

(2) Housing for public purposes, which may include office space necessary to administer programs for housing for public purposes.

(b) Leases for other residential development (for example, single-family residential developments and multi-family developments that are not housing for public purposes) are covered under subpart D of this part.

**§ 162.302 Is there a model residential lease form?**

(a) We will make available one or more model lease forms that satisfy the formal requirements of this part, including, as appropriate, the model tribal lease form jointly developed by BIA, the Department of Housing and Urban Development, the Department of Veterans' Affairs, and the Department of Agriculture. Use of a model lease form is not mandatory, provided all requirements of this part are met.

(b) If a model lease form prepared by us is not used by the parties to a residential lease, we will assist the Indian landowners, upon their request, in drafting lease provisions or in using tribal lease forms that conform to the requirements of this part.

**§ 162.303 Who needs a lease for housing for public purposes?**

A TDHE or tribal housing authority must obtain an approved residential lease under this subpart from the Indian landowners if, under the terms of its charter, it is a legal entity independent from the tribe, regardless of whether it is owned and operated by the tribe. A TDHE or tribal housing authority does not need an approved residential lease under this subpart if the tribe has authorized the TDHE's or tribal housing authority's possession through a tribal land assignment.

LEASE REQUIREMENTS

**§ 162.311 How long may the term of a residential lease run?**

(a) A residential lease must provide for a definite lease term, state if there is an option to renew, and if so, provide for a definite term for the renewal period.

(1) The maximum term of a lease approved under 25 U.S.C. 4211 may not ex-

ceed 50 years or may be month-to-month. The lease may provide for an initial term of less than 50 years with a provision for one or more renewals, so long as the maximum term, including all renewals, does not exceed 50 years.

(2) The maximum term of a lease approved under 25 U.S.C. 415(a) may not exceed 50 years (consisting of an initial term not to exceed 25 years and one renewal not to exceed 25 years), unless a Federal statute provides for a longer maximum term (e.g., 25 U.S.C. 415(a) allows for a maximum term of 99 years for certain tribes), a different initial term, renewal term, or number of renewals.

(b) For tribal land, we will defer to the tribe's determination that the lease term, including any renewal, is reasonable. For individually owned Indian land, we will review the lease term, including any renewal, to ensure it is reasonable, given the:

- (1) Purpose of the lease;
- (2) Type of financing; and
- (3) Level of investment.

(c) Unless the lease provides otherwise, a residential lease may not be extended by holdover.

**§ 162.312 What must the lease include if it contains an option to renew?**

(a) If the lease provides for an option to renew, the lease must specify:

- (1) The time and manner in which the option must be exercised or is automatically effective;
- (2) That confirmation of the renewal will be submitted to us, unless the lease provides for automatic renewal;
- (3) Whether Indian landowner consent to the renewal is required;
- (4) That the lessee must provide notice of the renewal to the Indian landowners and any mortgagees;
- (5) The additional consideration, if any, that will be due upon the exercise of the option to renew or the start of the renewal term; and
- (6) Any other conditions for renewal (e.g., that the lessee not be in violation of the lease at the time of renewal).

(b) We will record any renewal of a lease in the LTRO.