceeds from a sale?**

- (a) The judge will allocate the proceeds of sale among the heirs based on the fractional ownership interests in the parcel.
- (b) For the sale of an interest subject to a life estate, the judge must use the ratios in 25 CFR part 179 to allocate

**43 CFR Subtitle A (10–1–10 Edition)**

the proceeds of the sale among the holder of the life estate and the holders of any remainder interests.

**§ 30.169 What may I do if I do not agree with the appraised market value?**

- (a) If you are the heir whose interest is to be sold or a potential purchaser and you disagree with the appraised market value, you may:
  - (1) File a written objection with OHA within 30 days after the date on which the notice provided under § 30.165 was mailed, stating the reasons for the objection; and
  - (2) Submit any supporting documentation showing why the market value should be modified within 15 days after filing a written objection.
- (b) The judge will consider your objection, make a determination of the market value, determine whether to approve the purchase under § 30.167, and notify all interested parties. The determination must include a notice stating that interested parties who are adversely affected may file written objections and request an interlocutory appeal to the Board as provided in § 30.170.

**§ 30.170 What may I do if I disagree with the judge’s determination to approve a purchase at probate?**

- (a) If you are adversely affected by the judge’s determination to approve a purchase at probate under § 30.167(a), you may file a written objection with the judge within 15 days after the mailing of a determination under § 30.169(b).
  - (1) The written objection must state the reasons for the objection and request an interlocutory appeal of the determination to the Board.
  - (2) You must serve a copy of the written objection on the other interested parties and the agencies, stating that you have done so in your written objection.
- (b) If the objection is timely filed, the judge must forward a certified copy of the complete record in the case to the Board, together with a table of contents for the record, for review of the determination. The judge will not issue the decision in the probate case until the Board has issued its decision on interlocutory review of the determination.

(c) If the objection is not timely filed, the judge will issue an order denying the request for review as untimely and will furnish copies of the order to the interested parties and the agencies. If you disagree with the decision of the judge as to whether your objection was timely filed, you may file a petition for rehearing under § 30.237 after the judge issues a decision under § 30.235.

**§ 30.171 What happens when the judge grants a request to purchase at probate?**

When the judge grants a request to purchase at probate, the judge will:

- (a) Notify all bidders by first class mail; and
- (b) Notify OST, the agency that prepared the probate file, and the agency having jurisdiction over the interest sold, including the following information:
  - (1) The estate involved;
  - (2) The parcel and interest sold;
  - (3) The identity of the successful bidder; and
  - (4) The amount of the bid.

**§ 30.172 When must the successful bidder pay for the interest purchased?**

The successful bidder must pay to OST, by cashier's check or money order via the lockbox, or by electronic funds transfer, the full amount of the purchase price within 30 days after the mailing of the notice of successful bid.

**§ 30.173 What happens after the successful bidder submits payment?**

(a) When OST receives payment, it will notify OHA, and the judge will enter an order approving the sale and directing the LTRO to record the transfer of title of the interest to the successful bidder. The order will state the date of the title transfer, which is the date payment was received.

(b) OST will deposit the payment in the decedent's estate account.

**§ 30.174 What happens if the successful bidder does not pay within 30 days?**

(a) If the successful bidder fails to pay the full amount of the bid within 30 days, the sale will be canceled and the interest in the trust or restricted

property will be distributed as determined by the judge.

(b) The time for payment may not be extended.

(c) Any partial payment received from the successful bidder will be returned.

**§ 30.175 When does a purchased interest vest in the purchaser?**

An interest in trust or restricted property purchased under this subpart is considered to have vested in the purchaser on the date specified in § 30.173(a).

**Subpart H—Renunciation of Interest**

**§ 30.180 May I give up an inherited interest in trust or restricted property or trust personalty?**

You may renounce an inherited or devised interest in trust or restricted property, including a life estate, or in trust personalty if you are 18 years old and not under a legal disability.

**§ 30.181 How do I renounce an inherited interest?**

To renounce an interest under § 30.180, you must file with the judge, before the issuance of the final order in the probate case, a signed and acknowledged declaration specifying the interest renounced.

(a) In your declaration, you may retain a life estate in a specified interest in trust or restricted land and renounce the remainder interest, or you may renounce the complete interest.

(b) If you renounce an interest in trust or restricted land, you may either:

(1) Designate an eligible person or entity meeting the requirements of § 30.182 or § 30.183 as the recipient; or

(2) Renounce without making a designation.

(c) If you choose to renounce your interests in favor of a designated recipient, the judge must notify the designated recipient.

**§ 30.182 Who may receive a renounced interest in trust or restricted land?**

(a) If the interest renounced is an interest in land, you may renounce only in favor of: