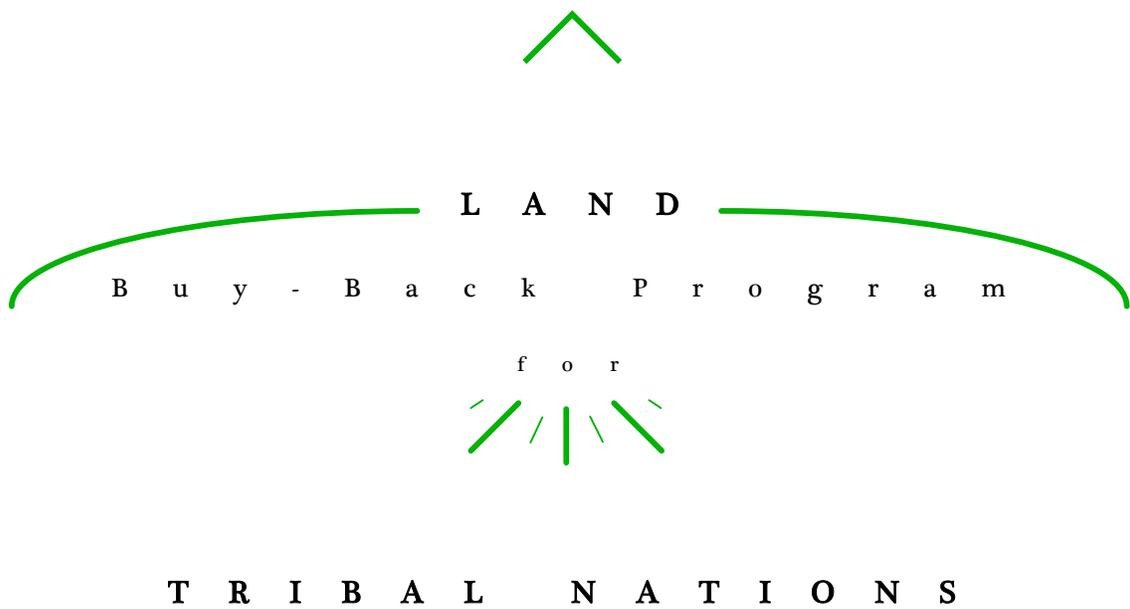


UPDATED IMPLEMENTATION PLAN



U.S. DEPARTMENT OF THE INTERIOR

November 8, 2013

LETTER FROM SECRETARY JEWELL

The Land Buy-Back Program for Tribal Nations is our collaborative effort with Indian country, both tribes and individuals, to realize the historic opportunity afforded by the *Cobell* Settlement – \$1.9 billion Trust Land Consolidation Fund to use to compensate individuals who willingly choose to transfer fractional land interests to tribal nations for fair market value. With the benefit of additional tribal input and involvement, we are updating the Initial Implementation Plan that the U.S. Department of the Interior published last December for the Buy-Back Program.



The updated plan expands the implementation strategy for the Buy-Back Program by soliciting cooperative agreement applications from tribes that have jurisdiction over nearly 90 percent of all purchasable fractionated interests.

Fractionation of land ownership is a prevalent problem on Indian reservations, locking up resources over many years. Fractionation is depicted in maps of Indian country that resemble a complicated jigsaw puzzle. It spurs the maintenance of elaborate records for tiny slivers of thousands of interests in a particular piece of land and affects more than 150 reservations across Indian country where tracts of land often have hundreds, sometimes thousands, of owners.

An additional related problem is that land goes out of trust each year when fractional interests are passed on to non-Indian heirs. Fortunately, the Buy-Back Program and tribes across the country will partner to help communities consolidate the lands, stop the loss of trust lands by transferring fractional interests to the tribe, and prevent further fractionation.

Fractionated properties go unutilized – hampering efforts to alleviate poverty and unemployment. Nearly 100 years later, we continue to work to remedy the harms inflicted on tribal communities by the repudiated policy of allotment. The Buy-Back Program is one tool that can help restore tribal lands to tribal ownership.

Since establishing the Buy-Back Program in December 2012, the Department has worked actively with tribes and incorporated their valuable feedback into Program processes and policies. We have heard from tribal leaders that we must implement the Program fairly and equitably, moving quickly so that we may reach as much of Indian country as possible during the Program's 10-year period. We also understand that we must minimize implementation costs to maximize the amount of land consolidated. The Program continues to review and update our strategy to expand tribal engagement.

The Program embodies the priorities set forth by President Obama's national policy initiative to build effective partnerships with American Indian communities and work more efficiently to find solutions to the challenges they face. Through our ongoing collaboration with tribal governments, we will facilitate improvements to advance vital economic and social priorities and restore tribal homelands.

The Department and Indian country have an exceptional opportunity to work together in addressing a very serious problem. Our positive and productive working relationships with tribes and our commitment to land owner outreach will continue to be major driving forces of the Program.

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SUMMARY

The *Cobell* Settlement Agreement (Settlement) provides for a \$1.9 billion Trust Land Consolidation Fund (Fund) to be expended over a ten-year period.¹ The Settlement makes the Fund available to the U.S. Department of the Interior (Department) to acquire fractional interests in trust or restricted land from individuals who are willing to sell their interests for fair market value (as defined in the Indian Land Consolidation Act [ILCA]).

In 2012, the Secretary established the Land Buy-Back Program for Tribal Nations (Buy-Back Program or Program) to implement the land consolidation aspects of the Settlement. All lands sold through the Buy-Back Program will immediately be held in trust for the recognized tribe with jurisdiction over the land. In addition, the Department will contribute up to \$60 million to the Education Scholarship Fund for American Indians and Alaska Natives, allowing future generations to benefit from the Program.

There are approximately [150 reservations](#) with 2.9 million purchasable fractional interests owned by more than 243,000 individuals (the whereabouts of approximately 13 percent of these individuals are currently unknown). Although the American Indian Probate Reform Act of 2004 appears to be slowing the growth of fractionation, the number of fractional interests remains high and is still increasing. The number of fractional interests grew by about 15.7 percent from 2007 to 2013. The overall goal of the Buy-Back Program is to reduce the number of fractional interests through voluntary land sales and to place purchased land into trust for tribes. These transfers will consolidate trust land bases for conservation, stewardship, or other uses deemed beneficial by sovereign tribal nations.

This Updated Implementation Plan (Plan), which is based on continued planning and tribal consultation thus far, has eight purposes:

- Outline goals and priorities;
- Summarize the key parameters and operational concepts that apply to the Buy-Back Program;
- Facilitate tribal participation in the Buy-Back Program;
- Describe the primary land consolidation processes – outreach, land research, valuation, and acquisition – as well the organizational structure of the Program;

1. The Settlement was confirmed by the Claims Resolution Act of 2010 and approved with finality on November 24, 2012, after appeals were exhausted through the U.S. Supreme Court. The ten-year period occurs from November 24, 2012 (the date of Final Approval of the Settlement), to November 24, 2022.

- Identify Program performance metrics that will be used to ensure timely achievement of Program goals and priorities;
- Lay out next steps for continued Program planning and implementation that will allow for improvement of the Buy-Back Program;
- Address comments received on the Initial Implementation Plan, dated December 18, 2012, and during the public comment period ending March 2013 – See Appendix A; and
- Provide context for planning efforts, respond to tribal requests for more complete information, and provide additional and updated data about fractionation – See Appendix B.

This is the second iteration of the Program’s Implementation Plan, which is intended to be flexible to accommodate evolving developments and subsequent updates. As we implement the Buy-Back Program, the Department expects to incorporate lessons learned, best practices, and tribal feedback to enhance the overall effectiveness of the Program’s implementation strategy.

The following sections briefly summarize the Plan.

Goals and Priorities. The Department has identified the following primary goals and priorities for the Buy-Back Program:

- Reduce the number of fractional interests in trust or restricted lands, using reasonable efforts to prioritize the consolidation of the most highly fractionated tracts of land as required by the Settlement. The Program will structure acquisitions to maximize the number of tracts in which the tribe gains a controlling ownership interest to unlock land for beneficial use or conservation by tribal nations, taking tribal priorities into account.
- Manage administrative expenses in the most cost-efficient manner possible, in a way that facilitates effective long-term trust management and systems integration.
- Maximize tribal participation in the Program. The Buy-Back Program is structured in a manner that provides the flexibility to allow as much opportunity for tribal participation and assistance as practical at scheduled locations.
- Establish and maintain clear communications throughout its operation. The Buy-Back Program will actively consult with tribes to identify and accommodate tribal acquisition priorities as much as possible. The Buy-Back Program will report progress and communicate with Indian country throughout the life of the Buy-Back Program and provide clear, concise information; options; and guidance to individual Indian landowners about their fractional land holdings and the opportunity to participate in the Buy-Back Program at their discretion.

Key Parameters and Concepts. The Buy-Back Program is designed to achieve the above goals and priorities within several key parameters that affect the structure and operations of the Program.

- Approximately 90 percent of the purchasable fractional interests are located within 40 of the 150 locations with purchasable fractional interests. Consistent with the Initial

Implementation Plan, the Department intends to focus most of its initial efforts among these highly fractionated locations.

- The Settlement limits the time and administrative funding available to the Department to implement the Program. As a result, the Program can actively operate at each location for a limited period of time.
- The Settlement also limits the funds available to purchase fractional interests. Since this amount may not be sufficient to purchase all fractional interests across Indian country, flexible purchase ceilings have been developed to achieve a broad use of the Fund and ensure that it is not expended in only a limited number of locations.
- Tribal leaders and members have requested that as many tribes as possible be involved in the Program. As a result, the Program will include some less fractionated locations in early implementation efforts in addition to the locations that are among the most highly fractionated. The Department will seek to enter into cooperative agreements with as many tribes as possible.
- It is unclear how many owners of fractional interests will be willing to sell their land through the Buy-Back Program. The Program has placed an emphasis on direct outreach to these landowners and will work directly with the tribes to promote participation on their reservations.

Tribal Involvement. The Program continues to work closely with tribes to achieve tribal land consolidation goals efficiently and effectively. It is critical that the Buy-Back Program and tribal leaders work together to ensure that landowners are made aware of the opportunity to sell land interests for the benefit of both the landowner and tribal communities. The Department is committed to a transparent process that provides the most opportunity for tribal government involvement. In particular, the Department hopes to enter into cooperative agreements with interested tribes to take advantage of tribes' ability to minimize administrative costs and to improve the overall effectiveness and efficiency of the Buy-Back Program. Cooperative agreements provide a flexible mechanism for tribal involvement in the Buy-Back Program and will define each tribe's role in implementing the Program on its reservation; however, entering into a cooperative agreement is not mandatory to participate in the Program. Some tribes do not require financial assistance to support, promote, or help implement the Program, in which case a cooperative agreement would be unnecessary. The implementation of the Buy-Back Program will best succeed with the active involvement and commitment of tribal communities.

Primary Processes. There are four basic phases of the land consolidation process - outreach, land research, valuation, and acquisition – which are defined briefly below.

- *Outreach* refers to the process of reaching out to landowners in the tribal community to communicate the potential opportunity to sell their fractional interests and to address their questions and concerns.

- *Land research* includes collecting the data necessary to establish fair market value for the tracts containing fractional interests.
- *Valuation* is the process of appraising fractionated tracts to determine their fair market value.
- *Acquisition* is the process in which the Program will extend offers to applicable landowners in an effort to acquire interests from those willing to sell.

In order to consolidate lands at as many locations as possible, each phase must be implemented efficiently at each reservation. The Program estimates that it may take approximately 18 to 24 months to complete the four phases at one location. The size of the Fund and the reach of the Buy-Back Program allow the Department to gain efficiencies while minimizing administrative costs. High-level involvement within the Department improves coordination between various Departmental offices and bureaus involved, and the centralized organizational structure ensures accountability. The Buy-Back Program is building on the best practices of past land consolidation efforts and, whenever possible, streamlining the land consolidation process to purchase fractional interests effectively and efficiently on a large scale, within the parameters of the Settlement.

Organizational Structure. The Secretary of the Interior established the Buy-Back Program within the Office of the Secretary. It consists of a Program Manager and staff members who provide expertise in various support areas (e.g., communications, cooperative agreements, tribal relations). In addition to staff within the Office of the Secretary, the Program is working closely with other Departmental offices and bureaus to obtain technical expertise in areas such as mapping, mineral evaluations, appraisals, and acquisitions.

Measuring Program Performance. The Program has begun to focus on developing and measuring performance metrics related to the goals and priorities outlined in the section above. These metrics cover various aspects of Program implementation, and the Program will communicate this information going forward.

Next Steps. The Buy-Back Program continues to work with tribes to implement the Program through cooperative agreements, while also working in partnership with tribes that choose not to use cooperative agreements to participate in the Program. A major next step will be to provide technical assistance on the cooperative agreement application process, which will enhance government-to-government collaboration as we work toward the mutual goal of implementing the program as efficiently as possible across Indian country. While the primary focus of the Program over the next few years will be to reduce fractionation in locations that hold the highest amount of purchasable fractional interests, the Department will pursue implementation activities with a limited number of tribes at locations that represent the approximately 110 locations with the remaining 10 percent of the fractionated land. Additionally, if they have not done so already, tribes are

encouraged to plan for and identify their specific acquisition priorities as soon as possible. The Department expects to make initial purchase offers in some locations in the coming months.

Tribal Comments. The Department held tribal consultations regarding the Buy-Back Program's Initial Implementation Plan between January 2013 and March 2013.² Those consultations led directly to many of the measures incorporated into this Updated Implementation Plan. The Department received comments from 41 tribes, tribal organizations, and individuals. This Plan builds upon that feedback. For a summary of the comments received and the Departmental responses, see [Appendix A](#). Examples of actions taken by the Department in response to the feedback include the following, as further described in this Plan:

- Improved key aspects of the initial implementation strategy. First, this Plan expands the cooperative agreement application and planning processes to encourage tribal engagement, especially from the locations with approximately 90 percent of the purchasable fractional interests, even before initial efforts are completed. Second, consistent with the Initial Implementation Plan, the Department will focus most of its efforts on these locations for the next several years with a schedule based on the increased opportunity for tribal input and an improved set of implementation factors or criteria. Third, the Program will pursue opportunities to include less fractionated locations in early implementation efforts, as this will accelerate learning opportunities for developing a comprehensive strategy for the purchase of fractional interests at as many less fractionated locations as possible. This revised strategy will better engage tribes, increase Program efficiency, fairly guide allocation of resources for maximum possible impact, and facilitate overall implementation flexibility – for both the tribes and the Program.
- Clarified Buy-Back Program processes, potential allocation of the purchase portion of the Fund among reservations with fractional interests, and the decision to include a base payment of \$75 for each offer, as well as \$7.50 per acre for subsurface ownership interests determined to have nominal value.
- Responded to tribes' requests for additional information about fractionation by detailing how the Department will share information with tribes, which will assist them in their efforts to plan for the implementation of the Program. In particular, the Department will provide tribes with mapping data that depicts fractionated tract boundaries and ownership status. The Department will also provide owner contact information upon written request. This information will accelerate valuation efforts and facilitate tribal consultation and the tribes' identification of acquisition priorities.

For future updates and additional information, visit: www.doi.gov/buybackprogram.

2. The Department also published a draft plan in January 2012 and held consultations during 2012 on that plan. Feedback from the consultations was reflected in the December 2012 plan.

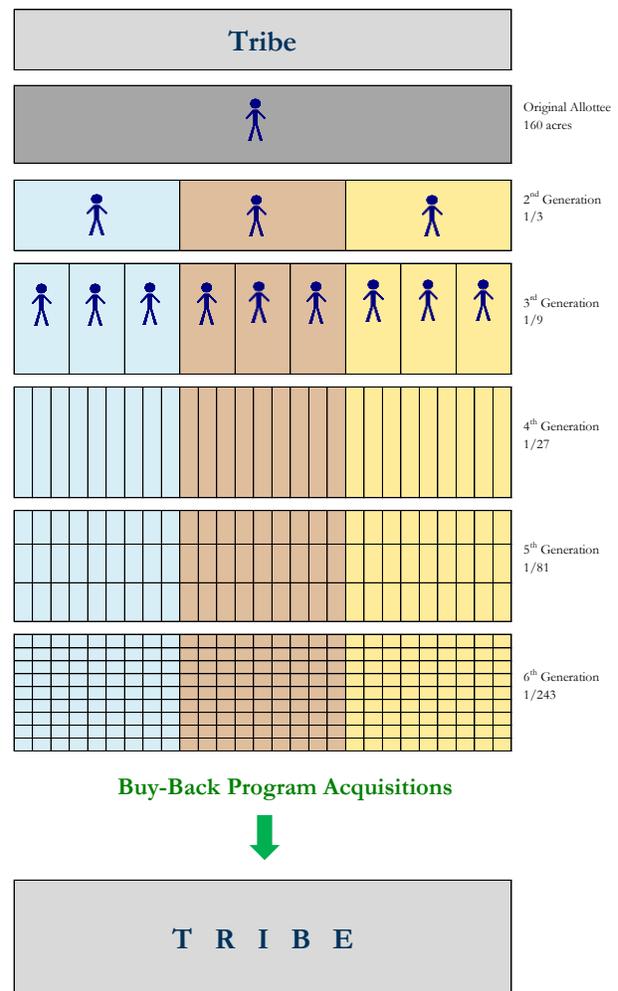
INTRODUCTION

Fractionation of Indian land stems primarily from the General Allotment (or “Dawes”) Act of 1887, which allowed tribal lands to be allotted to individual tribal members, often in 80 and 160 acre parcels. The expectation was that the United States would hold the resulting allotments in trust for individual Indian owners for no more than 25 years, after which the Indian owner would own the land in fee. These periods were extended (now indefinitely) by various acts of Congress. Moreover, many of the original allottees died without wills. As a result, the heirs of original allottees of tribal lands received increasingly fractionated ownership interests in the allotments that have remained in trust.

Fractionation has grown exponentially over successive generations. As a result, many allotted tracts now have hundreds or even thousands of individual owners. For example, there are over 1,200 owners on a single tract of land on the Crow Creek

Reservation in South Dakota. Monies received for use of the land are divided among the owners, such that each owner often receives only a nominal amount based on his or her undivided ownership interest. Approximately 60 percent of the 243,000 individual owners received \$25 or less during fiscal year 2013.

Currently, the Department holds approximately 56 million acres of land in trust. More than 10 million acres are held for individual Indians and nearly 46 million acres are held for Indian tribes. More than 200,000 tracts are held in trust by the Department. Of those, approximately 93,900 tracts have multiple owners with fractional interests that are subject to purchase and consolidation through the Buy-Back Program. Many of these tracts are severely fractionated. The table below shows current fractionation data for 10 Bureau of Indian Affairs (BIA) Regions as of September 30, 2013.³



3. For additional information about the data in this Plan, see [Appendix B](#). The Eastern and Alaska Regions are not represented as the Eastern Region contains no fractionated lands held in trust, and the Buy-Back Program is barred by statute from purchasing fractional interests located within the Alaska Region. 25 U.S.C. § 2219.

Unless an individual or a tribe owns a controlling interest in a fractionated tract, they must seek and obtain approval from co-owners for any purpose, including leasing or economic development.⁴ When tracts have hundreds or thousands of co-owners, there is no practical way to obtain the required approvals for leases or other uses of such lands. As a result, many highly-fractionated tracts are unoccupied and unavailable for any beneficial purpose by tribal nations. It is estimated that more than half of the 93,909 fractionated tracts containing purchasable interests generated no income during 2006-2011.

BIA Region	Fractionated Tracts	Fractional Interests	Fractional Acres
Great Plains	29,021	1,024,350	4,207,826
Rocky Mountain	20,656	696,562	3,397,367
Western	9,485	324,641	300,834
Northwest	13,135	271,268	1,015,215
Navajo	4,148	252,640	656,480
Southern Plains	7,301	195,397	566,698
Midwest	2,453	131,595	136,393
Eastern Oklahoma	5,792	43,575	356,025
Pacific	1,487	30,384	26,195
Southwest	431	11,185	54,122
Total	93,909	2,981,597	10,717,155

Today, the loss of tribal lands through allotment, combined with the mixed “checkerboard” ownership patterns within reservation boundaries, creates major challenges for tribal sovereignty and self-determination, for example:

- Land access issues can preclude access to sacred and cultural sites, making it harder for future generations to remain rooted in Native culture.
- The checkerboard ownership pattern also creates jurisdictional challenges and ties up reservation land, making it hard to pursue much needed economic development.
- Income received from the land is divided so much that individual owners receive pennies, and the money often goes off the reservation instead of to the Indian communities that need it most.

All interests purchased by the Buy-Back Program will immediately be held in trust for the tribe with jurisdiction, increasing the tribe’s ability to use the land for purposes it deems appropriate for the community as a whole.

Recognizing that the Settlement provides a unique opportunity to have a substantial impact on fractionation in Indian country, the Department has worked to learn from past efforts to reduce fractionated ownership of land. Previous land consolidation efforts were underfunded and focused on purchasing only the smallest of fractional interests in a limited number of tracts. The Buy-Back Program is much more expansive. It is focusing on a large number of tracts and owners at once, without requiring an application from owners,

4. For applicable approval requirements, see 25 U.S.C. § 2218.

which allows for efficient and effective purchases that will reduce fractionation in the locations where it is most prevalent.

The Department has also identified best practices developed by past land consolidation efforts, incorporated them into its planning as appropriate, and continues to consider them as it proceeds with implementation and overall management of the new Buy-Back Program.

This Plan provides a basis for continued implementation. The Department looks forward to continuing a collaborative implementation of the Buy-Back Program with active tribal involvement and will continue to seek additional input from tribes and individuals as we work together to reduce fractionation.



Confederated Tribes of the Umatilla Reservation; Jeanine Gordon and Chelsea Dick, tribal members.

LAND BUY-BACK PROGRAM FOR TRIBAL NATIONS

Key Parameters

The Settlement guides the design and implementation of the Buy-Back Program. It establishes a \$1.9 billion Trust Land Consolidation Fund that will be available to the Secretary for the purchase of fractional interests in trust or restricted fee lands during a period of no more than 10 years, starting on November 24, 2012. The Settlement limits the use of the Fund to the following purposes:

(1) acquiring fractional interests in trust or restricted lands; (2) implementing the Land Consolidation Program; and (3) paying the costs related to the work of the Secretarial Commission on Trust Reform, including costs of consultants to the Commission and audits recommended by the Commission. An amount of up to a total of not more than fifteen percent (15 percent) of the Trust Land Consolidation Fund shall be used for purposes (2) and (3) above.

Additionally, the Buy-Back Program will contribute up to \$60 million of the \$1.9 billion to the Indian Education Scholarship Fund, which will provide financial assistance to American Indians and Alaska Natives attending either post-secondary vocational schools or institutions of higher education. The fund will be administered by the American Indian College Fund in Denver, with 20 percent allotted to the American Indian Graduate Center in Albuquerque, New Mexico.

Thus, the Trust Land Consolidation Fund has various components, summarized as follows:

Acquiring Fractional Interests (minimum available for purchase payments)	\$1,555,000,000
Implementation/Administrative Costs (capped at 15 percent)	\$285,000,000
Education Fund (maximum available, depending on interests sold)	<u>\$60,000,000</u>
Total	\$1,900,000,000

Several overarching parameters guide the design and implementation of the Buy-Back Program. Five such parameters are highlighted below.

First, not all reservations across Indian country contain fractional interests. The Department identified more than 2.9 million fractional interests across approximately 150 locations that are purchasable by the Buy-Back Program. These fractional interests are concentrated within a few regions within Indian country. Nearly 90 percent of these purchasable fractional interests are located within 40 of the 150 locations (even so, individuals who own fractional interests can be living on other reservations and still benefit from the Buy-Back Program). To ensure that we implement the Buy-Back Program at as many locations as possible,

including less fractionated locations, purchase ceilings will be used to protect against premature exhaustion of funds.

Second, as indicated above, the Settlement limits the amount of money that the Department may use for costs associated with the various phases of implementing the Program (i.e., outreach, land research, appraisals, and acquisitions). By law, no more than 15 percent of the Fund (\$285,000,000) may be used for administrative expenses in order to maximize the amount available for purchasing fractional interests. This has important implications for payment of any costs other than purchases. Furthermore, the Settlement requires that that Fund be expended by November 24, 2022; therefore, the Department must achieve cost-efficiency and act expeditiously when administering the Fund (e.g., focus on acquisitions that can be completed in a timely manner). Given these terms, the Department is working to enter into cooperative agreements with as many tribes as possible. These agreements will provide funding to tribes, from the administrative portion of the Fund, in order to support their active participation in implementation activities at their reservations. The Department expects that implementing the Program using cooperatives agreements where possible, or less formal arrangements, will minimize administrative costs and improve overall effectiveness and efficiency.

Third, despite the large size of the Fund, the Fund may not have sufficient capital to purchase all fractional interests across Indian country. It is likely that the value of the land corresponding to the 2.9 million purchasable fractional interests will exceed \$1.55 billion. Accordingly, the Department will focus on those acquisitions that best reduce fractionation, address the effect of allotment, promote tribal sovereignty, and facilitate economic development. It also is imperative that the Fund be used thoughtfully and fairly, on cost effective acquisitions, to have maximum impact. The Department will communicate carefully with affected tribal governments to determine which acquisitions should be prioritized to meet these goals.

Fourth, a consistent theme expressed through tribal consultation and public comment is a desire for land consolidation purchases to benefit as many reservations as possible. Of course, increasing the number of reservations, tracts, individuals, etc., encompassed by the Buy-Back Program increases the administrative costs. Moreover, given that 40 of the 150 fractionated reservations contain approximately 90 percent of the total fractional interests, it is possible that, unless otherwise directed, the Fund could be fully expended by purchasing interests at only a small number of those highly-fractionated reservations (assuming that numerous individuals decide to sell their interests).

Fifth, it is not clear how many of the approximately 243,000 individual owners⁵ will sell their fractional interests. Except for the specific provisions contained in the Settlement for purchasing interests from persons whose whereabouts are unknown,⁶ participation in the Buy-Back Program is strictly voluntary. Thus, the success of the Buy-Back Program depends on the number of individual owners who decide to sell their interests. The active participation of tribal leaders in promoting the Program on their reservations is key to encouraging landowners to become involved in the Program. In addition, the Buy-Back Program will provide landowners with a base payment of \$75 per offer, regardless of the value of the land, based on estimates of the time and effort required for individual landowners to proceed through the acquisition process and facilitate sales. The decision to provide this base payment was a direct result of government-to-government consultations between the Department and Indian country. The Program also will make contributions to the Indian Education Scholarship Fund with each sale.

Given that the Fund is a finite, time-limited resource the Department is pursuing a balanced approach that features flexibility and careful purchase planning measures. The Buy-Back Program must be implemented according to prioritized criteria that effectively utilize the purchasing power of the Fund, while obeying the administrative cost limit. Accordingly, the Department proposes the following concepts to guide the Buy-Back Program, which are detailed below:

- Use flexible purchase ceilings for each reservation where the Buy-Back Program is active to maximize the number of reservations that could participate in the Buy-Back Program and prevent expenditure of the entire Fund in just a few locations.
- Focus most implementation efforts for the next several years on the reservations with a significant portion (about 90 percent) of the fractional interests, while retaining the flexibility to engage and collaborate with other reservations.
- Utilize cooperative agreements to the extent possible or necessary to allow tribes to carry out Buy-Back Program processes within their reservations to maximize effectiveness of the Buy-Back Program and avoid unnecessary duplication or reinvention of efforts.

5. The whereabouts of approximately 32,500 (13%) of these individuals is currently unknown. In addition, there are currently approximately 27,000 deceased individuals with estates that have one or more fractional interests in the 150 reservations.

6. The Settlement provides for an outreach effort to locate individual owners whose whereabouts are unknown. If those owners are not located after the Department undertakes the outreach effort and the passage of 5 years, the owners shall be deemed to have consented to the conveyance of fractional interests, or to have accepted an offer made, at fair market value.

Operational Concepts

Purchase Ceilings. To maximize the number of reservations participating in the Buy-Back Program, the Department will use purchase ceilings at each reservation where the Buy-Back Program is active. In particular, the Department will apply a formula that considers three factors relevant to fractionation: The total number of purchasable fractional interests within a reservation, the number of fractionated tracts within a reservation, and the number of acres related to those fractional interests. This formula establishes an initial maximum amount of the Fund that could be used to purchase fractional interests within any one reservation.

Table 1 below illustrates application of the formula by listing the fractionated reservations that comprise a great majority of the resulting initial purchase ceilings, using data as of September 30, 2013. The purchase ceilings represent possible amounts payable to owners who decide to sell fractional interests. The ceilings do not include implementation or administrative costs, nor do they necessarily form a basis for determination thereof.

The purchase ceiling amounts are not fixed allocations, nor are they permanently dedicated for use at any one reservation. Rather, the amounts are initial planning tools that provide guidance on the total potential land acquisition amount within a reservation to ensure that funds are available to purchase interests at other locations.

If acquisitions at one location reach that reservation's purchase ceiling, the Buy-Back Program would stop acquiring fractional interests within that reservation unless more funding becomes available. For those reservations where voluntary sales fail to reach that location's purchase ceiling, the remaining funds will be used to purchase interests at a different location. It is important to note that any individual landowner who receives an offer and who responds within the specified timeframe of 45 calendar days will have the opportunity to sell his or her land, regardless of whether the reservation's purchase ceiling has been reached.

How are the purchase ceilings determined?

For each of the three data points (i.e., tracts, interests, and acres), the Department will calculate the proportion of the total for each reservation. The three proportions are then averaged to produce the evenly weighted proportion. That proportion is then multiplied by, e.g., the minimum purchase amount of the Trust Land Consolidation Fund (\$1.555 billion) to produce a purchase ceiling amount for each reservation.

To illustrate, consider Pine Ridge Reservation as an example. The 1,201,414 purchasable acres associated with its fractionated tracts are 11.21 percent of all such acres across Indian country. Its 6,028 fractionated tracts with purchasable interests are 6.42 percent of all such tracts in Indian country, and its 195,862 purchasable fractional interests are 6.57 percent of all such interests. These proportions average out to 8.07 percent, which, once multiplied by \$1.555 billion, would provide an initial purchase ceiling of \$125,427,372 for the Pine Ridge Reservation.

For relevant definitions, see [Appendix B](#).

The Program will focus initial implementation efforts on the reservations listed in the following table.

Table 1 – For Illustrative Purposes – Subject to Change⁷

Land Area Name (and code(s))	BIA Region	Number of Fractionated Tracts	Associated Purchasable Acres	Number of Purchasable Fractional Interests	Weighted Proportion	Estimated Initial Purchase Ceiling (for paying owners)
Pine Ridge (344)	Great Plains	6,028	1,201,414	195,862	8.07%	\$125,427,372
Standing Rock (302)	Great Plains	6,304	766,680	227,133	7.16%	\$111,361,180
Blackfeet (201)	Rocky Mountain	4,831	898,086	191,278	6.65%	\$103,353,167
Crow (202, 208)	Rocky Mountain	4,850	926,013	180,863	6.62%	\$102,998,163
Navajo (722, 723, 724, 790, 791, 792)	Navajo, Southwest	4,370	687,504	259,319	6.59%	\$102,452,432
Fort Peck (206)	Rocky Mountain	4,521	723,154	114,546	5.13%	\$79,842,140
Cheyenne River (340)	Great Plains	4,066	736,807	65,655	4.47%	\$69,491,699
Rosebud (345)	Great Plains	3,118	568,870	92,324	3.91%	\$60,773,153
Gila River (614)	Western	4,707	84,157	173,867	3.88%	\$60,276,434
Fort Berthold (301)	Great Plains	3,249	469,629	91,707	3.64%	\$56,589,204
Fort Belknap (204)	Rocky Mountain	3,024	571,758	57,186	3.49%	\$54,285,469
Wind River (280)	Rocky Mountain	2,539	173,495	137,200	2.97%	\$46,256,563
Fort Hall (180)	Northwest	2,596	269,448	51,237	2.33%	\$36,267,732
Yakama (124)	Northwest	2,208	175,977	54,451	1.94%	\$30,164,180
Colville (101)	Northwest	2,054	165,783	36,361	1.65%	\$25,676,304
Sisseton – Wahpeton (347)	Great Plains	1,320	93,033	53,525	1.36%	\$21,090,308
Quinault (117)	Northwest	1,422	103,903	36,755	1.24%	\$19,263,655
Spirit Lake (303)	Great Plains	934	56,341	60,068	1.18%	\$18,322,626
Chickasaw (906)	Eastern Oklahoma	1,878	110,789	14,535	1.17%	\$18,250,812
Winnebago (383)	Great Plains	641	35,794	73,753	1.16%	\$18,090,714
Cheyenne Arapaho (801)	Southern Plains	1,138	97,506	39,983	1.15%	\$17,947,881
Salt River (615)	Western	1,418	21,749	48,967	1.12%	\$17,391,229
Crow Creek (342)	Great Plains	909	98,861	43,602	1.12%	\$17,378,622
Ute (687)	Western	1,059	76,758	43,585	1.10%	\$17,134,573
Yankton (346)	Great Plains	778	45,249	38,811	0.85%	\$13,229,709
Northern Cheyenne (207)	Rocky Mountain	891	104,862	15,489	0.82%	\$12,682,196
Lower Brule (343)	Great Plains	595	76,417	30,387	0.79%	\$12,262,618
Umatilla (143)	Northwest	1,015	66,945	18,828	0.78%	\$12,113,252
Muscogee (Creek) (908)	Eastern Oklahoma	1,246	69,216	8,566	0.75%	\$11,714,118
Turtle Mountain (304)	Great Plains	591	33,312	26,170	0.61%	\$9,422,680
Seminole (909)	Eastern Oklahoma	959	37,978	8,350	0.55%	\$8,581,615
Bad River (430)	Midwest	620	29,457	20,847	0.54%	\$8,470,939
Minnesota Chippewa - Fond du Lac Band (405)	Midwest	351	21,494	27,961	0.50%	\$7,837,753
Nez Perce (182)	Northwest	620	44,496	12,295	0.50%	\$7,711,587
Ponca (813)	Southern Plains	405	20,894	25,205	0.49%	\$7,627,685
Washoe (672)	Western	409	59,310	14,080	0.49%	\$7,573,730
Osage (930)	Eastern Oklahoma	610	73,529	2,945	0.48%	\$7,435,102
Salish & Kootenai (203)	Northwest	696	38,180	9,396	0.47%	\$7,321,585
Omaha (380)	Great Plains	422	22,062	21,528	0.46%	\$7,138,768
Fort Yuma (696)	Western	712	6,899	13,102	0.42%	\$6,541,285
Subtotal		80,104	9,863,808	2,637,722	88.6%	\$1,377,750,232
Remaining Land Areas		<u>13,805</u>	<u>853,347</u>	<u>343,875</u>	<u>11.4%</u>	<u>\$177,249,767</u>
Overall Total		93,909	10,717,155	2,981,597	100%	\$1,555,000,000

7. The Initial Purchase Ceilings shown are only estimates and are subject to change, e.g., because of feedback from tribal consultations and corrections to underlying data. Amounts shown are meant to illustrate how purchase ceilings will be determined, but do not reflect final amounts.

Implementation Strategy. The Department cannot immediately make offers at all locations with fractional interests. As a result, the Department has developed an implementation strategy that, in conjunction with the criteria listed below, will determine how tribal nations will be engaged over the next several years.

The Program will continue to focus most of its initial implementation efforts on the reservations with approximately 90 percent of the purchasable fractional interests, giving some priority to the most fractionated locations. Proceeding in this manner ensures that the Buy-Back Program focuses its attention on the locations where fractionation is most prevalent, consistent with the Initial Implementation Plan. In addition, an early concentration on the most fractionated locations should enable the Department to contribute the full \$60 million to the Indian Education Scholarship Fund as soon as possible.

However, in order to accelerate planning and tribal engagement, the implementation strategy calls for the Program to more actively encourage cooperative agreement applications or letters of interest from tribes, especially those with jurisdiction over the most fractionated reservations. An open solicitation period for these more fractionated locations will be held at the beginning of fiscal year 2014, lasting from approximately November 15, 2013 to March 14, 2014. Tribes with jurisdiction over the more fractionated reservations will be able to submit cooperative agreement applications or expressions of interest thereby signaling readiness to participate in the Program. By using this approach, tribes will be helping to determine much of the timing of Program implementation. This updated implementation strategy, which is based on feedback from tribes,⁸ facilitates effective implementation and an informed schedule based on an efficient organization of staff resources and tribal readiness or interest.

The Program will continue to utilize various criteria to determine the best sequence of implementation and use of the Fund, including the following:

- Severity of fractionation (e.g., as reflected by the three factors used to determine the initial purchase ceilings described above);
- Degree of ownership overlap between locations or geographic proximity;

8. As part of its planning, the Program had pursued an implementation strategy focused on the engagement of a small group of “pilot” tribes early on, providing time for the Program to learn from those pilots and identify best practices. However, this approach presented various challenges, such as limiting the Department’s staffing flexibility and ability to adjust its resources based on the level of tribal interest and readiness. It also limited engagement of tribes during Program ramp-up. Tribal feedback from government-to-government consultations indicated that many tribes were interested and potentially ready to become involved in the Program, and tribes did not want initial efforts limited to a small group of tribes. Therefore, the Department is adjusting its approach to engage additional locations more expeditiously.

- Diversity of geographic locations to maximize efficiency, resources, and learning opportunities, especially for initial efforts in order to facilitate learning);
- Appraisal complexity;
- Overall interest of the tribe as demonstrated through cooperative agreement application process;
- Number of owners who have demonstrated an interest in selling fractional interests; and
- Cost and time efficiency.

The Program will evaluate cooperative agreement applications as they are received, based on the criteria noted above. The Program will conduct land consolidation activities for those tribes with approximately 90 percent of the fractionated lands that do not express interest or apply for cooperative agreements during the open solicitation period. Tribes that do not apply during this period will be eligible to apply for cooperative agreements if necessary implementation activities are still outstanding and funding is available.

While this implementation strategy will keep the Program focused on the most highly fractionated locations for the next several years, the Buy-Back Program will involve less fractionated locations as well. By including some less fractionated locations in early implementation efforts, the Department expects to gain the experience and input necessary to tailor this Plan for implementation at less fractionated locations. In particular, it expects to gauge the effectiveness of its initial operating processes and procedures, learn valuable information about the time and costs required for valuations, and afford time to identify willing sellers.

The Department has had meaningful interactions with a number of less fractionated locations during fiscal year 2013 and is looking to work with tribes at a limited number of these locations in order to make offers in the near future. This may include locations that submitted proposals for cooperative agreements or initiated in-person meetings with Program leadership.

Although the Buy-Back Program will be active at multiple reservations simultaneously, it will be active at each location for only a limited period. This is due to the limitations laid out in the Settlement. As the Buy-Back Program completes land consolidation activities at initial locations, it will start operations at successive locations. The Department will regularly analyze its ability to conduct operations at additional reservations throughout implementation.

The scope of the Buy-Back Program makes it by far the largest endeavor ever undertaken by the Department to address land consolidation in Indian country. Due to the potential challenges, issues, and opportunities the Program may encounter during implementation, the Buy-Back Program must continually gauge the

effectiveness of its initial operating processes and procedure and will continually refine the Buy-Back Program as challenges are identified and addressed.

The locations where initial efforts occur will include locations with strong tribal support and varying levels of direct tribal involvement. Through these initial efforts, the Department expects to learn valuable information about the planned processes, the time required for reservation-wide valuations, the likely number of willing sellers, etc. The experience gained at the initial locations will inform the Buy-Back Program as it expands further into Indian country.

Remainder of Fund. Using purchase ceilings for the most fractionated reservations will leave approximately \$164,000,000 to purchase fractional interests at other reservations. Currently, the Department expects that the Buy-Back Program will have an increased focus on these less fractionated reservations beginning around fiscal year 2017.

The Department may use various criteria or factors to guide use of the remaining purchase funds at additional less fractionated locations, including those noted above as well as information gathered from initial efforts. Consistent with the Initial Implementation Plan, the number of interested sellers⁹ will likely be an important factor for less fractionated locations to ensure that the expenditure of implementation costs are well founded.

If the response from tribes and individuals is insufficient to exhaust the remaining percentage of the Fund, the Department will pursue other options to fully expend the Fund within the ten-year timeframe. The Department may, for example, use the remaining amounts to purchase interests in locations that have reached their purchase ceiling or acquire interests owned by individuals whose whereabouts are unknown. The Department continues to explore whether fair market values can be developed in a time- and cost-efficient manner for tracts that may not be amenable to mass appraisal, which would provide greater overall flexibility and could allow additional reservations to participate.

In summary, a primary planning challenge has been balancing a broad utilization of the Fund within the timeframe and administrative cost limitations found in the Settlement. The Buy-Back Program outlined in this Plan focuses most of its initial efforts on the most fractionated locations with the highest amount of purchasable fractional interests while also reserving funds for those less fractionated locations where, for example, the tribe is interested and ready for Program implementation. Overall, this approach will effectively and efficiently focus on fractional interests across Indian country while minimizing administrative costs.

9. For example, if a tribe, or the individuals themselves, demonstrate that 50% or more of the fractional interests within a reservation are owned by interested sellers, the Department would include such reservations in the Buy-Back Program, cost permitting.

Tribal Involvement - Cooperative Agreements. The Department is committed to partnering with tribes to complete Program implementation on their reservations. The Department recognizes that a number of tribes have existing land consolidation programs, including some that have outstanding, proven track records. Also, tribes currently operate various Departmental programs and functions under the Indian Self-Determination and Education Assistance Act (Public Law (P.L.) 93-638) agreements, including some that address relevant issues such as realty, appraisals, land title and records, forestry, and probate. Although the Indian Land Consolidation Act prohibits tribes from utilizing P.L. 93-638 agreements to operate Buy-Back Program activities, the Department strongly supports the spirit of self-governance and hopes to utilize cooperative agreements with tribes (as well as more informal arrangements) to collaboratively undertake land consolidation tasks and gain the benefit of tribal involvement, as done in the past.

The continued use of cooperative agreements will allow tribes to carry out various aspects of the Buy-Back Program. In particular, tribes may be able to perform some of the most important functions of the Buy-Back Program based on their interests and capacities, including prioritizing tracts, identifying landowners, and conducting outreach efforts. In an effort to accelerate the cooperative agreement process, and in direct response to feedback from government-to-government consultations, the Department has hired a Cooperative Agreement Specialist.

While there are limits to the number of locations where Program activities can operate fully, tribal governments can prepare for the Buy-Back Program by completing tasks such as the following:

- Establish a team and point of contact to plan for land consolidation;
- Work with the Buy-Back Program to exchange GIS data;
- Determine tribal acquisition priorities;
- Submit a formal written request for owner name and address information;
- Identify individual landowners who are interested in selling their fractional interests, educate them about the Program, and encourage them to update their address information by contacting the Trust Beneficiary Call Center at (888) 678-6836;
- Attend general outreach meetings, webinars, or regional events;
- Provide information to the Buy-Back Program about the tribe's land consolidation programs and current capacities, capabilities, readiness, and interest in the Program; and
- Engage with the Buy-Back Program to discuss the tribe's current resources and capabilities in areas such as outreach, mapping, land use characterization, and appraisals.

Cooperative agreements to conduct land consolidation activities should follow the reservation-wide model that the Department will utilize to maintain consistency and cost-effectiveness of the Buy-Back Program. Most cooperative agreements will not include all phases of the Buy-Back Program. For example, the acquisition phase will be carried out predominantly by the Buy-Back Program due to the necessarily centralized processes in Departmental systems of record, like the Trust Asset and Accounting Management System (TAAMS). Tribal participation in the acquisition phase will be limited to outreach tasks associated with this phase. This type of automation is necessary to stay within the administrative cost limits of the Settlement.

It is important to note that cooperative agreements are not mandatory for participation in the Program, and tribes may request the Department to implement all phases of the land consolidation activities on their reservations. The Buy-Back Program will continue to coordinate closely with tribes that choose this approach to maximize tribal involvement in implementation. A tribe that does not wish to enter into a cooperative agreement must submit a tribal authorization indicating its interest in Program participation. This approach would be particularly appropriate and efficient for tribes that would like to participate, but do not require funding to help implement the Program.

Program-Provided Indirect Costs.¹⁰ As previously noted, the Settlement limits the amount of funding that may be used for administrative expenses in order to maximize the amount available for purchase of fractional interests. The Department has considered tribal input received to date and has explored various options to determine which indirect costs might be charged to implement the Buy-Back Program. Neither the Settlement nor ILCA require the payment of indirect costs. While some tribes may have previously negotiated indirect cost rates for other financial assistance awards, existing policy circulars recognize that agencies may establish different rates to address specific program needs or circumstances. Thus, to help ensure that the Program limits its administrative expenditures, the Program will provide up to 15 percent for indirect costs. This indirect cost rate will apply to both internal partners and tribes. The Department believes that this is a reasonable accommodation of the needs of tribes to cover indirect administrative costs while remaining true to the provision of the Settlement that administrative costs be sharply limited.

10. Indirect costs are costs that cannot be specifically identified with producing a specific product or providing a specific service, but that can be shown to bear some relationship to, result from, or be in support of the product or service.

Primary Processes

The Department's planning efforts have organized land consolidation processes into four phases: outreach, land research, valuation, and acquisition. Initially, when a reservation is scheduled for implementation, the Buy-Back Program will conduct outreach with the tribal communities so that individuals are aware of the opportunity to sell fractional interests. The outreach phase will also entail consultation with the tribe about various planning matters such as tribal priorities and tribal involvement. As outreach is occurring, research concerning reservation lands will occur simultaneously, with the goal of maximizing the number of fractionated tracts that can be valued within the reservation, including those identified as tribal priorities. Once the research has been completed, the Buy-Back Program will value as many fractionated tracts of land as possible within a reasonable amount of time using mass appraisal valuation techniques. The Department has already completed substantial land research and valuation activities, and tribes should communicate with the Program before submitting applications for cooperative agreements to avoid duplication of already performed. Finally, once fair market value determinations have been made, the Department will mail offer packages to individuals with ownership interests in those valued tracts and seek to acquire those interests that individuals are willing to sell. The Program's goal is to start sending offers by the end of the 2013 calendar year.

Outreach. The Department will disseminate information about the Buy-Back Program to increase overall awareness of the land consolidation aspects of the Settlement. Outreach will include notices along with regular communications that the Department provides to individual landowners during reservation events and via the Program's website and in-person events. Outreach will also be vital in contacting those individuals owning fractional interests who no longer reside on a reservation or near a field office.

The Program has various resources available to support these outreach efforts. First, the Office of the Special Trustee's (OST) Trust Beneficiary Call Center (Call Center) is the primary contact responsible for receiving inquiries from landowners regarding the Program. Landowners can contact the Call Center at (888) 678-6836. If the Call Center is unable to answer questions, it will escalate issues to the appropriate Fiduciary Trust Officers (FTOs). Second, the BIA Acquisition Center coordinates with the FTOs on issue resolution, as well as organizes and participates in local outreach events. Third, the Program's staff includes three Senior Advisors for Tribal Relations who will provide high-level outreach support across reservations and directly contact tribal governments.¹¹

11. The Call Center, located in Albuquerque, New Mexico, is a nationwide toll free call center that provides convenient "one-stop" service for beneficiary inquiries. Beneficiaries can easily access information and assistance regarding their Individual Indian Money (IIM) account statements, account balances, other account attributes, receipts,

In addition to broad outreach concerning the Buy-Back Program, the Department will conduct more extensive communications with tribes once the Program is active at those particular reservations. The outreach phase has two primary functions.

Foremost, individuals owning fractional interests within a reservation must be informed that the Buy-Back Program will be actively valuing fractionated tracts of land within the reservation and that they may be able to sell their fractional interests. It is critical that landowner questions and concerns are addressed promptly so that owners are equipped to make informed decisions. This outreach also will explain the timeframes in which the Buy-Back Program expects to complete its work for the reservation and how individuals may take advantage of the opportunity to sell their fractional interests.

In addition, the Department is meeting with tribes to discuss tribal priorities for acquisition, decide how best to conduct tailored outreach on the reservation, and determine the tribe's interest and capacity to conduct Buy-Back Program operations through cooperative agreements. Tribal priorities could be identified in a number of ways, such as by specific tract identification; geographic regions within the reservation (i.e., county; chapter; district; specific section, township, and range designations; or aliquot parts); tract type (e.g., tracts that fall within a certain land use planning area or zone); or ownership status (e.g., tracts in which the tribe already has some ownership interest regardless of location); or other factors. An exchange of maps – both tribal and Departmental – will often be instrumental in working with tribes to identify their acquisition priorities. The Department is preparing mapping data for the reservations, in part because BIA intends to include maps in each offer package, and looks forward to sharing such data with tribes.

The Buy-Back Program expects to value as many fractionated tracts as possible, and many tracts identified by the tribe as priorities for acquisition will automatically be included. The Department is working with tribes to develop methods to maximize the acquisition of tribal priority tracts.

The Department understands that tribes often have efficient methods to conduct outreach with their tribal members, many who own fractional interests. The Buy-Back Program will mail offer packages to individuals owning fractional interests in tracts that have been valued, and many individuals may receive this information without expressing a prior interest to sell. It is imperative that individual landowners are made aware of Buy-Back Program activities and benefits, that their decision to sell is voluntary (except for the specific provisions contained in the Settlement for purchasing interests from land holders whose whereabouts are unknown), and how to complete the offer package if they want to participate. Informative outreach to individual owners is

disbursements, leases, probate processing, and other trust activities, including reform developments and implementation (e.g., leasing, lockbox, oil and gas activity, and debit card) at their convenience by calling the toll free number. The current average answering speed is 50 seconds, the abandoned rate is 9%, the average handle time is 6.5 minutes, and the rate of first line resolution was 97% in fiscal year 2013.

often best performed by tribes. The Department has utilized cooperative agreements in the past for this type of outreach and, to the extent possible, will continue to do so for the Buy-Back Program. In addition to discussing cooperative agreements, the initial meetings will determine the extent to which tribes will be involved in other phases of the Buy-Back Program process.

The Program is developing a contact and tract data file that contains information that will facilitate tribal involvement in outreach activities, such as the fractionated tracts on a reservation along with the contact information of owners holding a purchasable interest in each tract. The data file allows the user to search by various criteria including tract number, tract name, tract location, and owner name to locate a desired tract or owner. Once a desired tract is selected, the user will be able to view details about the tract, including all of the owners of the tract with purchasable interests and their available contact information. Address information has been aggregated from various data sources and systems including the Integrated Records Management System (IRMS), the Trust Funds Accounting System (TFAS), and TAAMS. For each owner with a purchasable interest, the user will be able to view all of the owner's available address data as well as all of the tracts on the reservation in which the owner holds an interest. Additionally, the application allows users to add new contact data for an owner if the information provided is out dated or incorrect.

Land Research. During this phase, the Department will collect the data necessary to establish fair market value for the tracts containing fractional interests that might be acquired.¹² Implementing the Buy-Back Program on the scale established by the Settlement requires information for thousands of tracts to be generated from TAAMS and other sources to provide the necessary data for determining fair market value. The Settlement provides that the Department “shall offer fair market value in accordance with 25 U.S.C. § 2214 to owners” of fractional interests in trust or restricted lands.¹³ Fair market value will determine the amount that landowners will be paid for their interests in the tracts sold. This value is established by the Department's Office of Appraisal Services (OAS) and is a licensed appraiser's estimate of what a property would sell for in an open and competitive market. The OAS completes appraisals by comparing fractionated tracts to similar properties with similar characteristics that are sold in the area, adjusting for the differences between the prices to provide a value estimate. To determine fair market value, OAS must compile adequate information about the tracts that will be valued.

The land research effort included an identification of the fractionated tracts within reservations that contained purchasable interests. In particular, using data from TAAMS and other sources, the Department is creating

12. The Indian Land Consolidation Act provides that the Secretary may develop a system for establishing fair market value, including a system based on geographic units. 25 U.S.C. § 2214.

13. See *Cobell* Settlement Agreement at ¶ F(3), p. 35 and supra note 8.

mapping data to depict fractionated tracts within the reservations. Mapping data will facilitate the valuation process by enabling tract acreage categorization (e.g., range, dry crop, irrigated crop, etc.), geographical analysis, and comparison to surrounding uses and values.¹⁴

It is anticipated that some tracts may require additional information outside of TAAMS before values can be determined. For example, additional information could be required to clarify legal descriptions. Most information will be gathered during the land research phase; however, some tracts may require additional research that cannot be conducted with the rest of the reservation because it would diminish the efficiency and cost-effectiveness of the Buy-Back Program. The Department will work with tribes to ensure that tracts identified as tribal priorities are included in the valuation request to the greatest extent possible.

Additionally, valuation requests will be automated through TAAMS and the Department's Office of Appraisal Services Information System (OASIS). Due to limited access to TAAMS and other databases, tribes may not be able to perform this step as efficiently or in as cost-effective a manner as the Department. This situation may preclude many tribes from utilizing cooperative agreements for this phase of the process. However, a tribe that can provide the necessary information for a reservation-wide valuation request may include such capability in its cooperative agreement proposal.

14. In addition, mapping data may be utilized to create visual layers that will depict the status and progress of the Buy-Back Program and help identify acquisition priorities.

Valuation. After the reservation-wide valuation needs are determined and described, the Department will determine the fair market value of those fractionated tracts. The Department anticipates using various valuation methodologies, relying most heavily on mass appraisal valuation techniques such as market studies, cost estimates, and project appraisal reports. Site-specific valuations and other appropriate methods and techniques may be used as warranted and as cost permits. All appraisal methods used by the Department will conform to the Uniform Standards of Professional Appraisal Practice (USPAP). To ensure that the valuation methods and techniques meet industry standards, the Department obtained a third-party review of its valuation techniques from The Appraisal Foundation. The Appraisal Foundation is a non-profit, non-partisan organization, authorized by Congress, dedicated to the development of appraisal standards in the United States and to establishing qualifications criteria for appraisers. The Appraisal Foundation's analysis, the Department's response to specific recommendations, and the plan outlining the Program's appraisal methodologies, are available on the [Program's website](#).

The Department estimates that the majority of tracts within many of the most highly fractionated reservations will be amenable to mass appraisal valuation techniques. More complicated tracts may be difficult to value simultaneously with the rest of the reservation without diminishing the efficiency and cost-effectiveness of the Buy-Back Program. The Department understands that an inability to value certain tracts may preclude individuals from selling all of their interests or the acquisition of some tribal priorities. Tribal acquisition priorities are vitally important to achieving a foundational goal of the Program, which is to strengthen tribal sovereignty and promote consolidated trust land bases for conservation, stewardship, and beneficial use by sovereign tribal nations. Although the Department cannot guarantee that it will be able to purchase all tribal priorities given its financial and authorized operational constraints (e.g., inability to purchase fee lands), it continues to encourage tribes to identify tribal acquisition priorities, and it will actively consult with tribes to accommodate those priorities to the fullest extent possible. Again, tribes should

Tracts, Parcels, and Interests

A tract of land, as referenced throughout this Plan, is the trust asset in which an individual and/or tribe has an ownership interest. It is a defined area, often the boundary of an original allotment, and can include the surface estate, mineral estate, or both the surface and mineral estate. A tract can be owned by one or more individuals and tribes. A tract with multiple owners is considered a fractionated tract.

An interest refers to an individual's ownership in a tract of land. If a tract of land is owned by only one individual or a tribe, the ownership interest is 100 percent. Fractionated tracts have more than one owner – often tens or hundreds of different owners, all with varying levels of interests.

A tract of land can be composed of one or more parcels. Parcels also have defined areas, but are not necessarily adjoining plots of land. In other words, a tract may be composed of just one single parcel of land, multiple adjacent parcels, and in some instances multiple non-adjacent parcels that are separated by other tracts or parcels of land.

While sales will be based on fractional interests, fair market values are determined at a parcel level. If a tract contains a parcel that cannot be evaluated for whatever reason, offers for interests in the whole tract cannot be made.

identify tribal priority tracts as soon as possible to allow the Buy-Back Program to assess the resources required to determine fair market values for those tracts and plan accordingly. However, there may nevertheless be instances where a particular tract cannot be able to be valued in a timely and cost-effective manner.

The Department is using mass appraisal valuation techniques as much as possible to comply with the administrative cost limitations. Tribes seeking cooperative agreements to determine fair market values must demonstrate the ability to perform reservation-wide valuations in a manner that is as efficient and cost-effective as those performed by the Department. Tribes that currently perform valuation or appraisal work for the Department through a P.L. 93-638 agreement or self-governance compact may be better positioned to provide fair market values for the Buy-Back Program through a cooperative agreement. Valuations performed by a tribe must be reviewed or verified by the Department. Any acquisitions made by the Buy-Back Program based on tribally-provided valuations would count towards the purchase ceiling established for that reservation.

The following example illustrates application of the valuation method and supporting decisions. It assumes that the owner has a 1/100 (1 percent) fractional interest in three distinct 160 acre tracts, each with a different bundle of ownership rights (it is further assumed the subsurface ownership rights associated with two of the tracts has been determined to have no economic value). The offer to the owner for his or her interest in all three tracts would be \$1,239 as follows:

Appraised Values

Tract 1 (Surface and Subsurface)	\$ 640	(1% owner of \$64,000 tract value)
Tract 2 (Surface only)	500	(1% owner of \$50,000 tract value)
Tract 3 (Subsurface only)	0	
Addition for Tract 1 Subsurface	12	(1% of 160*\$7.50)
Addition for Tract 3 Subsurface	12	(1% of 160*\$7.50)
Base Payment	<u>75</u>	(per offer, not interest)
Total	\$1,239	

Acquisition. Once fair market value determinations are made, the Buy-Back Program will seek to acquire fractional interests in those tracts that were valued. Information will be sent to individual owners as part of an offer package to sell their fractional interests. To make the acquisitions process more efficient, dedicated BIA resources will use TAAMS to automatically generate offer packages, which will include the following documents (available on the [Program's website](#)):

- Cover Letter and Instructions;
- Deed with Fraud Statement;
- Purchasable Interests Inventory (including a legal description and showing the Indian Education Scholarship Fund matching contribution for each of the valued interests the individual may elect to sell;
- Map(s) showing the general location of the tracts that include the valued interests; and
- Self-addressed return envelope, postage prepaid, if the individual chooses to return the completed Purchasable Interests Inventory and the signed and notarized Deed.

Individuals will then have 45 calendar days to sell some or all of their fractional interests for which an offer has been made. Individuals will voluntarily decide whether to sell their fractional interests, with the exception of individuals whose whereabouts are unknown as of final approval of the Settlement; however, if an individual receives an offer and responds within 45 calendar days, he or she will have the opportunity to finalize the sale. The fair market value of the interests selected on the Purchasable Interests Inventory, and included by reference in the Deed, will be the sale price.

The Buy-Back Program will mail offers to landowners based on tribal acquisition priorities and other criteria. It is possible that the value of the interests that landowners seek to sell may exceed the reservation's available purchase ceiling. The Program developed an approach to address this possibility, based on tribal feedback and other considerations. This approach is a hybrid of the two approaches outlined in the Initial Implementation Plan. The Program may send up to three "waves" of offers to a reservation's landowners. The value of the landowners' interests included in each wave will comprise a certain percentage of the reservation's total purchase ceiling. Offers included in each wave will be determined by tribal acquisition priorities, level of fractionation, and percentage of tribal ownership, among other criteria.

Once the Program receives signed offer packages from the landowners, it will scan and load them into TAAMS. If an offer package is approved, TAAMS will automatically update the title and trigger the process of depositing the payments into the landowner's Individual Indian Money (IIM) account. The Buy-Back Program has the primary responsibility for the acquisition phase because the BIA has a highly automated and centralized process. The use of cooperative agreements for the acquisition phase will be limited; tribes may, however, perform outreach tasks associated with this phase.

During the acquisition phase, the Department may also provide the notice required by the Settlement to purchase those interests from individuals whose whereabouts are unknown. However, it is possible that a location's purchase ceiling amount may be reached by purchasing interests from individuals actively engaged in the Buy-Back Program. In those instances, the Buy-Back Program may choose not to utilize its authority to purchase those fractional interests from individuals whose whereabouts are unknown. The Department may, however, purchase those interests to ensure that the Fund is used in its entirety.

EXAMPLE OF PROGRAM PROCESSES

To illustrate the four Buy-Back Program processes, consider an example reservation with 3,000 tracts that contain 90,000 fractional interests owned by 10,000 individuals.

1. Outreach. In cooperation with the tribe, outreach must occur to inform the 10,000 individuals that the Buy-Back Program will be valuing tracts and purchasing fractional interests from those who desire to voluntarily sell their interest(s). During this time, the Department will consult directly with the tribe to ascertain any priorities the tribe may have for acquisition. However, because all purchases will be made from willing sellers at this phase, the Buy-Back Program cannot force acquisition of interests even for tracts identified as tribal priorities. Direct tribal involvement through cooperative agreements will be key to generating interest in selling lands that are tribal priorities.

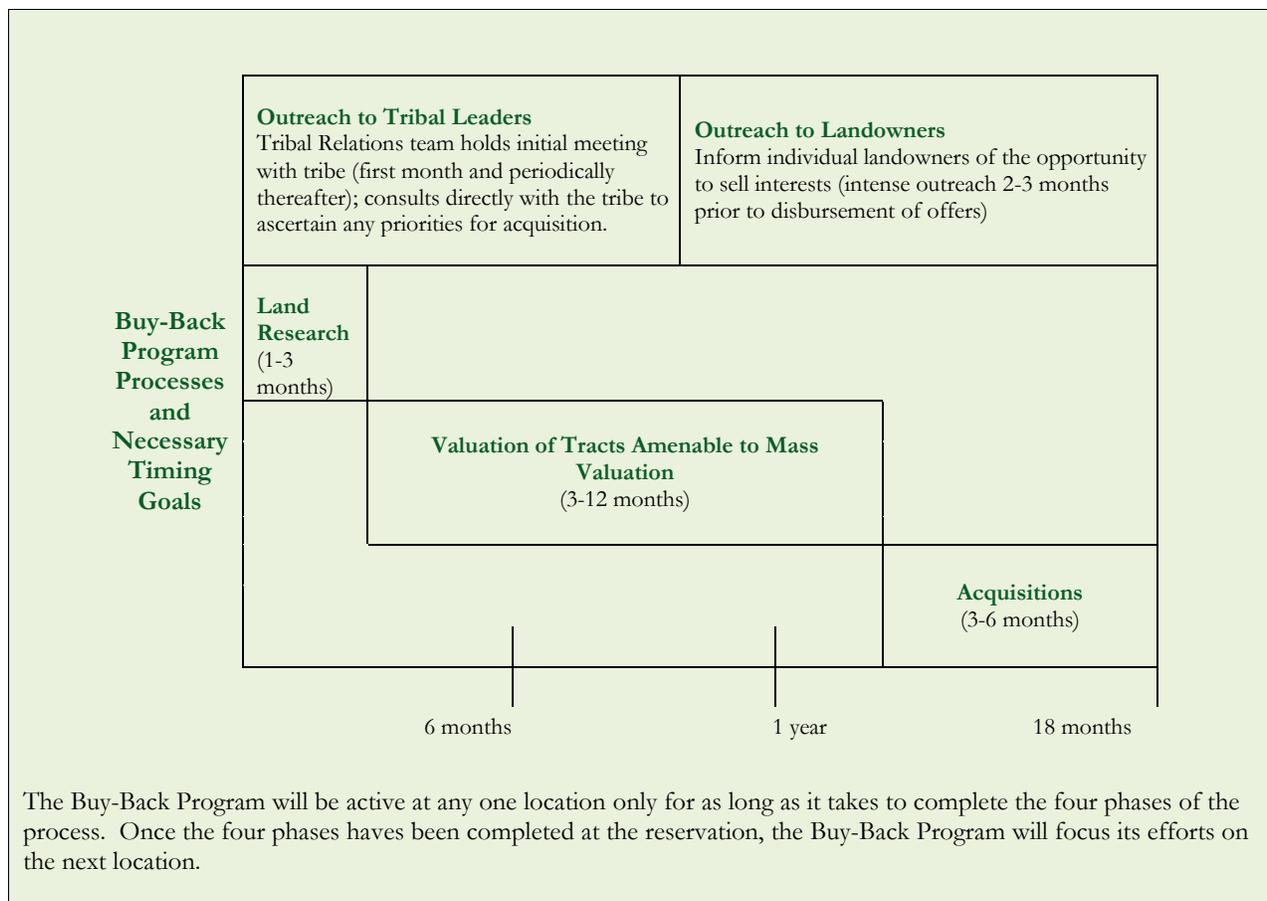
2. Land Research. While the Buy-Back Program and tribe are conducting outreach in the communities, the BIA and other Departmental agencies will be gathering data necessary to determine the fair market values of the 3,000 fractionated tracts within the reservation. For a number of reasons, a tract may require extensive research to determine its fair market value. For this example, assume 10 percent of the tracts require extensive research that would require excessive time or cost to complete. To remain efficient and cost effective, the Buy-Back Program would simply initiate a valuation request for 2,700 tracts, omitting those 300 tracts that require further data or extensive analysis before values can be determined (it is recognized that such an omission will necessarily preclude the Department from acquiring all the interests owned by certain individuals). At this stage, the Department will work with the tribe to ensure that as many tribal priorities as possible are included in the valuation request.

3. Valuation. At this point, OAS will receive a request to value 2,700 tracts within the reservation. To achieve efficiency and cost-effectiveness, OAS will primarily utilize mass-valuation techniques. The number of tracts these techniques may capture will vary between reservations, but for this example, only 80 percent of those tracts are amenable to some mass appraisal valuation technique. Thus, the Buy-Back Program can expect fair market values for 2,160 of the 3,000 tracts. The Program will work with the tribe to ensure that as many tribal priority tracts as possible are valued.

4. Acquisition. Now that the Buy-Back Program has received the fair market value for 2,160 tracts, it can send offer packages to individuals who own interests in those tracts. At most, offer packages would go to all 10,000 individuals who own fractional interests within the reservation (or some subset because some of those 10,000 individuals may own interests only in the 840 tracts that were not valued). Offer packages will have a specific response deadline date (i.e., 45 calendar days after BIA mails the package). The goal of the acquisition phase is to obtain a high rate of return of properly completed offer packages from the owners, sufficient to expend the purchase ceiling for the reservation within the established timeframe. The acquisition phase is highly automated and centralized to reduce administrative costs and increase efficiency. This phase will be carried out predominantly by the Buy-Back Program.

The Program, through the Office of the Special Trustee (OST) and BIA utilizing TAAMS and other existing operations and systems, will mail offer packages to owners, receive and process completed offers, and post payments to IIM accounts. However, the Program welcomes tribal participation in outreach work during the acquisition phase. If too few individuals sell their interests at this reservation, the Program will seek to use the remaining purchase ceiling amount at other locations.

See the following diagram for an illustration of these processes.



Organizational Structure

The Buy-Back Program is a high priority of the Department and acquiring land at the scale and in the limited timeframe provided by the Settlement poses an unprecedented challenge. The effort will require strong, centralized leadership to ensure effective coordination among the various offices and bureaus involved. It will also require substantial leadership from the tribes participating in the Buy-Back Program.

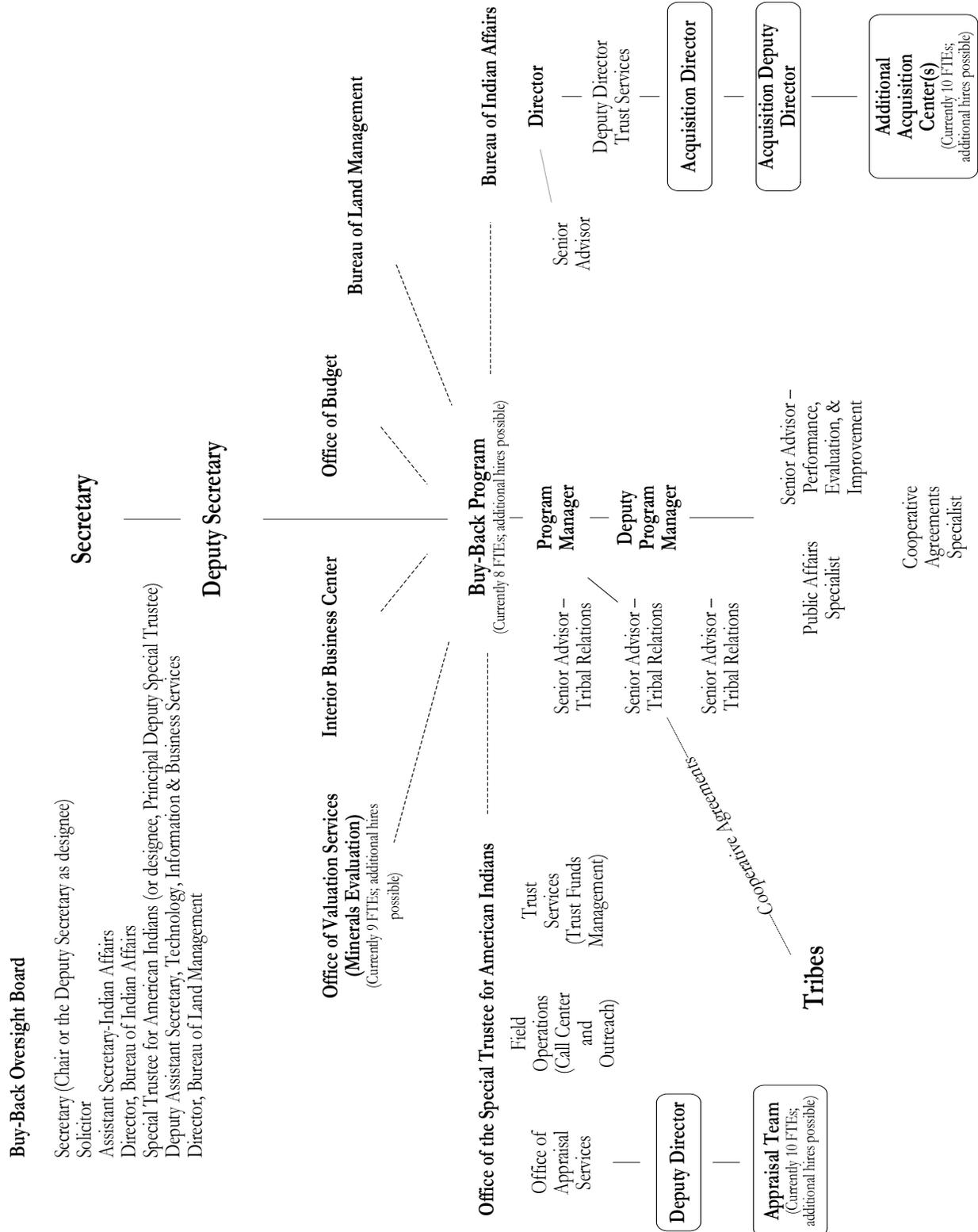
The Department's organizational structure was designed to meet these challenges and to conduct land consolidation activities effectively and efficiently, with significant communication and collaboration. The Secretary established the Buy-Back Program within the Office of the Secretary. The Buy-Back Program is headed by a Program Manager who reports directly to the Deputy Secretary. There is staff in the Office of the Secretary who provide expertise and support in areas such as tribal relations, performance management and reporting, communications, and cooperative agreements. There will be staff that will provide expertise and support in areas such as budget, systems integration, and administrative records. Extensive technical expertise and services within the Department, primarily in the BIA and the OST, will be utilized to implement

the Buy-Back Program. Moreover, an oversight board, which includes the Solicitor, Director of the BIA, and Special Trustee for American Indians, holds regular meetings with Program leadership.

A BIA Acquisitions Director leads operations in the field. Field operations will initially be conducted out of three regional Acquisition Centers. The main Acquisition Center will be located in the BIA Rocky Mountain Regional Office (Billings, Montana), with additional staff located in the Great Plains Regional Office (Aberdeen, South Dakota) and the Midwest Regional Office (Bloomington, Minnesota). Staff also may later be added in additional locations (e.g., the Southwest Regional Office in Albuquerque, New Mexico) if necessary to meet Program objectives. Staff at each center will have the ability to perform acquisitions-related work (including outreach) on any scheduled reservation and will be hired on an “as-needed” basis to minimize administrative costs.

The Acquisition staff will request fair market value determinations for the locations scheduled for implementation by the Buy-Back Program and conduct acquisitions once those values are obtained. Fair market value determinations will be carried out by OAS and mineral interests will be evaluated by the Office of Valuation Service’s Office of Minerals Evaluation (OME). Timber values may also be supplied to OAS where applicable by the BIA Forestry Division. The Department will utilize agreements with Departmental offices and bureaus to track administrative costs, increase accountability, and ensure that work is completed in a timely manner. The Buy-Back Program will also utilize existing Department resources and functions including Information Technology, the BIA Land Title and Records Offices, and the OST Call Center.

The following chart illustrates the overall structure.



Measuring Program Performance and Progress

The Buy-Back Program will actively track and monitor performance to ensure that the tasks performed are achieving the goals of the Program. To that end, the Program is developing performance metrics, aligned with goals, in order to track results. Those involved will regularly report metrics, which the Program will evaluate in order to make improvements. Similarly, the Program will be monitoring funding provided, comparing and reconciling budgeted estimates with actuals, to make adjustments based on outcomes achieved. This will ensure that there is a clear correlation between funding and results. Performance results will be shared to continue transparency into the Program.

For example, the Program will evaluate its performance achieving key goals, such as:

1. Reduce the number of fractional interests in trust or restricted lands, using reasonable efforts to prioritize the consolidation of the most highly fractionated tracts of land as required by the Settlement.
 - The Program will track this goal by dividing number of fractional interests the Buy-Back Program purchases by the total purchasable fractional interests. This metric will reflect the percent reduction of fractional interests. (Fractional interests purchased / total purchasable fractional interests = percent reduction of fractional interests.)
2. Increase the number of trust or restricted acres in tribal land bases by focusing on cost-effective acquisitions, which will promote tribal sovereignty and self-determination.
 - Similar to the previous goal and metric, the Program will track the total number of acres purchased, divided by the total number of purchasable trust or restricted acres. This will capture the percent increase in the number of trust or restricted acres for tribal land bases. (Acres purchased / total purchasable acres = percent increase in tribal land bases.)
3. Target fractionated tracts that are amenable to cost efficient, mass valuation techniques.
 - This goal will be tracked by dividing number of fractionated tracts the Program appraises using mass valuation techniques by the total number of fractionated tracts. The figure will illustrate the percentage of fractionated tracts valued using cost efficient, mass valuation. (Tracts appraised using mass valuation / total fractionated tracts = percent of tracts mass appraised.)
4. Manage administrative expenses in the most cost efficient manner possible, in a way that facilitates effective long-term trust management and systems integration.
 - As a best practice, the Buy-Back Program will track this by using a modified cost performance index (Index). The Index uses the percentage of the purchase amount of the Trust Land Consolidation Fund (\$1.555 billion) expended, divided by the percentage of administrative costs (\$285 million) expended. The resulting figure indicates how efficient the Program is purchasing land in proportion to administrative costs. A value of greater than one implies efficient spending. If the Index equals one, the Program is spending funds proportionately and is on track to expend both funds. A value of less than one indicates inefficient expenditure. (Percent of land purchase fund expended / percent of administrative fund expended = cost performance index.)

NEXT STEPS

As described above, the Department has developed an implementation strategy that will focus its initial implementation efforts on the most highly fractionated reservations and actively encourage tribes with jurisdiction at those locations to consider the Program's cooperative agreement application process. An open solicitation period will occur for several months (approximately November 15, 2013 – March 14, 2014) which will allow highly fractionated locations to signal their interest and readiness to participate in the Program by submitting cooperative agreement applications or a letter of interest.

The Buy-Back Program is committed to continuous consultations throughout the life of the Program in compliance with the letter and spirit of Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) and Secretarial Order 3314 (Department of the Interior Policy on Consultation with Indian Tribes). The success of the Program in restoring lands to tribal control will be predicated on tribal input and support; on cooperative agreements between individual tribes and the Federal Government to facilitate direct tribal involvement in implementation; and on adherence to the greatest extent possible to tribal acquisition priorities.

Following publication of the Initial Implementation Plan in December 2012, the Department held consultation sessions in Minneapolis, Minnesota; Rapid City, South Dakota; and Seattle, Washington, as well as opened a public comment period. Additionally, within the past 12 months, the Program has had individual contact with nearly 50 tribes. In the coming months and years, the Program will continue to meet with tribes, actively seek their feedback, and welcome their participation.

The Department anticipates extensive use of mass appraisal valuation techniques; therefore, the Buy-Back Program wishes to assess whether the tracts that tribes identify as priorities will be captured through mass valuation processes as soon as possible. The Department is interested in learning about tribes' specific acquisition priorities now so those may be incorporated into planning efforts. Some tribes have already provided information related to priorities. Tribes that have not already done so should send their priorities to the U.S. Department of the Interior at the following address:

U.S. Department of Interior
Land Buy-Back Program for Tribal Nations
1849 C St. NW
MS-7223-MIB
Washington, DC 20240

The Department continues to implement the Program and will focus on the next steps listed below:

- Update the Program's website as needed, including resources for tribal leaders and landowners;
- Continue to process ownership transactions and update title records in TAAMS to facilitate acquisitions and ensure that they are as complete as possible;
- Complete additional land mapping and valuation efforts;
- Automate processes to enable the Buy-Back Program to efficiently and consistently process a high volume of transactions;
- Develop and share performance measures, reporting mechanisms, and operating budgets in light of additional tribal feedback and Program analysis; and
- Continue working with tribes among the most highly fractionated locations, which represent approximately 90 percent of the fractional interests, as well as work with tribes at a limited number of less fractionated locations, to secure cooperative agreements to the extent possible.



APPENDIX A – SUMMARY OF TRIBAL CONSULTATIONS

The Initial Implementation Plan for the Land Buy-Back Program for Tribal Nations (Buy-Back Program, the Program) was published by Department of the Interior (Department) on December 18, 2012. Following publication of the Initial Implementation Plan, the Department sought and continues to seek feedback and additional input from tribal communities and the public. To that end, in addition to opening a public comment period, the Department held consultation sessions in Minneapolis, Minnesota; Rapid City, South Dakota; and Seattle, Washington. Many tribal leaders, tribal organizations, individuals, and members of the public reviewed the Initial Implementation Plan and submitted comments, questions, and / or recommendations (Comments). The comments received, whether orally during tribal consultations or in writing between January 2013 and March 2013, are summarized by common themes in the section below and have been reproduced in full on the Buy-Back Program’s website: <http://www.doi.gov/buybackprogram>. The Buy-Back Program has considered each of the comments, implemented them to the extent practicable, and will continue to look for opportunities to implement tribal recommendations throughout the existence of the Program.

Acquisitions

Commenters raised multiple questions related to the acquisition process. Specifically, commenters asked how the Program would collect and honor tribal acquisition priorities. Individual landowners asked whether they could sell their surface and mineral interests separately and how the Program would pay them for their interests. Finally, commenters raised concerns about the personal cost to landowners of completing the administrative functions of an acquisition. Some commenters suggested that the Program provide payment, in the form of an incentive or administrative time reimbursement, to the landowners.

Department Action

Tribal Acquisition Priorities: Tribal acquisition priorities are vitally important to achieving a foundational goal of the Program, which is to strengthen tribal sovereignty and promote consolidated trust land bases for conservation, stewardship, and beneficial use by sovereign tribal nations. The Department cannot guarantee that it will be able to purchase all tribal priorities given its financial and authorized operational constraints (e.g., inability to purchase fee lands) and because individual owners may decide not to sell their interests; however, it will actively consult with tribes to identify tribal acquisition priorities and accommodate those priorities to the fullest extent possible.

Participation in the Program will in no way interfere with the prerogatives of the sovereign tribal nations to purchase lands not authorized for purchase under the settlement (e.g., fee lands¹⁵) through whatever means they deem to be in the best interest of their tribes.

Purchasing Fee Interests in Trust Land: The Claims Resolution Act of 2010 authorizes the Program to acquire "any fractional interest in trust or restricted land." Furthermore, the Program is to be carried out in accordance with the Indian Land Consolidation Act (ILCA), which allows for the purchase of ". . . any fractional interest in trust or restricted lands." 25 U.S.C. § 2212(a)(1). Because the Settlement resolves claims of individual Indian account holders, the Fund will be focused on paying those individuals fair market value for fractional interests in trust or restricted land that they are willing to sell. The Department will not purchase fee interests in trust or restricted land.

Selling Surface and Mineral Interests: The Program's fair market value determinations and offers to purchase fractional interests will include the value of surface and mineral interests. The Program will not make bifurcated offers to purchase surface and mineral interests separately because such purchases would not reduce fractionation. Purchases that would not reduce fractionation, would not fulfill the intentions of the Indian Land Consolidation Act, nor would they fulfill the purpose of the Buy-Back Program as outlined in the *Cobell* Settlement Agreement. The Program is also considering including a minimum base payment for mineral interests in offers sent to landowners, in accordance with past Bureau of Indian Affairs (BIA) land consolidation activities.

Payment for Interests Purchased: After BIA approves the deed, payment will be deposited into the landowner's Individual Indian Money (IIM) account. The payment process will be highly automated, using existing systems - the Trust Asset and Accounting Management System (TAAMS) and the Trust Fund Accounting System (TFAS) – to achieve consistent, accountable, and cost and time efficient processing. The Program estimates that payments will be posted into landowners' IIM accounts within two days after the Office of the Special Trustee (OST) receives BIA deed approval data. Posting payments into IIM accounts allows the payments to be identified and reported in quarterly statements of performance in accordance with the terms of the Trust Fund Management Reform Act of 1994.

Base Payment: The offer package provided to individual landowners will include a base payment of \$75 per offer (not per interest), regardless of the value of the land. The base payment will help to offset the time and

15. The Indian Land Tenure Foundation defines fee lands as a "Land ownership status in which the owner holds title to and control of the property. The owner may make decisions about land use or sell the land without government oversight." See <http://www.iltf.org/glossary>. Fee lands have no interest held in trust or restricted status.

costs that owners may incur in responding to purchase offers. The amount is consistent with hourly wage rates and the anticipated amount of time it would take an owner to complete an offer package. The base payment is a payment that is in addition to the appraised value of the interests purchased.

Administrative Costs

Multiple commenters provided suggestions on the manner in which the Program should utilize the portion of the Trust Land Consolidation Fund (Fund) that the Settlement made available for implementation costs.

These comments included the following ideas on how to use this portion of the Fund:

- The Department should not receive any administrative funds for carrying out the mandates of the *Cobell* Settlement Agreement (Settlement);
- The Department should limit its use of the funds to the extent possible;
- The Department should receive additional funding for the administration of the Program;
- Tribes should receive the full amount of the administrative costs portion of the Fund for implementation of the Program;
- The Department should share the administrative funds with the tribes for use in outreach, research, appraisals, and valuation;
- Tribes should receive cooperative agreement funds in advance of beginning the consolidation process so that they can place the funds in interest-bearing accounts and retain the interest earned on the deposited funds; and
- Tribes impacted by fractionation should receive any remaining administrative funds following the implementation of the Program.

Department Action

Use of Funds to Implement the Settlement: The Department agrees with the recommendation that all expenditures not directly related to the Secretarial Commission on Trust Reform or the purchase of fractional interests should be limited to the extent possible. The term “administrative funds” or “administrative costs” as used in these comments refers to that portion of the Land Consolidation Fund that the Settlement Agreement directs the government to use to pay the costs of implementing the Settlement, including the costs of the Buy-Back Program. The Settlement sets forth the precise purpose and use of the Fund. It states, in pertinent part, as follows:

“The Trust Land Consolidation Fund shall be used solely for the purposes of (1) Acquiring fractional interests in trust or restricted lands; (2) Implementing the Land Consolidation Program; and (3) Paying the costs related to the work of the Secretarial Commission on Trust Reform, including costs of consultants to the Commission and audits recommended

by the Commission. An amount up to a total of no more than fifteen percent (15 percent) of the Trust Land Consolidation Fund will be used for purposes 2 and 3.¹⁶

Under the terms of the Settlement, any unexpended funds revert to the Department of the Treasury (Treasury) if not expended within ten years.¹⁷ The Department has no authority to utilize, disperse, retain, or invest any portion of the Fund in a manner inconsistent with the mandates of the Settlement, as ratified by the United States Congress through the Claims Resolution Act of 2010.

The Department remains steadfast in its commitment to enter into cooperative agreements with tribes and believes that implementing the Program using cooperatives agreements should minimize administrative costs and improve the overall effectiveness and efficiency of the Program. Tribal involvement, products, and services directed toward implementation of the Program, as identified in the terms and conditions of an approved cooperative agreement, will be funded through the administrative costs portion of the Fund. Amounts provided to tribes under a cooperative agreement will be based on approved budgets that estimate the costs associated with the specific services, products and deliverables to be provided by the tribe party to the agreement.

Neither the *Cobell* Settlement Agreement nor the Claims Resolution Act of 2010 express authority to invest portions of the Fund. The Department will partially advance or fully reimburse, as deemed appropriate, cooperative agreement funds to the tribe for costs incurred in accordance with the tribe's submitted application and the applicable award terms and conditions.

The Department will manage implementation costs in the most cost-effective way possible, in order to meet its obligations under the Settlement, including funding the work of the Secretarial Commission on Trust Reform, and to purchase as many fractional interests in trust or restricted land as possible.

Allocation of Funds

Commenters were concerned that the proposed allocation of funds would result in unwelcome competition and animosity between tribes not included in the list of the most highly fractionated reservations. They requested more information on how the Program calculated the purchase ceilings for the reservations, and some commenters requested increases of their reservation ceiling. A few commenters suggested that instead of allocating funding nationally by reservation, the Program should allocate funds regionally. Finally, some commenters requested that the Department provide estimates on how much it plans to spend on each of the

16. *Cobell* Settlement Agreement at ¶ F(2).

17. *Cobell* Settlement Agreement at ¶ F(4).

four land acquisition phases (i.e., outreach, land research, valuation, and acquisition) on their particular reservations.

Department Action

Allocation of Funding by Reservation: By the terms of the Settlement, the Program is specifically required to “use reasonable efforts to prioritize the consolidation of the most highly fractionated tracts of land.”¹⁸ During the consultations on the Draft Plan and consultations on the Initial Implementation Plan, tribal leaders overwhelmingly expressed the desire that the Department expend the Fund on as many reservations as possible. As discussed in the Initial Implementation Plan, the Program determined that allocation by reservation and the use of flexible purchase ceilings best enabled the Program to prioritize the most highly fractionated tracts, while also meeting the mandates of the legislation governing use of the Fund and the desire expressed by tribal leaders.

Purchase Ceilings: The formula used to establish the flexible purchase ceilings is based on the proportional number of fractionated tracts, interests, and associated acres at each reservation as described in the Initial Implementation Plan.¹⁹ Since the ceilings are flexible, the Program may adjust the ceilings (e.g., because of lessons learned during the implementation process or because the number of willing sellers at a location is too low). As Larry Roberts, Deputy Assistant Secretary of Indian Affairs, explained during the consultation held in Seattle, Washington, “the spending caps themselves are flexible because we really don’t know how many willing sellers we’re going to have.”²⁰

Program Costs: There have been no land buy-back efforts implemented on the scale commensurate with the Buy-Back Program. This historic endeavor will be a process characterized by much learning, sharing of information, and subsequent leaps forward in efficiency and effectiveness. The Program has begun developing cost estimates for the various phases. Conducting a cost analysis for every reservation with fractional interests, without knowing whether the Buy-Back Program will be able to purchase land on every reservation and without the benefit of tribal input and cooperative agreement proposals, does not appear to be the best use of the limited administrative funds available to implement the Program. The Department will, however, be better able to provide information regarding costs after obtaining additional information and gaining experience during the upcoming efforts at initial locations.

18. *Cobell Settlement Agreement* at ¶ F(3).

19. See *Initial Implementation Plan* at 10-12.

20. Seattle Consultation, February 14, 2013, Transcript at 36.

Offer Package

Commenters requested more information on the offer package that the Program will distribute during the acquisition phase. They also asked that the offer package be user-friendly and made available in advance of the Program sending out offers.

Department Action

The proposed offer package, which includes an instruction sheet, contains streamlined versions of the standard BIA acquisition documents. For example, the Program will use a slightly modified version of the Deed to Restricted Indian Land for the Deed to be included in the packages. The BIA tested the package and instructions to determine whether various stakeholders found the package and instruction to be user-friendly, and the feedback was positive. The stakeholders found the documents easier to use than other acquisition documents and said that the instructions were useful. Although the offer package is currently in draft form, it has been posted on the Program's website. The Program anticipates finalizing it in the near future after incorporating feedback from upcoming outreach events, meetings with tribal representatives, and Program trainings scheduled with tribal staff. Once complete, the Program will post the final package and instructions on its [website](#).

There are multiple resources for landowners to use when completing the offer package documents. Landowners may contact their local Fiduciary Trust Officers (FTOs) for assistance, or attend Buy-Back Program outreach events in their areas to ask question about the package. In addition, representatives at the Office of the Special Trustee, Trust Beneficiary Call Center (available at (888) 678-6836) can assist landowners with completing the package. And, tribes may facilitate sales by conducting outreach activities through cooperative agreements.

Appraisal Approach

Multiple commenters expressed support for the mass appraisal approach. Other commenters expressed concerns, stating that mass appraisals would make it difficult for the appraisers to consider the best interests of the landowners. Specific concerns included "bullying" landowners into lower rates, inappropriately appraising mineral and timber interests, and lack of confidence in the accuracy of the fair market value determinations. Those who supported the mass appraisal approach noted that it would lead to efficient reviews and keep the Program on track. Suggestions for maintaining efficiency throughout the appraisal process included the use of tribal resources (e.g., appraisal or review systems) to complete appraisals and stationing appraisers near reservations for quick access to information.

Other commenters requested more information on the length of time between an appraisal and the sale and on how long the appraisal would remain valid.

Commenters also requested more information on the mass appraisal process in general. They asked how the Program would evaluate mineral interests and when / how it would determine that techniques other than mass appraisal would be appropriate.

Department Action

Mass Appraisals: The Settlement and the Claims Resolution Act of 2010 require the Department to offer fair market value to owners of fractional interests. The Department will use mass appraisal and other methods as appropriate, to establish the fair market value.

The breadth, scale, limited funding, and limited life span of the Program necessitates the use of mass appraisal methods where appropriate. Such use will result in greater efficiency and consistency in valuations, enabling the Program to effectively value many acres simultaneously. It will also assist in ensuring effective, efficient, and expeditious use of the Fund and reduce the risk of being required to returning some portion of the Fund to the Treasury. The Program will use market studies or mass appraisal techniques to appraise homogeneous, non-complex, vacant lands that have comparable land sales available. In many highly fractionated Indian ownership areas, it is common to have agricultural properties that are similar in use and have active / consistent markets or comparable sales data that the Department can use in its appraisals. The Program will use the mass appraisal approach in these situations as appropriate. The Program will not use mass appraisals for commercial or other lands within urbanized zones where greater variation may exist.

The presence of potentially valuable mineral commodities or timber may also necessitate the use of additional methods or analyses. These types of non-homogenous tracts may be difficult to value simultaneously with mass appraisal-amenable tracts without diminishing the efficiency and cost-effectiveness of the Buy-Back Program. The Department understands that an inability to value certain tracts may preclude some individuals from selling all of their interests and the acquisition of some tribal priorities. As stated above, the Department does expect to determine values through other means as appropriate, and the Initial Implementation Plan does provide for tribal participation, including in the valuation process, through cooperative agreements.

All appraisal methods used by the Department will conform to the Uniform Standards of Professional Appraisal Practice (USPAP). Moreover, in order to ensure that the valuation process is as robust and credible as possible, the Department worked with The Appraisal Foundation, a non-profit organization, to obtain an independent review of the Department's methods. The Appraisal Foundation specifically analyzed and concurred with the Program's assertion that mass appraisals will be the most efficient and cost-effective

means to appraise homogenous, non-complex, vacant lands that have comparable land sales available. At the same time, recognizing that data limitations, non-homogeneous property types, and unique characteristics of specific properties may limit the use of mass appraisals, the Foundation also reviewed appraisal methodologies for such instances, including project appraisals and property-specific appraisals.

Appraising Mineral Interests: Opinions of value provided by the Office of Appraisal Services (OAS) will include the value of all estates (mineral, surface, timber, etc.). Mineral evaluations of fractional interests will be completed by the Office of Mineral Evaluations (OME). The mineral evaluations will receive full consideration as a critical part of the data considered by OAS before providing a determination of fair market value.

In the initial phase of the Buy-Back Program, purchase offers will not be made in areas where the Office of Mineral Evaluations has not yet obtained adequate information to complete mineral evaluations. Subsequent phases may include these areas as mineral information comes available.

Appraisal Validity Length: It is recognized that market values can change soon after an offer is made. Or, in some instances, the appraised value may be static for several months or even years. In any case, a continual reassessment of market values would be untenable given the Program's limited timeframe and limited administrative funds. Thus, the Program is establishing an administrative appraisal validity period of up to nine months from the date of valuation. The administrative appraisal validity period simply means a defined interval of time necessary to carry out the Program before OAS or tribal appraisers must reevaluate appraised values. For administrative efficiency, establishing this range allows for timely implementation at each reservation while setting a date certain upon which property values must be reevaluated if market conditions warrant such a review. The administrative appraisal validity period may vary for different reservations, based on an area's market stability or volatility. For example, a reservation within an urbanized area may require more frequent assessment than a reservation with remote agricultural lands due to the market volatility for the former land area. Each offer will explicitly identify the appraisal date, and the owner can obtain information about how the fair market value was assessed at that time. If the owner believes the appraisal is out of date, the owner could simply refuse to sell.

At the end of the administratively established timeframe for appraisal validity at each implementation site, the Program will ask OAS to evaluate whether market conditions have changed if there are willing sellers and the purchase ceiling for the location has not been exhausted. If new information suggests that values have changed, then appraisal update work would be required. If market conditions indicate no change, then the original appraisals – upon appraisal approval – can continue to be used as needed for the Program subject to another administratively defined valuation period.

Conflict of Interest

Multiple commenters indicated that the Program had an inherent conflict of interest built into its operational model. These commenters explained that, during the land acquisition process, the Program would not be able to honor its trust responsibilities to both Indian tribes and individual tribal members simultaneously. They expressed the opinion that the Department and tribal governments will push for lower purchase prices, whereas the landowners will want higher purchase prices. Commenters suggested two ways of avoiding conflict of interest issues: development of a conflict of interest policy or hiring a third party representative as a spokesperson for the landowners.

Department Action

The Program will rely on third party reviews or other tests to avoid possible conflicts of interest. For example, as outlined above, The Appraisal Foundation will complete a third party review of the Program's appraisal approach.

Cooperative Agreements

Commenters urged the Department to engage tribes in cooperative agreements to the furthest extent possible and requested that the Program provide a template agreement to use as a model. Many of these commenters asked if tribes would be able to assume responsibility for any phase of the land acquisition process, or if there would be restrictions on tribal activities.

Multiple commenters asked for more information on reimbursement of administrative costs under cooperative agreements. Other commenters requested more information on the evaluation of cooperative agreement proposals. Specific questions included whether price would be the sole determining factor, or if there would be negotiation opportunities rather than outright acceptance or denial. An overarching concern was what the commenter referred to as the Department's assumption that it will be able to operate the Program in a cost-efficient manner, thus placing responsibility on the tribes for determining how to accomplish tasks with even less resources.

Commenters also wondered whether other forms of agreements, such as Indian Self-Determination and Education Assistance Act of 1975 (i.e., Public Law 93-638) contracts or performance agreements, could be used in place or in conjunction with cooperative agreements.

Department Action

The success of the Program hinges on tribal leadership, tribal participation, and tribal facilitation. The Department has proposed an implementation strategy that strives to balance its capacity constraints with its

goal of engaging as many tribes as possible through cooperative agreements or other collaborative understandings. The Department has also developed and posted comprehensive cooperative agreement template and guidance documents, including a list of frequently asked questions, on the [Program website](#) to assist tribes with the cooperative agreement application process. These documents also describe the land consolidation phases and tasks that tribes may elect to participate in through cooperative agreements.

Tribal cooperative agreement applications will receive every consideration. The Department remains hopeful that the use of cooperative agreements will minimize administrative costs and improve overall effectiveness and efficiency of the Program.

The Department will use several criteria to evaluate cooperative agreement applications. These criteria may include:

- Completeness of the application package;
- The tribe's capacity to perform the tasks and meet the task-specific requirements outlined in the Scope of Work;
- The tribe's proposed budget; and
- Other considerations as appropriate.

The Indian Land Consolidation Act (ILCA) prohibits tribes from utilizing the Indian Self-Determination and Education Assistance Act of 1975 (i.e., Public Law 93-638) contracts to operate Buy-Back Program activities. Thus, cooperative agreements are the linchpin without which the goals of the Program will be difficult to meet.

Data

Multiple commenters requested that the Program provide TAAMS access to the tribes. One commenter suggested that, in lieu of providing access to all tribes, the Program only provide access to tribes with realty offices or the capacity to handle the data. Another suggested that the Program provide access to the Regional or agency offices, so that tribes could access TAAMS at those offices.

Other commenters questioned the accuracy of the GIS data that the Program will use for mapping purposes. They suggested that the Program use GIS data from the tribes if that information is more up-to-date. One commenter also asked whether the Program's GIS data would be based on ground or legal acres.

Department Action

Access to TAAMS: Due to the limited timeframe and funding available to the Program, it will not be able to provide the necessary security, training, and infrastructure to enable every tribe to access TAAMS. Access to

TAAMS is also restricted due to some security requirements mandated by the Privacy Act of 1974. Although the Program is continuing its efforts to provide access to tribes that have contracted or compacted with BIA Real Estate Services, the Program will provide other tribes that do not have TAAMS access with an owner contact and tract tool to obtain the land ownership information needed for identifying tribal priorities and planning outreach activities.

Data Accuracy: Since trust reform efforts began in the late 1990s, the Department has made significant progress in the area of data and records cleanup. The BLM, OST, and BIA have both made data and records clean up a priority. As BIA Director Mike Black explained, “[The Department has made] a concerted effort here, over the past three years after about 2009 when the original settlement was signed, to make sure that our title systems are as updated as they possibly - - as possibly can be. We made a concerted effort at all of the [LTROs] to make sure that our title data is accurate. . . . [B]ut [if anyone is aware of errors] please let us know.”²¹

The Department is cognizant of the importance of accurate data on which to base planning and purchase activity and intends to address known and suspected instances of inaccurate data prior to initiating Buy-Back activities at those locations. As the Program works through the data cleanup process, it encourages tribes to submit information or supporting data that would increase the quality of the final dataset.

For the purposes of the Buy-Back Program, interests are based on legal acres. The Department recognizes that there are three different acreage types: actual or ground, legal or record, and computed or spatial. For any given parcel, there may be three different total acreage results. Ideally, ground, legal, and computed acreages should be identical; however, while survey technology has improved its measurements, spatial technology may be based on varying algorithms and other dependencies, causing variances in acreage. The Department believes that using legal acres will produce the most accurate estimates given its limited budget and timeframe to complete the Buy-Back Program.

Fractionation Definition

One commenter was concerned that the Initial Implementation Plan did not include the definition of “fractionation,” a key term in relation to the Program’s goals.

Department Action

21. Seattle Consultation, February 14, 2013, Transcript at 42.

As the introduction to the Initial Implementation Plan explains, fractionation results “when the heirs of original allottees of tribal lands receive [...] increasingly diffuse ownership interest in the allotments that have remained in trust.” Because of the increasingly diffuse ownership interests, “[m]any trust allotments are owned in common by hundreds or even thousands of beneficiaries - each with undivided (fractionated) interests in the whole parcel.”²² Under the terms of the Settlement, the Fund may only purchase fractionated tracts,²³ which the Initial Implementation Plan defines as “a tract held in trust or restricted status that has two or more unique owners (one of which may be the tribe).”²⁴

Individual Tribes

Multiple commenters stressed the importance of the Department recognizing the uniqueness of each tribe, noting that tribes have the right to self-determination and that each acts on that right in a different manner. Commenters stated that the Department should acknowledge this fact and support each tribe through an individualized approach.

Department Action

The Department recognizes the uniqueness of each tribe, will consult with tribes individually, and will evaluate tribal proposals individually, before initiating Buy-Back Program activities on their reservations. As Larry Roberts, Deputy Assistant Secretary of Indian Affairs explained during the consultation held in Seattle, Washington, “We know that it’s not going to be a one-size-fits-all in Indian country. And what we’re going to need to do is, as we go to each specific tribe, we’re going to have to work directly with tribal leadership to figure out, Okay, Fort Peck has these issues; Fort Belknap has these issues; here’s how tribal leadership suggests we address those issues. And so it’s not going to be a one-size-fits-all approach.”²⁵

Legal Concerns

Several commenters suggested that the approach laid out in the Initial Implementation Plan violated, or could potentially violate, certain statutes. For example, multiple commenters are concerned that the National Environmental Policy Act (NEPA) exemption for the Program’s mass appraisals may cause legal challenges.

22. Cobell XX, 532 F. Supp. 2d 37, 41 (D.D.C. 2008)).

23. Cobell Settlement Agreement at ¶ F(2).

24. Initial Implementation Plan at B-1.

25. Seattle Consultation, February 14, 2013, Transcript at 51.

Other commenters stated that the Settlement ignores the authorities given to tribes under the American Indian Agriculture Resource Management Act (AIARMA).

In addition, commenters noted that the Initial Implementation Plan does not address how the Department will notify the other owners of a land tract when sending out offers to individual landowners with interests on that tract. These commenters raised concern that there was not a process in place to notify landowners once tribal ownership on a tract reached 51 percent. Finally, one commenter, speaking as a tribal attorney, was concerned about the legal implications of distributing landowners' addresses to representatives of the Program.

Department Action

NEPA: Because the change in title does not change the use of the property, the conveyance is categorically excluded from preparation of an Environmental Assessment or Environmental Impact Statement under NEPA.

AIARMA: The Department will actively consult with tribes to ensure that purchased interests support the tribe's Agricultural Resource Plan to the fullest extent possible.

Notice to Landowners: Once the Program acquires fractional ownership interests from willing sellers, co-owners with interests in the same tracts have a right, under the terms of 25 U.S.C. 2212(c), to purchase the interests of other co-owners for the same amount the Department paid for the interests. The cover letter accompanying the offer package directs owners interested in purchasing co-owner interests to contact the Call Center. A list of interests purchased and the associated amount paid will be provided upon request. Co-owners will have 30 days from receipt of this list to submit payment for the interests acquired by the Department. Once the Department receives payment from the co-owner, the transaction is complete, and the Department will convey the interests to the co-owner.

Notice of 51 Percent Ownership in a Tract: The Department is not required to notify the individuals when a tribe has obtained 51 percent or some other level of ownership interest in a tract.

Liens

Commenters reiterated requests that the Department waive liens on fractionated tracts or interests considered by the Program.

Department Action

The Department will not place liens on interests purchased under the Program and transferred to the tribes.

Ongoing Consultation

Multiple commenters requested additional information on the operations of the Program. These commenters were concerned that the Department had not provided adequate time for public consultation and requested that the Department continue to hold consultations as the Program develops. They stated that if the Department chooses to hold these meetings, it should provide advance information on the details of these meetings, as well as any changes to schedule, to the tribes and members of the public. In addition, commenters asked that the Program follow-up with responses / answers to comments and questions submitted during previous consultations and continue to do so for future consultations.

In general, commenters believe each tribe should conduct all Program related outreach on their own reservation. Commenters expressed the belief that tribes would know how to tailor the messaging to its members and have more success in reaching out to landowners. Many of these commenters emphasized the importance of informing landowners of the value of participating in the Program and the benefits of selling their land. Commenters suggested publishing this type of information in a brochure, tribal newspapers, tribal websites, and public forums, or setting up local kiosks to answer questions related to Program activities.

Department Action

The Department recognizes that the Program will only be successful to the extent that tribal leaders and tribal members have all relevant information regarding the benefits of participation in the Program. The Program held tribal consultations regarding land consolidation in the summer and fall of 2011. That period of consultations led directly to the publication of the Department's draft plan in January 2012. Following the publication of the Initial Implementation Plan in December 2012, additional consultations took place in early 2013. In accordance with the applicable regulations, the Department publishes advance notice of upcoming tribal consultations in the Federal Register.

The Department agrees with the belief that, as a general matter, success in performing Program outreach, and in communicating the benefits of participating in the Program, will be best achieved by are the tribal leaders of affected reservations.

The full text of the Settlement, transcripts from previous consultations, and other resources, may be obtained from the Program's website: <http://www.doi.gov/buybackprogram>.

Permanent Structures

Many commenters stated that the Program should include permanent structures on land interests in both the appraisal and acquisition process. These commenters stated that if the Program buys the land and not the improvements it will cause many legal issues and confusion for the landowners. One commenter expressed the belief that DOI misinterpreted the American Indian Probate Reform Act (AIPRA) and that improvements are trust, not fee, assets.

One commenter asked whether tribes or counties are accountable for maintaining ownership records on permanent structures independent of the TAAMS or tribal system if the tribes acquire a controlling interest in the property.

Department Action

As a general rule, the Department considers permanent improvements to be non-trust-property. 76 Fed. Reg. 7,500, 7,501 (Feb. 10, 2011). The Department does not maintain a record of improvements in TAAMS or any other system of record. Therefore, fractional interest acquisitions through the Program will not include permanent improvements. There may be circumstances, however, where improvements to property have a material effect on the highest and best use of a fractionated tract. Where the appraiser determines that improvements have changed the highest and best use and there are not sufficient like properties to allow for mass appraisal, such properties may not be included in mass appraisal but will be set aside for consideration – depending upon tribal priorities and availability of funding – for a site-specific appraisal.

Estate Planning and Probate

Commenters suggested that the Department devote the Settlement funds or other resources to estate planning and existing probate cases in Indian country. These individuals stated that probate should take precedence to the Buy-Back Program because not addressing this issue first will only cause further fractionation. According to commenters, probate and estate planning already exist as ways to address the issue and need to be the focus before moving to a new approach.

One commenter specifically asked about how the Program would handle estates listed in the Title Status Report (TSR).

Department Action

Under the terms of the authorizing legislation, the Program cannot use the Fund for estate planning purposes or for processing of probate. The Department understands the importance of completing probates as quickly as possible and has devoted significant resources to cleaning up the back logged probate cases. Probate

continues to be a priority for the BIA. The Program is reviewing the possibility of "purchase at probate" to acquire purchasable interests, especially if these interests align with tribal priorities.

The Department is processing estates in the TSRs as efficiently as possible, with the understanding that the timeframes are also dependent on the timely receipt of family data information.

Scholarship Fund

Commenters asked about administration of, qualification for, and the time-line regarding availability of, the Scholarship Fund. Some suggested criteria limiting scholarship awards to students studying real estate or similar topics, or only to students on the most highly fractionated reservations (e.g., top 10 most highly fractionated). Another popular suggestion was for the Program to distribute the scholarship funds proportionally by Region based on total sales; others rejected this option stating that all tribes should have equal access to the scholarship funds. Some commenters disagreed with the Scholarship Fund going to a national non-profit, recommending that tribes be the recipients of the funds.

Department Action

The Settlement provided for the establishment of an Indian Education Scholarship Fund for American Indian and Alaska Native Students to provide financial assistance to Indian students attending post-secondary vocational and college institutions.

Funds for Indian Education Scholarships will be available to Native American students "to defray the cost of attendance at both post-secondary vocational schools and institutions of higher education." Money for the Scholarship Fund will come from three principal sources:

- Balances remaining in the Accounting / Trust Administration Fund;
- Payments for Class Members designated as "whereabouts unknown," whose funds are not claimed within five years of Final Approval; and
- Up to \$60 million from the Trust Land Consolidation Fund, an incentive intended to encourage individual Indians to participate in the Land Consolidation Program.²⁶

As outlined below, each acquisition completed by the Program will contribute to reaching the \$60 million in scholarship monies that may be available from the Trust Land Consolidation Fund. It is important to note that the funds placed into the Scholarship Fund do not come from the purchase amount paid to individual sellers, so it will not reduce the amount a landowner will receive for his / her interests.

26. *Cobell* Settlement Agreement at ¶ A(6).

- For purchases of interests costing less than \$200, \$10 will be added to the Scholarship Fund.
- For purchases of interests costing between \$200 and \$500, \$25 will be added.
- For purchases of interests costing over \$500, 5 percent of the purchase price will be added.

Pursuant to the terms of the Settlement and the Claims Resolution Act of 2010, the Secretary of the Interior will appoint two members to the Board of Trustees for the Scholarship Fund only after consultation with tribes. Tribes were able to submit names to the Department for consideration as potential candidates for membership on the Board of Trustees for the Scholarship Fund. The Department conducted a 30-day written consultation period regarding the establishment the Board, as published in a ‘Dear Tribal Leader Letter’ and in the Federal Register. That consultation concluded on April 11, 2013. The Department reopened the consultation period and published a “Request for Nominations to Serve on Board of Trustees for the Cobell Education Scholarship Fund” in the Federal Register.²⁷ That period for submitting nominations opened on April 18, 2013 and closed on May 30, 2013.

The American Indian College Fund will be responsible for establishing the eligibility criteria for the award of scholarships as well as for managing and administering the Scholarship Fund.

Sequencing

Initial Locations / Order of Reservations: A few tribes submitted comments in which they sought to have their reservation selected for the initial efforts and/or asked how the Department would choose the initial locations participants. Many commenters asked how the Department would determine the order (or sequence) of reservations participating in the Program. Multiple tribes provided specific criteria for the Department to consider as it determined the sequencing. For example, some tribes suggested that having existing land buy-back programs or “readiness” should place a tribe higher in the sequence. Many tribes raised concerns about how the Department would incorporate Program activities on reservations not among the most fractionated and whether there would be funding remaining by the time the Program reached these reservations. Others suggested that the Program operate on all “ready” reservations rather than limit the number of active reservations at one time.

Order of Offers: In terms of the order in which the Program will send offers to landowners at each location, some commenters argued that the Department should primarily consider tribal priorities, while others thought the Program should target large interests first in order to reach tribal majority ownership of land.

27. Federal Register/ Vol. 78, No. 75 / Thursday, April 18, 2013 / Notices.

Offer Package Evaluation: Individual landowners also asked how the Program would review their offer packages to determine which interests to purchase for the reservations.

Department Action

Initial Locations / Order of Reservations: The Department considered issues related to sequencing and updated its approach. Refer to the “Operational Concepts: Implementation Strategy” section of the Updated Implementation plan for more information.

Offer Package Evaluation: The Department’s plan to evaluate offer packages is flexible and subject to change, based on consultation input, lessons learned, and tribal priorities. Since it is possible that the value of the interests that landowners seek to sell may exceed the reservation’s available purchase ceiling, the Program needed to develop an approach to sending offers to landowners and approving those offers that the landowners return.

As stated in the Initial Implementation Plan, the Department identified two potential approaches for approving applications and Deeds. One approach is for the Department to review and approve sale applications and Deeds in the order received until reaching the reservation’s purchase ceiling. Alternatively, the Department could gather and analyze applications and Deeds as a group, approving those that best achieve the goals and objectives of the Buy-Back Program (e.g., acquisitions that maximize the number of tracts with majority ownership and / or those that relate to a tribal priority).

The Department will apply a hybrid of the two approaches discussed in the plan and will send out offers to a reservation’s landowners in “waves.” The value of the landowners’ interests included in each wave will make up a certain percentage of the reservation’s total purchase ceiling. As the packages are returned and approved, the Program will purchase those landowners’ interests who have agreed to sell. After 45 calendar days from when BIA mailed the Wave 1 offer packages, the Program will evaluate the value of the interests that landowners chose to sell in Wave 1. If appropriate, a subsequent wave will proceed similarly; however, the Program and tribe will consider the response rate to Wave 1 when determining the appropriate percentage for a subsequent wave and/or whether individuals have expressed an interest in selling their interests. It is important to note that once a reservation meets its purchase ceiling, the succeeding wave will not occur. In addition, any landowner who receives an offer from the Program will be able to sell his / her land, regardless of whether the reservation has reached or exceeded its ceiling at that point.

Settlement

Multiple commenters expressed concerns regarding the final structure of the Program as set forth in the Settlement and the Claims Resolution Act of 2010. One major concern was that the Settlement provided

preference to the tribes to receive purchased lands, as opposed to giving this opportunity to individual Indian landowners. Additionally, some commenters requested that the Program purchase fee and non-fractionated lands or lands outside of reservations, as opposed to solely purchasing trust and restricted status fractionated lands. Some commenters suggested using any remaining funds to purchase these types of lands, instead of returning the funds to the Treasury. A few commenters suggested that Congress revisit the final Settlement and attempt to make the law more tribe-friendly, and some requested additional information on the details of the Settlement.

Department Action

The Settlement and its implementing legislation are the sources of authority for the Buy-Back Program. In accordance with the terms of the authorizing legislation, only fractional interests in trust or restricted lands may be purchased utilizing the Fund. The Department has no authority to ignore this directive and cannot use the Fund to purchase fee lands.

Staff / Training

Regarding staff and training, commenters suggested that the Program honor the Department's Indian Preference policy. These individuals said that by hiring tribal members, the Program would help with unemployment and have access to people familiar with the land and existing programs on the reservations. Commenters also suggested that the Department continue to consult with tribes throughout the process of implementing the Program, as well as communicate frequently with individuals and tribes who have worked on previous land buy-back efforts.

Other commenters questioned whether the Program would have adequate staff and expertise to complete complex appraisals and address other issues as they arise. These commenters suggested that the Program continue to seek feedback from specialists and conduct continuous training of its staff members.

More specifically, one commenter noted that the Initial Implementation Plan did not include a process or design to carry out the stated intentions of continuous consultation, input and learning throughout the Program's life. The commenter urged the development of a clear and specific process for taking in information and input on the Buy-Back Program.

Department Action

The Department is committed to working with all parties throughout Indian country to take advantage of this historic opportunity and successfully implement the Buy-Back Program. It will continue to consult with the

tribal communities and subject matter experts throughout the existence of the Program and will honor the Indian Preference policy in law and in spirit.

The Program will conduct additional individual consultations with each tribe seeking to develop a cooperative agreement to implement a particular phase or phases of the Buy-Back Program. One result of some cooperative agreements to implement the Program may be the hiring of additional tribal staff where appropriate.

In the effort to develop clear and specific processes for evaluation and learning, taken in direct response to the need identified by a commenter, the Department hired a Senior Advisor for Performance, Evaluation, and Improvement. Among other responsibilities, the holder of this position is required to:

- Develop and monitor Program performance metrics for the multiple Department offices and bureaus involved in the Buy-Back Program;
- Design, develop, and evaluate business processes and procedures to achieve maximum efficiency, effectiveness, and continuous improvement; and
- Collaborate with various Department offices, contractors, and tribes to develop or improve business processes, automate tasks, integrate systems, and ensure seamless data sharing across organizations.

Furthermore, the Department fully agrees with the importance of capturing the lessons learned throughout the existence of the Program. Lessons should be captured and shared from the experiences of Department staff responsible for implementing this and previous buy-back efforts and from the experiences of tribal leaders and tribal members. To this end, the Department is building intentional learning into the Buy-Back Program processes ongoing tribal communication and consultations remain a Program priority

Taxes

Commenters asked for clarification on whether the IRS guidance issued on the exemption of settlement dollars is applicable to money received from selling land to the Buy-Back Program and whether the money received from the Buy-Back Program will be taxed as income by the State or Federal Government.

Department Action

The Claims Resolution Act of 2010 states that the funds received under the *Cobell* Settlement will not be considered for purposes of calculating gross income. The IRS guidance, Notice 2012-60, is specific to the treatment of per capita payments received by tribal members pursuant to certain tribal trust settlements and is not applicable to the *Cobell* Settlement.

Temporary Assistance for Needy Families and other Federal Assistance Programs

Multiple commenters asked about the impact of revenue from land sales on subsidy programs and/or requested that the Federal Government exempt sales revenue that results from land sales from Federal assistance programs, such as Temporary Assistance for Needy Families (TANF) and Supplemental Security Income (SSI).

Department Action

Individuals participating in any type of government assistance program should find out how funds received from the sale of their trust or restricted land interest may be counted by the assistance program. Each state and Federal program sets forth its own eligibility requirements which the Department is not in a position to address.

Timeframe

Commenters raised concerns about the ability of the Department to complete the goals of the Program within the ten-year timeframe. In general, these commenters suggested that if the Program works closely with tribes, the Department is more likely to achieve this goal. Other commenters expressed the belief that the timeline is too long and the Program should start purchasing lands right away.

Some commenters wanted to know the timeline of sales, from the offer to closing / receiving money in their accounts. Commenters also were curious when the Program would begin meeting with tribes, when satellite offices will begin work, and when the initial efforts would begin.

Department Action

Tribal involvement, transparency, flexibility, timely decision making, and ongoing communication throughout the life of the Program is critical to the success of the Program. The Department's senior leadership is committed to ensuring successful implementation of the Program the ten-year timeframe and has instituted a reporting and oversight structures commensurate with the Program's importance.

The Program is finalizing its planning efforts and is already meeting with tribes upon request. The Department plans to contact each tribe before activity at the tribes' reservation, assuming the tribe has not already contacted the Program. The Program's goal is to send the first purchase offers before the end of 2013.

When the Buy-Back Program receives a completed offer package, it will have 30 days to approve the purchase and process the landowner's payment. Approval will depend on whether the landowner completed all required documentation.

Voluntary Sales

Many commenters expressed concerns that the Program or tribe would force individual landowners to sell their land. Other commenters stated that they were not interested in participating in the Program, or were interested in buying more land. Those not interested in selling stated reasons such as their land being linked to their tribal membership or identity, the potential for mineral and oil value to increase over time, wanting to keep the land as their birthright, or the potential for the sales to cause divisions or disputes between tribal members. Some commenters raised the concern that the Program would not be successful because there will not be enough landowners willing to sell their fractional interests.

Department Action

Under the terms of the Settlement and the Claims Resolution Act of 2010, all sales are voluntary. The Department will follow that directive. The Department has no control over the prerogatives of sovereign tribal nations to exercise whatever rights they may have regarding the purchase of land outside of the confines of the Buy-Back Program.

Whereabouts Unknown

Commenters requested additional information on the topic of whereabouts unknown (WAO). One commenter indicated that the five-year waiting period was too lengthy, while other commenters raised concerns over whether individuals who did not respond to offers would fall into the whereabouts unknown category. Another commenter also asked whether an amount of the Fund would be set aside during the five-year waiting period while the Program worked to locate landowners whose whereabouts are unknown. Some commenters suggested that the Department send lists of WAO individuals to the tribes for them to populate recent addresses.

Department Action

WAO is the term used to describe IIM account holders without current address information on file with OST. The Settlement provides for an outreach effort to locate landowners whose whereabouts are unknown as of the date of final approval of the Settlement. If those owners are not located after the Department undertakes the outreach effort and the passage of five years, the landowners shall be deemed to have consented to the conveyance of fractional interests that are located on a parcel of highly fractionated Indian

land. *Cobell* Settlement Agreement at ¶ F(6); Claims Resolution Act of 2010 § 101(e)(5). This provision relates to WAU as to the date of final approval the Settlement, not individuals that become WAU after final approval. In the event WAU purchases are made they will be for fair market value with the money deposited into an IIM account as detailed in the Settlement Agreement. Landowners can find out if they have an account on the WAU list by visiting the [OST website](#). It is important to note that the WAU provisions are not applicable to a non-WAU landowner who receives an offer and chooses not to respond.

APPENDIX B – FRACTIONATION STATISTICS BY RESERVATION

Overview

The fractionation related data and statistics used throughout this document were generated primarily from the Trust Asset and Accounting Management System (TAAMS) as of September 30, 2013. The following table lists the data in further detail by land area codes within TAAMS, which generally results in a grouping of trust lands by BIA Region. Each tribe typically has a unique tribe code within TAAMS that corresponds to a single land area code. Due to state borders and other factors, however, some tribes may have jurisdiction over multiple land area codes. Moreover, in a few instances, the table currently lists multiple tribes for one land area code. The table below seeks to group related land areas under a single tribe and additional work is necessary to identify lands to a particular recognized tribe. The Department will continue to publish an electronic version of the data on the [Program's website](#), where additional data points and future corrections or updates may be included.

The data and approximations in this document are subject to change. The Department will continue to refine its analysis of fractional interests and the owners thereof. Feedback is encouraged. In particular, if tribes or others have reason to believe that any of the information is inaccurate or that a reservation is excluded in error, they should contact: U.S. Department of the Interior, attention: 1849 C St. NW, MS-7223-MIB, Washington, DC 20240. Please refer to the [Program's website](#) for direct contact information for the Program's Senior Advisors for Tribal Relations.

Definitions and Explanations

It is important to distinguish “aggregated” and “segregated” interest counts. There are many instances where a single individual owns multiple fractional interests in the same tract of land. Such multiple ownership occurs when an individual inherits interests in the same tract of land at different times. For example, an individual may receive an interest in a tract of land when their father passes, and the individual may receive an additional interest in that same tract upon their mother's passing. This document combines/adds these multiple “segregated” interests and represents them as a single “aggregated” interest. Aggregated interest counts will be used going forward.

The following table begins by listing the “Total Number of Tracts Held in Trust” within a specific land area code. This column includes both 100 percent tribal tracts as well as allotted tracts with multiple undivided ownership interests. The next column narrows those tracts down to only those “Number of Fractionated Tracts Containing Purchasable Interests.” The term “fractionated tract” is defined as a tract held in trust or restricted status that has two or more unique owners (one of which may be the tribe). A “fractionated tract”

is defined as a tract with either of two or more fractional interests, each being less than a 100 percent interest (the sum of the fractional interests equals 100 percent). The term “purchasable interest” is an aggregated fractional interest in a fractionated tract that is held in trust or restricted status (i.e., not a fee interest) where a recognized tribal government exercises jurisdiction, excluding interests owned by a tribe or the Government, beneficial interests (e.g., life estates), and interests where no tribe has jurisdiction (e.g., public domain).

The “Number of Fractionated Tracts with corresponding Levels of Tribal Ownership” lists the number of purchasable tracts by whether the tribe already has or does not have majority ownership. The “Number of Highly Fractionated Tracts” is defined by the Indian Land Consolidation Act (ILCA) at 25 U.S.C. § 2201(6). The “Number of Acres” column lists the amount of acreage associated with the “Fractionated Tracts Containing Purchasable Interests.” In contrast to the table accompanying the Initial Implementation Plan, this number now reflects the purchasable acres.¹ The acreage number is the sum of the acres of surface-only, mineral-only, and combined estate acreages. For example, if the surface and mineral estates encompassing the same 80-acre tract of land have been severed or split, the acreage count would include them separately.

The next section of the table describes fractional interest information. The “Number of Purchasable Fractional Interests” follows the definition described above. The “Number of <2% Interests” is a data point listed as a discretionary priority within ILCA. The “Number of <5% Interests” also has statutory significance; such interests should not be further fractionated by intestate succession as a result of the “single heir” rule enacted as part of the American Indian Probate Reform Act of 2004.

The final section of the table provides information about unique or individual owners. First, the “Number of Unique Individuals owning Purchasable Fractional Interests” identifies the total number of people that own fractional interests at a given reservation. This column includes individual owners that are deceased. The sum of this column exceeds the total number of unique individuals owning fractional interests because this column counts individuals multiple times, i.e., for each reservation in which they own fractional interests. The final columns are the number of individuals who are currently identified as whereabouts unknown and the number of individuals who are over 65 years of age.

The primary difference between the figures in this document and those within the Initial Implementation Plan is the passage of time during which additional transactions have occurred. To ensure consistent reporting going forward, the Buy-Back Program will continue to utilize the definitions and data queries used to generate this document and will post updated data to the Program’s website as available.

1. For example, if there was an 80 acre tract with two distinct owners (i.e., with a tribe owning 40% and an individual owning the remaining 60%) the purchasable acres is 48 acres.

	Land Area Name ⁱ	BIA Region	Land Area Code(s)	Tract Data						Individuals and Interests									
				Tracts Held in Trust	Fractionated Tracts w/ Purchasable Interests	Highly Fractionated Tracts ⁱⁱ	Acres Associated w/Fractionated & Purchasable Interests	Level of Tribal Ownership Interest ⁱⁱⁱ		Purchasable Fractional Interests	<2% Interests ^{iv}	<5% Interests ^v	Unique Individuals owning Fractional Interests	Whereabouts Unknown			Fractional Interest Owners Under Legal Disability ^{vi}	Fractional Interest owners over 65 Years of Age	
								<50%	>=50%					WAW Fractional Interest Owners	Fractional Interests owned by WAWs	Fractionated Tracts w/ at least 1 WAW owner			
1	Confederated Tribes of the Colville Reservation, Washington (101)	Northwest	101	6,352	2,054	108	113,292	1,424	630	36,361	4,695	5,163	6,014	523	1,660	686	136	1,089	
2	Spokane Tribe of the Spokane Reservation, Washington (102)	Northwest	102	1,280	389	21	21,598	372	17	8,803	1,679	1,896	2,158	134	494	164	50	372	
3	Kalispell Indian Community of the Kalispell Reservation, Washington (103)	Northwest	103	166	75	3	1,997	54	21	1,035	165	208	241	13	44	30	5	49	
4	Confederated Tribes of the Chehalis Reservation, Washington (105)	Northwest	105	137	64	15	1,268	63	1	2,117	615	721	795	33	57	24	13	144	
5	Lummi Tribe of the Lummi Reservation, Washington (107)	Northwest	107	1,119	343	16	4,311	340	3	6,926	1,583	1,715	1,974	242	619	145	33	305	
6	Makah Indian Tribe of the Makah Indian Reservation, Washington (108)	Northwest	108	714	257	13	1,554	225	32	5,816	996	1,109	1,273	106	426	145	13	232	
7	Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington (109)	Northwest	109	305	76	10	1,270	74	2	1,951	533	655	808	67	112	41	8	127	
8	Nisqually Indian Tribe of the Nisqually Reservation, Washington (110)	Northwest	110	70	17	3	760	15	2	1,080	639	672	706	27	43	13	13	138	
9	Nooksack Indian Tribe of Washington (111)	Northwest	111	153	49	4	2,050	49	0	1,206	499	554	607	51	88	24	3	112	
10	Suquamish Indian Tribe of the Port Madison Reservation, Washington (114)	Northwest	114	235	66	5	1,895	62	4	1,673	912	1,000	1,120	127	171	45	35	214	
11	Puyallup Tribe of the Puyallup Reservation, Washington (115)	Northwest	115	142	16	0	19	15	1	92	9	26	69	9	25	6	5	5	
12	Quileute Tribe of the Quileute Reservation, Washington (116)	Northwest	116	65	30	3	4	30	0	565	161	227	307	9	14	9	6	55	
13	Quinault Tribe of the Quinault Reservation, Washington (117)	Northwest	117	2,103	1,422	121	90,472	1,365	57	36,755	3,524	3,928	4,458	312	1,338	512	45	987	
14	Sauk-Suiattle Indian Tribe of Washington (119)	Northwest	119	66	33	8	947	32	1	1,598	424	466	512	45	113	24	10	72	

	Land Area Name ⁱ	BIA Region	Land Area Code(s)	Tract Data						Individuals and Interests									
				Tracts Held in Trust	Fractionated Tracts w/ Purchasable Interests	Highly Fractionated Tracts ⁱⁱ	Acres Associated w/Fractionated & Purchasable Interests	Level of Tribal Ownership Interest ⁱⁱⁱ		Purchasable Fractional Interests	<2% Interests ^{iv}	<5% Interests ^v	Unique Individuals owning Fractional Interests	Whereabouts Unknown			Fractional Interest Owners Under Legal Disability ^{vi}	Fractional Interest owners over 65 Years of Age	
								<50%	>=50%					WAW Fractional Interest Owners	Fractional Interests owned by WAUs	Fractionated Tracts w/ at least 1 WAW owner			
15	Skokomish Indian Tribe of the Skokomish Reservation, Washington (120)	Northwest	120	130	81	14	2,286	81	0	3,528	893	999	1,047	59	182	56	3	236	
16	Squaxin Island Tribe of the Squaxin Island Reservation, Washington (121)	Northwest	121	48	20	6	590	17	3	1,359	700	726	741	50	86	17	6	134	
17	Swinomish Indians of the Swinomish Reservation, Washington (122)	Northwest	122	163	78	13	3,554	77	1	3,180	1,032	1,119	1,168	101	195	42	26	171	
18	Tulalip Tribes of the Tulalip Reservation, Washington (123)	Northwest	123	644	146	2	2,832	143	3	1,852	552	693	935	109	164	66	24	141	
19	Confederated Tribes and Bands of the Yakama Nation, Washington (124)	Northwest	124	6,426	2,208	177	137,061	1,838	370	54,451	4,109	4,442	4,913	195	787	502	56	830	
20	Confederated Tribes of the Siletz Indians of Oregon (previously listed as the Confederated Tribes of the Siletz Reservation) (142)	Northwest	142	62	1	0	47	1	0	3	0	0	3	0	0	0	0	1	
21	Confederated Tribes of the Umatilla Reservation, Oregon (143)	Northwest	143	1,543	1,015	45	58,178	970	45	18,828	2,301	2,675	3,125	101	296	181	48	570	
22	Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon (144)	Northwest	144	86	75	3	10,285	75	0	1,787	171	190	219	8	31	21	1	34	
23	Confederated Tribes of the Warm Springs Reservation, Oregon (145)	Northwest	145	2,306	385	8	12,690	123	262	3,998	738	829	951	29	87	69	29	136	
24	Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho (180)	Northwest	180	5,293	2,596	107	220,658	2,058	538	51,237	2,499	2,763	3,156	114	1,140	710	90	500	
25	Coeur D'Alene Tribe of the Coeur D'Alene Reservation, Idaho (181)	Northwest	181	1,177	300	3	28,880	246	54	3,156	696	854	1,057	57	151	98	17	195	
26	Nez Perce Tribe, Idaho (previously listed as Nez Perce Tribe of Idaho) (182)	Northwest	182	989	620	28	31,648	493	127	12,295	1,687	1,867	2,092	81	311	180	19	421	
27	Kootenai Tribe of Idaho (183)	Northwest	183	34	23	0	692	20	3	220	49	62	63	1	5	5	5	4	

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28	Blackfoot Tribe of the Blackfoot Indian Reservation of Montana (201)	Rocky Mountain	201	11,824	4,831	754	813,308	4,698	133	191,278	6,766	7,193	7,798	509	8,372	2,483	107	1,506	
29	Crow Tribe of Montana (202)	Rocky Mountain	202	9,975	4,794	619	829,868	4,566	228	179,268	3,949	4,292	4,853	223	3,142	1,520	156	842	
30	Crow Tribe of Montana (202)	Rocky Mountain	208	559	56	7	8,388	56	0	1,595	570	750	919	29	38	25	30	176	
31	Confederated Salish & Kootenai Tribes of the Flathead Reservation, Montana (203)	Northwest	203	3,868	696	21	25,622	545	151	9,396	2,027	2,406	3,012	418	989	346	45	519	
32	Fort Belknap Indian Community of the Fort Belknap Reservation of Montana (204)	Rocky Mountain	204	5,352	3,024	111	509,816	2,821	203	57,186	2,920	3,379	4,004	236	2,340	1,047	100	716	
33	Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana (206)	Rocky Mountain	206	7,463	4,521	347	639,342	4,328	193	114,546	9,304	10,034	10,903	712	5,151	1,843	277	1,681	
34	Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana (207)	Rocky Mountain	207	2,447	891	43	68,303	625	266	15,489	2,384	2,677	3,064	245	1,097	429	112	401	
35	Arapahoe Tribe of the Wind River Reservation, Wyoming (281) & Shoshone Tribe of the Wind River Reservation, Wyoming (282)	Rocky Mountain	280	5,270	2,539	488	141,554	2,273	266	137,200	6,699	6,987	7,354	451	4,341	1,194	266	1,003	
36	Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota (301) (Mandan, Hidatsa & Arikara)	Great Plains	301	9,554	3,249	310	417,948	3,046	203	91,707	4,003	4,367	4,945	214	2,221	932	97	699	
37	Standing Rock Sioux Tribe of North & South Dakota (302)	Great Plains	302	10,078	6,304	951	431,999	3,988	2,316	227,133	18,663	19,477	20,212	1,773	18,819	3,794	725	2,543	
38	Spirit Lake Tribe, North Dakota (303)	Great Plains	303	1,365	934	234	41,661	770	164	60,068	5,318	5,597	5,807	331	2,739	530	114	844	
39	Turtle Mountain Band of Chippewa Indians of North Dakota (304)	Great Plains	304	1,342	591	80	30,322	584	7	26,170	7,663	8,157	8,735	806	2,107	333	86	2,007	

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40	Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota (340)	Great Plains	340	12,321	4,066	121	638,315	3,712	354	65,655	5,820	6,816	8,087	619	3,771	1,471	167	1,341	
41	Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota (342)	Great Plains	342	1,771	909	132	75,962	748	161	43,602	8,083	8,408	8,726	533	2,533	474	183	1,203	
42	Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota (343)	Great Plains	343	1,797	595	120	38,917	307	288	30,387	4,454	4,716	4,906	375	1,899	321	92	697	
43	Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota (344)	Great Plains	344	12,016	6,028	774	736,381	4,207	1,821	195,862	19,942	21,136	22,594	2,223	14,839	3,071	508	3,233	
44	Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota (345)	Great Plains	345	6,947	3,118	438	177,781	892	2,226	92,324	13,755	14,379	15,064	1,630	10,704	2,061	326	1,960	
45	Yankton Sioux Tribe of South Dakota (346)	Great Plains	346	1,029	778	166	27,260	546	232	38,811	6,202	6,484	6,662	391	2,093	457	113	1,081	
46	Sisseton - Wahpeton Oyate of the Lake Traverse Reservation, South Dakota (347)	Great Plains	347	1,985	1,320	227	56,735	973	347	53,525	4,570	4,838	5,097	340	3,639	717	83	1,104	
47	Omaha Tribe of Nebraska (380)	Great Plains	380	603	422	75	20,181	395	27	21,528	2,476	2,590	2,704	260	1,504	273	52	351	
48	Santee Sioux Nation, Nebraska (382)	Great Plains	382	142	66	19	2,436	54	12	3,825	1,584	1,754	1,832	128	255	42	27	338	
49	Winnebago Tribe of Nebraska (383)	Great Plains	383	734	641	286	22,120	480	161	73,753	4,032	4,144	4,227	358	5,885	500	86	765	
50	Minnesota Chippewa - Bois Forte Band	Midwest	404	430	200	92	8,413	157	43	15,440	1,755	1,835	1,899	162	1,126	180	21	318	
51	Minnesota Chippewa - Fond du Lac Band	Midwest	405	595	351	157	9,168	196	155	27,961	4,455	4,567	4,654	785	3,846	292	58	736	
52	Minnesota Chippewa - Grand Portage Band	Midwest	406	486	116	40	4,144	72	44	5,540	567	600	613	58	652	90	5	143	
53	Minnesota Chippewa - Leech Lake Band	Midwest	407	645	250	66	10,605	234	16	19,431	6,097	6,318	6,521	879	2,376	201	72	928	

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54	Minnesota Chippewa - White Earth Band	Midwest	408	749	41	12	2,395	41	0	4,046	2,882	3,039	3,136	415	537	36	28	445	
55	Minnesota Chippewa - Mille Lacs Band	Midwest	410	334	28	0	133	27	1	751	141	186	222	30	138	25	3	29	
56	Upper Sioux Community, Minnesota (401)	Midwest	401	10	2	0	52	2	0	44	21	36	44	7	7	2	0	15	
57	Red Lake Band of Chippewa Indians, Minnesota (409)	Midwest	409	1,550	1	0	15	0	1	2	0	1	2	0	0	0	0	0	
58	Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin (430)	Midwest	430	1,318	620	96	9,854	248	372	20,847	4,644	4,809	4,960	1,095	4,523	443	58	715	
59	Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin (431)	Midwest	431	806	313	83	4,415	75	238	18,288	3,679	3,756	3,858	1,017	3,656	250	61	545	
60	Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin (432)	Midwest	432	507	199	29	1,667	23	176	5,120	1,178	1,224	1,296	196	724	143	19	215	
61	Oneida Tribe of Indians of Wisconsin (433)	Midwest	433	447	25	1	136	23	2	338	236	243	313	109	113	19	0	38	
62	Forest County Potawatomi Community, Wisconsin (434)	Midwest	434	69	7	1	285	7	0	310	147	164	182	21	35	5	3	33	
63	Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin (435)	Midwest	435	114	36	14	503	11	25	3,448	1,485	1,506	1,519	284	701	33	19	230	
64	Stockbridge Munsee Community, Wisconsin (438)	Midwest	438	157	3	0	19	3	0	33	7	16	26	9	14	3	0	4	
65	Ho-Chunk Nation of Wisconsin (439)	Midwest	439	212	104	10	2,371	98	6	3,166	1,294	1,457	1,598	114	223	65	35	262	
66	Menominee Indian Tribe of Wisconsin (440)	Midwest	440	1,325	14	0	53	14	0	22	0	0	22	20	20	12	0	1	

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67	Saginaw Chippewa Indian Tribe of Michigan (472)	Midwest	472	100	25	5	677	25	0	1,012	622	688	734	40	51	13	3	131	
68	Keweenaw Bay Indian Community, Michigan (475)	Midwest	475	260	116	31	2,000	47	69	5,535	2,075	2,166	2,217	408	968	98	34	393	
69	Keweenaw Bay Indian Community, Michigan (475)	Midwest	476	4	2	2	134	2	0	261	211	233	235	23	25	2	4	57	
70	Big Sandy Rancheria of Mono Indians of California (506)	Pacific	506	12	3	0	15	3	0	15	9	9	15	4	4	2	0	0	
71	Big Valley Band of Pomo Indians of the Big Valley Rancheria, California (507)	Pacific	507	27	12	0	7	12	0	58	4	6	50	27	31	12	0	3	
72	Cloverdale Rancheria of Pomo Indians of California (510)	Pacific	510	2	2	0	13	2	0	8	0	0	4	4	8	2	0	0	
73	Robinson Rancheria of Pomo Indians of California (516)	Pacific	516	16	4	0	23	4	0	20	0	5	10	7	13	4	0	0	
74	Guidiville Rancheria of California (520)	Pacific	520	2	1	0	2	1	0	3	0	0	3	3	3	1	0	0	
75	Hopland Band of Pomo Indians of the Hopland Rancheria, California (521)	Pacific	521	25	11	0	33	11	0	105	40	48	74	23	28	5	0	13	
76	Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California (525)	Pacific	525	48	28	0	78	28	0	254	39	72	106	56	144	28	0	12	
77	Northfork Rancheria of Mono Indians of California (532)	Pacific	532	2	1	0	80	1	0	7	0	0	7	5	5	1	0	0	
78	Picayune Rancheria of Chukchansi Indians of California (534)	Pacific	534	8	1	0	17	1	0	6	0	0	6	6	6	1	0	0	
79	Pinoleville Pomo Nation, California (formerly the Pinoleville Rancheria of Pomo Indians of California) (535)	Pacific	535	11	6	0	26	6	0	14	0	0	14	7	7	4	0	0	

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80	Redwood Valley Rancheria of Pomo Indians of California (539)	Pacific	539	6	2	0	3	2	0	38	13	19	19	3	6	2	2	6	
81	Round Valley Indian Tribes of the Round Valley Reservation, California (540)	Pacific	540	362	185	22	4,555	183	2	6,860	1,334	1,483	1,605	454	1,649	152	12	275	
82	Greenville Rancheria of Maidu Indians of California (545)	Pacific	545	2	1	0	0	1	0	8	0	7	8	0	0	0	0	0	
83	Table Mountain Rancheria of California (551)	Pacific	551	16	1	0	6	1	0	4	0	0	4	3	3	1	0	0	
84	Karuk Tribe (formerly the Karuk Tribe of California) (555)	Pacific	555	27	1	0	14	1	0	7	0	0	7	1	1	1	0	0	
85	Blue Lake Rancheria, California (558)	Pacific	558	20	4	0	4	4	0	6	0	0	6	5	5	3	0	0	
86	Elk Valley Rancheria, California (559)	Pacific	559	14	1	0	2	1	0	4	0	0	4	3	3	1	0	0	
87	Hoopa Valley Tribe, California (561)	Pacific	561	447	98	0	591	97	1	1,009	198	276	462	78	155	51	6	53	
88	Yurok Tribe of the Yurok Reservation, California (562)	Pacific	562	221	167	8	3,699	167	0	4,585	1,029	1,204	1,357	517	1,515	157	8	147	
89	Quartz Valley Indian Community of the Quartz Valley Reservation of California (563)	Pacific	563	6	2	0	23	2	0	5	0	0	5	2	2	1	0	0	
90	Smith River Rancheria, California (564)	Pacific	564	45	9	0	22	9	0	28	0	0	28	8	8	4	0	4	
91	Augustine Band of Cahuilla Indians, California (formerly the Augustine Band of Cahuilla Mission Indians of the Augustine Reservation (567)	Pacific	567	6	3	0	58	1	2	17	0	4	17	0	0	0	2	0	
92	Cabazon Band of Mission Indians, California (568)	Pacific	568	22	9	0	208	9	0	120	35	45	59	1	2	2	4	9	

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93	La Jolla Band of Luiseno Mission Indians, California (formerly the La Jolla Band of Luiseno Mission Indians of the La Jolla Reservation) (576)	Pacific	576	80	39	0	342	39	0	553	179	233	281	13	24	10	4	45	
94	Morongo Band of Mission Indians, California (formerly the Morongo Band of Cahuilla Mission Indians of the Morongo Reservation) (582)	Pacific	582	708	202	7	644	201	1	3,061	693	773	1,008	54	156	57	31	140	
95	Pala Band of Luiseno Mission Indians of the Pala Reservation, California (583)	Pacific	583	478	236	10	809	236	0	5,517	675	752	869	46	297	106	16	139	
96	Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California (584)	Pacific	584	477	173	0	7,899	173	0	1,132	81	112	226	7	25	18	14	15	
97	Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California (586)	Pacific	586	160	104	6	1,094	102	2	3,687	676	775	890	68	237	77	9	167	
98	Rincon Band of Luiseno Mission Indians of the Rincon Reservation, California (587)	Pacific	587	104	38	0	141	38	0	494	129	173	223	6	14	12	2	40	
99	Sycuan Band of the Kumeyaay Nation (formerly the Sycuan Band of Diegueno Mission Indians of California) (594)	Pacific	594	28	19	2	199	14	5	519	133	140	157	8	22	12	2	25	
100	Torres Martinez Desert Cahuilla Indians, California (formerly the Torres-Martinez Band of Cahuilla Mission Indians of California) (595)	Pacific	595	231	119	4	3,539	119	0	2,224	384	443	518	32	111	50	19	56	
101	Colorado River Indian Tribe of the Colorado River Indian Reservation, Arizona and California (603)	Western	603	896	528	5	4,109	442	86	8,618	1,043	1,243	1,524	124	621	248	26	265	
102	Fort Mojave Indian Tribe of Arizona California & Nevada (604)	Western	604	28	2	0	160	2	0	22	0	7	11	0	0	0	0	0	

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103	Hopi Tribe of Arizona (608)	Western	608	25	11	5	216	11	0	973	470	525	548	68	114	11	5	142	
104	Tohono O'odham Nation of Arizona (610)	Western	611	312	281	65	36,316	281	0	14,081	1,543	1,707	1,772	102	426	149	57	253	
105	Gila River Indian Community of the Gila River Indian Reservation, Arizona (614)	Western	614	5,643	4,707	594	79,284	4,687	20	173,867	9,125	9,823	10,488	801	10,663	2,706	264	1,430	
106	Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona (615)	Western	615	1,844	1,418	158	21,165	1,411	7	48,967	4,835	5,322	5,799	458	3,688	935	128	738	
107	California Valley Miwok Tribe, California (formerly the Sheep Ranch Rancheria of Me-Wuk Indians of California) (628)	Pacific	628	1	1	0	1	1	0	2	0	0	2	0	0	0	0	0	
108	Habematolel Pomo of Upper Lake, California (formerly the Upper Lake Band of Pomo Indians of Upper Lake Rancheria of California) (636)	Pacific	636	9	4	0	11	4	0	14	0	0	14	8	8	4	0	0	
109	Ely Shoshone Tribe of Nevada (644)	Western	644	4	1	0	160	1	0	24	7	13	24	3	3	1	0	7	
110	Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon (646)	Western	646	16	4	3	142	4	0	558	416	453	463	70	83	4	5	76	
111	Walker River Paiute Tribe of the Walker River Reservation, Nevada (656)	Western	656	505	348	11	6,274	342	6	6,656	1,027	1,188	1,421	188	530	192	12	269	
112	Yomba Shoshone Tribe of the Yomba Reservation, Nevada (661)	Western	661	9	5	0	322	5	0	108	68	87	103	23	24	5	2	21	
113	Washoe Tribe of Nevada & California (Carson Colony, Dresslerville Colony, Woodsford Community, Stewart Community, & Washoe Ranches) (672)	Western	672	490	409	38	54,731	400	9	14,080	1,132	1,192	1,266	126	1,216	289	6	255	

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114	Ute Indian Tribe of the Uintah & Ouray Reservation, Utah (687)	Western	687	2,101	1,059	186	60,882	917	142	43,585	2,095	2,241	2,313	133	1,667	565	88	315	
115	Quechan Tribe of the Fort Yuma Indian Reservation, California (696)	Western	696	902	712	8	6,709	701	11	13,102	1,137	1,322	1,614	78	357	176	39	267	
116	Pueblo of Acoma (703)	Southwest	703	40	1	0	320	1	0	3	0	0	3	0	0	0	0	2	
117	Laguna (707)	Southwest	707	69	29	2	3,298	28	1	716	274	355	425	68	113	20	3	99	
118	Pueblo of San Felipe (712)	Southwest	712	36	1	0	71	1	0	43	31	36	43	0	0	0	0	9	
119	Zuni Tribe of the Zuni Reservation, New Mexico (721)	Southwest	721	44	12	1	1,791	12	0	530	386	425	464	48	52	8	4	64	
120	Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado (750)	Southwest	750	687	107	14	6,937	91	16	2,210	712	780	876	25	63	21	31	116	
121	Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah (751)	Southwest	754	104	59	2	7,304	55	4	1,004	253	316	360	44	83	29	11	36	
122	Navajo Nation, Arizona, New Mexico & Utah (780)	Southwest	722	430	222	19	30,967	222	0	6,679	1,074	1,162	1,278	121	505	134	19	259	
123	Navajo Nation, Arizona, New Mexico & Utah (780)	Navajo	723	133	106	19	16,728	106	0	5,711	1,065	1,088	1,117	182	954	88	19	190	
124	Navajo Nation, Arizona, New Mexico & Utah (780)	Navajo	724	75	46	3	7,186	46	0	1,143	400	509	572	96	168	36	9	107	
125	Navajo Nation, Arizona, New Mexico & Utah (780)	Navajo	790	1,281	508	75	72,934	508	0	20,836	4,462	5,185	5,682	1,330	4,491	398	25	1,184	
126	Navajo Nation, Arizona, New Mexico & Utah (780)	Navajo	791	4,288	3,446	841	536,387	3,434	12	223,634	24,342	25,848	26,900	2,398	12,007	2,237	297	5,472	
127	Navajo Nation, Arizona, New Mexico & Utah (780)	Navajo	792	177	42	2	6,317	42	0	1,316	557	677	768	126	197	37	1	157	

	Land Area Name ⁱ	BIA Region	Land Area Code(s)	Tract Data						Individuals and Interests									
				Tracts Held in Trust	Fractionated Tracts w/ Purchasable Interests	Highly Fractionated Tracts ⁱⁱ	Acres Associated w/Fractionated & Purchasable Interests	Level of Tribal Ownership Interest ⁱⁱⁱ		Purchasable Fractional Interests	<2% Interests ^{iv}	<5% Interests ^v	Unique Individuals owning Fractional Interests	Whereabouts Unknown			Fractional Interest Owners Under Legal Disability ^{vi}	Fractional Interest owners over 65 Years of Age	
								<50%	>=50%					WAW Fractional Interest Owners	Fractional Interests owned by WAWs	Fractionated Tracts w/ at least 1 WAW owner			
128	Cheyenne & Arapaho Tribes, Oklahoma (802)	Southern Plains	801	1,334	1,138	147	84,909	1,136	2	39,983	5,550	6,116	6,507	363	1,706	537	224	803	
129	Kiowa Indian Tribe of Oklahoma (802)*	Southern Plains	802	4,535	2,980	116	222,389	2,966	14	56,194	6,668	7,895	9,465	563	2,372	990	206	1,690	
130	Fort Sill Apache Tribe of Oklahoma (803)	Southern Plains	803	76	50	1	2,495	50	0	639	175	216	276	9	19	10	5	55	
131	Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma (804)*	Southern Plains	804	1,103	841	38	64,197	841	0	16,549	1,944	2,289	2,741	109	509	237	54	473	
132	Otoe-Missouria Tribe of Indians, Oklahoma(811)	Southern Plains	811	461	358	45	21,750	357	1	12,475	1,643	1,869	2,051	161	741	181	46	384	
133	Pawnee Nation of Oklahoma (812)	Southern Plains	812	452	363	29	23,067	362	1	9,985	1,664	1,827	2,000	136	498	179	22	403	
134	Ponca Tribe of Indians of Oklahoma (813)	Southern Plains	813	498	405	90	18,262	404	1	25,205	2,541	2,679	2,796	236	1,716	248	72	382	
135	Tonkawa Tribe of Indians of Oklahoma (814)	Southern Plains	814	12	7	0	251	7	0	273	87	100	115	15	29	6	2	19	
136	Absentee Shawnee Tribe of Indians of Oklahoma (820)	Southern Plains	820	438	259	30	14,539	259	0	8,694	1,931	2,090	2,224	157	625	125	15	508	
137	Citizen Potawatomi Nation, Oklahoma (821)	Southern Plains	821	112	63	11	3,196	61	2	2,378	1,208	1,355	1,463	147	241	49	7	461	
138	Iowa Tribe of Oklahoma (822)	Southern Plains	822	65	50	11	1,778	47	3	2,604	745	796	839	63	167	29	19	163	
139	Kickapoo Tribe of Oklahoma (823)	Southern Plains	823	218	129	7	5,214	129	0	3,353	816	927	1,095	122	338	74	23	169	
140	Sac & Fox Nation, Oklahoma (824)	Southern Plains	824	391	247	15	16,352	247	0	5,672	1,176	1,301	1,523	132	311	97	20	321	
141	Iowa Tribe of Kansas and Nebraska (860)	Southern Plains	860	48	5	1	119	5	0	151	85	98	106	5	6	3	0	28	
142	Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas (861)	Southern Plains	861	201	78	5	2,506	72	6	1,482	427	516	622	19	35	17	12	116	

	Land Area Name ⁱ	BIA Region	Land Area Code(s)	Tract Data						Individuals and Interests									
				Tracts Held in Trust	Fractionated Tracts w/ Purchasable Interests	Highly Fractionated Tracts ⁱⁱ	Acres Associated w/Fractionated & Purchasable Interests	Level of Tribal Ownership Interest ⁱⁱⁱ		Purchasable Fractional Interests	<2% Interests ^{iv}	<5% Interests ^v	Unique Individuals owning Fractional Interests	Whereabouts Unknown			Fractional Interest Owners Under Legal Disability ^{vi}	Fractional Interest owners over 65 Years of Age	
								<50%	>=50%					WAW Fractional Interest Owners	Fractional Interests owned by WAWs	Fractionated Tracts w/ at least 1 WAW owner			
143	Prairie Band of Potawatomi Nation, Kansas (862)	Southern Plains	862	581	326	39	15,626	318	8	9,647	1,651	1,942	2,194	117	404	142	34	406	
144	Sac & Fox Nation of Missouri in Kansas and Nebraska (863)	Southern Plains	863	8	2	1	41	2	0	113	101	107	113	3	3	1	1	21	
145	Cherokee Nation, Oklahoma (905)	Eastern Oklahoma	905	743	275	1	6,170	274	1	1,333	178	323	787	201	349	174	0	111	
146	Chickasaw Nation, Oklahoma (906)	Eastern Oklahoma	906	2,452	1,878	6	57,648	1,878	0	14,535	1,667	2,399	3,662	689	1,945	878	7	757	
147	Choctaw Nation of Oklahoma (907)	Eastern Oklahoma	907	822	500	0	19,299	500	0	2,606	413	586	1,290	262	452	266	2	303	
148	Muscogee (Creek) Nation, Oklahoma (908)	Eastern Oklahoma	908	1,974	1,246	0	43,775	1,246	0	8,566	850	1,503	2,669	419	1,107	503	2	636	
149	Seminole Nation of Oklahoma (909)	Eastern Oklahoma	909	1,212	959	4	21,188	959	0	8,350	932	1,253	1,765	383	1,441	539	3	304	
150	Quapaw Tribe of Indians, Oklahoma (920)	Eastern Oklahoma	920	295	223	9	9,739	217	6	3,477	282	348	390	13	78	60	2	119	
151	Eastern Shawnee Tribe of Oklahoma (921)	Eastern Oklahoma	921	47	30	1	354	30	0	283	105	130	160	8	10	5	1	62	
152	Seneca-Cayuga Tribe of Oklahoma (923)	Eastern Oklahoma	923	162	71	1	2,048	70	1	1,480	554	634	761	80	139	46	16	182	
153	Osage Nation, Oklahoma (formerly the Osage Tribe) (930)	Eastern Oklahoma	930	10,615	610	1	63,333	601	9	2,945	188	291	683	34	84	55	27	123	
	Total			202,985	93,909	10,417	8,267,214	80,443	13,466	2,981,597	300,227	326,657			184,694	44,111			

* The Program is analyzing these land areas codes to determine which recognized tribe has jurisdiction for each tract. Once this analysis is complete, each tribe will comprise one data row. This may impact the number of tribes that fall within the approximately 90% of purchasable fractional interests (i.e., Table 1 of the Updated Implementation Plan).

ⁱ Federally Recognized Tribe with Jurisdiction

ⁱⁱ Defined as a tract of land with 50-99 co-owners with no owner having an interest greater than 10% or a tract of land with 100 plus co-owners. See 25 U.S.C. § 2201(6).

ⁱⁱⁱ Ownership in Fractionated Tracts Containing Purchasable Interests.

^{iv} The Secretary may give priority to the acquisition of fractional interests representing 2 percent or less of a parcel of trust or restricted land. See 25 U.S.C. § 2212(b)(2).

^v AIPRA Intestate Descent Rule. See 25 U.S.C. § 2006.

^{vi} For example, individuals that are non-compos mentis or minors.