

APPENDIX A. FREQUENTLY ASKED QUESTIONS

I. Background and Overview Information

1. What is fractionation? Why is it an issue?

Fractionation refers to divided ownership of Indian lands and is the result of land parcels (allotments) passing to numerous heirs over generations. The land itself is not physically divided; rather, the heirs of an original allottee own undivided interests in the allotment. Many allotments now have hundreds and even thousands of individual owners. Divided ownership makes it difficult, if not impossible, to use the land for any beneficial purpose because consent from at least 50 percent of the owners must first be obtained. As a result, fractionated allotments often lie idle rather than being utilized for agricultural, recreational, cultural, commercial, or even residential purposes. Even when consent can be obtained to lease an allotment, highly divided ownership often results in individual owners receiving only nominal lease returns. Approximately 64 percent of Indian landowners earn \$25 or less in annual income from their fractional interests in allotments.

There are approximately 150 reservations with fractionated tracts of land with more than 245,000 unique individual owners.

2. What is the Land Buy-Back Program for Tribal Nations?

The Secretary of the Interior established the Land Buy-Back Program for Tribal Nations (Buy-Back Program) to give individual landowners an opportunity to help address the problem of fractionation. The Program has \$1.9 billion available to purchase fractional interests in trust or restricted land from willing sellers at fair market value within a 10-year period. Individuals who choose to sell their interests receive payments directly into their Individual Indian Money (IIM) accounts. Consolidated interests are then immediately restored to tribal trust ownership for uses benefiting the reservation community and tribal members.

3. Who is involved in the Land Buy-Back Program?

The Buy-Back Program operates from within the Office of the Secretary of the Interior. The Buy-Back Program is working closely with the Office of the Special Trustee for American Indians (OST), the Bureau of Land Management (BLM), and the Bureau of Indian Affairs (BIA) to implement the Program across Indian Country. In addition, the Program is working with tribal representatives to ensure the best information is available to willing sellers. Tribes participating in the Buy-Back Program will have an opportunity to enter into cooperative agreements with the Program to access potential resources to assist in Program implementation.

4. What lands are purchasable?

The Buy-Back Program will only purchase interests from landowners who are willing to sell their fractional interests. There are approximately 150 reservations with 2.9 million purchasable fractional interests owned by approximately 245,000 individuals (the whereabouts of approximately 13 percent of these individuals are currently unknown). A fractionated tract is a

tract held in trust or restricted status that has two or more owners. The Program will be purchasing fractional interests in trust or restricted land. The Program will not be purchasing fee lands.

5. What reservations will be involved?

There are approximately 150 reservations with fractionated tracts of land with more than 245,000 unique owners.

Following government-to-government consultations, the Department refined the key criteria that will guide initial implementation of the Program and the locations where offers will be made. The Buy-Back Program considers a number of factors as it moves forward, including severity of fractionation, degree of ownership overlap between locations, geographic location to maximize efficiency and resources, appraisal complexity, and readiness or availability of tribal staff. In particular, the Program has involved various types of tribal communities with different levels of tribal involvement at the outset of the Program – including locations with relatively fewer fractionated lands. A list of reservations where implementation has already occurred is available on the Program’s website: <http://www.doi.gov/buybackprogram>.

Once a reservation is scheduled for implementation, the Program conducts outreach (events, community meetings, Public Service Announcements, and other media engagement) on the reservation and releases further information to individuals owning interests within that reservation to ensure that individuals are aware of the opportunity to participate in the Buy-Back Program.

6. How is the order for implementation being determined?

Approximately 90 percent of the purchasable fractional interests are located within about 40 of the 150 plus locations with purchasable fractional interests. For efficiency, the Department is focusing initial efforts among these highly fractionated locations. The Buy-Back Program held an open solicitation from November 8, 2013, through March 14, 2014, during which tribes with jurisdiction over the most fractionated locations were invited to submit letters of interest or cooperative agreement applications for participation in the Program. The more than 50 submissions that were received helped to inform an initial implementation schedule, announced in May 2014 (<http://www.doi.gov/news/pressreleases/deputy-secretary-connor-announces-next-implementation-schedule-for-1-9-billion-land-buy-back-program.cfm>), for the Buy-Back Program through 2015. These locations represent more than half of the fractional interests and unique owners across Indian Country.

The Department will continue to pursue implementation activities with tribes at locations that represent the approximately 110 locations with the remaining 10 percent of the fractionated land. In fact, efforts are already underway at several less-fractionated locations including the Makah, Coeur d’Alene, Squaxin Island, Swinomish, Prairie Band Potawatomi, Quapaw, and Lummi Indian Reservations.

7. How does the Program determine what interests it will seek to acquire?

The Buy-Back Program will send offers to as many individuals as possible considering the following purchase factors to identify tracts:

- Completed appraisal,
- Tribal priority tracts,
- Level of fractionated ownership,
- Tract values, and/or
- Interested/willing sellers.

There is no fixed formula. The purchase factors and associated values/rates will be different for each reservation. The Buy-Back Program will continuously analyze and adjust the purchase factors during the time it spends at each reservation to obtain the most benefit for both the willing seller and the tribe.

8. How much money is expected to be spent buying back fractional interests in land?

The Claims Resolution Act of 2010 states that \$1.9 billion dollars will be placed in the Trust Land Consolidation Fund (Consolidation Fund). After implementation costs and the establishment of an Indian Education Scholarship Fund, a minimum of \$1.555 billion will be available to pay individual owners fair market value for the fractional interests they voluntarily decide to sell.

9. How are reservation purchase estimates determined?

To maximize the number of reservations participating in the Buy-Back Program, the Department uses initial purchase estimates at each reservation where the Program is active. In particular, the Department will apply a formula that considers three factors relevant to fractionation, including: 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 Consolidation Fund that could be used to purchase fractional interests within any one reservation.

10. What happens to land after it is purchased?

Interests sold will remain in trust, but ownership will be transferred to the tribe with jurisdiction over the land. This effort strengthens tribal sovereignty by unifying tribal lands for tribal benefit and use, such as economic development, housing, and cultural preservation.

11. When will individuals be able to sell their interests?

The Buy-Back Program began implementing the Program and purchasing interests at a small number of reservations in late 2013, beginning with Pine Ridge, the most highly fractionated reservation in the United States. The Program has proceeded in 2014 with implementation at more than ten locations, including the Rosebud, Makah, Fort Belknap, Quapaw, Gila River, Northern Cheyenne, Flathead (Confederated Salish and Kootenai Tribes), Umatilla, Coeur d'Alene, Lake Traverse (of the Sisseton-Wahpeton Oyate) and Crow Indian Reservations.

The Buy-Back Program will continue to expand to other reservations over the next several years, and individual owners will receive information about how they can participate in the Program when a reservation in which they own fractional interests is scheduled for implementation. The Buy-Back Program will use purchase estimates to ensure that as many reservations and individuals as possible will be able to participate in the Program.

12. How long does the Department have to implement the Buy-Back Program?

Per the terms of the Cobell Settlement Agreement, the Department has ten years from final approval of the settlement, which occurred on November 24, 2012.

13. What steps is the Program taking to ensure that the Program will be completed in ten years?

The Department is committed to implementing the Program in the most efficient and cost-effective manner possible, consistent with the goals set by the Cobell Settlement Agreement.

During the first year of the Program, the Department focused on joint planning with tribes, cooperative agreements, staffing, and designing and laying out the strategy, methods, and key systems for this ten-year Program. As of mid-September 2014, transactions worth more than \$125 million were successfully concluded by the Program, restoring the equivalent of more than 270,000 acres of land to tribes.

One approach that the Department is using to expend the Consolidation Fund in a timely manner is the use of mass appraisal techniques. The breadth, scale, limited funding, and bounded life span of the Program necessitate the use of mass appraisal methods where appropriate. The Department intends to implement the Program fairly and equitably, moving quickly to reach as much of Indian Country as possible during this ten-year period. Mass appraisal is an efficient way to quickly determine fair market value for a significant number of fractionated tracts. By using the mass appraisal method where applicable, the Program can maximize the number of owners who receive offers and the number of interests consolidated under tribal ownership.

14. How long does the Program plan to spend at each location?

Due to limitations on implementation costs as set forth by the Cobell Settlement Agreement, the Program cannot support a long-term presence at each location. The Program plans to spend 12 to 18 months at each location; however, this timeframe may be adjusted. Tribes may work with the Department to determine an appropriate timeframe based on their individual needs while negotiating their cooperative agreements with the Buy-Back Program.

15. Is the Indian Land Consolidation Program still reaching out to landowners?

The Land Buy-Back Program is a separate program from the Indian Land Consolidation Program (ILCP). As of October 2013, the ILCP is no longer acquiring fractional interests.

16. How much will individuals get for selling their fractional interests?

Willing sellers will receive fair market value for the interests they choose to sell. The Office of the Special Trustee for American Indians (OST) - Office of Appraisal Services (OAS) will conduct an appraisal to determine the fair market value for each tract of land that meets the criteria for purchase by the Program.

The value of specific fractional interests will be based on the interest's proportion to the whole tract. For example, if you own a five percent interest in a fractionated tract, then you would receive five percent of the fair market value of the whole tract if you decide to sell.

If there are mineral or timber rights associated with a property, they will be included in the valuation process. For those situations where mineral rights have a very small or no contributory value, a payment of \$7.50 per acre will be included in the total value of the land to account for the conveyance of the mineral rights.

In addition, to facilitate sales, the Buy-Back Program will provide landowners with a base payment of \$75 per offer, regardless of the value of the land, based on the estimated time and effort required for individual landowners to complete their conveyance documents. The \$75 Base Payment paid to individuals comes out of the Land Purchase portion of the Consolidation Fund.

More information is available in the Appraisal section of this document.

17. Why do interested sellers receive an extra base payment?

The Buy-Back Program will provide landowners with a base payment of \$75 per offer, regardless of the value of the land, to reflect the estimated time and effort required for individual landowners to complete their conveyance documents.

18. What is the Program doing to protect landowners – particularly elderly landowners – who may receive large amounts of money from sales?

It is important that landowners think strategically about how to use the funds they receive from selling their fractional interests as these are one-time large payments and lease income generated from these lands will no longer be received by the seller. The Program encourages landowners to understand their options and provides resources to assist with decision making. The Office of the Special Trustee for American Indians, in collaboration with First Nations Development Institute (FNDI), provides financial training that includes but is not limited to budgeting, investing, planning for the future, fraud scams, power of attorney risks, and what landowners do on day one with a large payment, which empowers individuals to grow and sustain personal wealth. In addition, this financial training encourages landowners to confirm the status of their IIM account (e.g., voluntary hold or unrestricted/auto-disburse, check or debit card or direct deposit, names and addresses are proper and current) before the Buy-Back Program funds are posted to the account and held on deposit or disbursed.

For more information on financial awareness, landowners can visit their nearest OST office, call the Trust Beneficiary Call Center at (888) 678-6836, or go to the OST's financial empowerment website at:

http://www.doi.gov/ost/individual_beneficiaries/financial_empowerment/index.cfm.

19. How does the Cobell Education Scholarship Fund relate to the Buy-Back Program?

The Cobell Settlement provides for a Scholarship Fund that will make financial assistance available to Native American students attending post-secondary vocational and college institutions. Transfers to this fund are made according to the following formula:

- For every purchase of a fractional tract interest costing less than \$200, \$10 will be added to the Scholarship Fund.
- For every purchase of a fractional tract interest costing between \$200 and \$500, \$25 will be added to the Scholarship Fund.
- For purchases of a fractional tract interest over \$500, five percent of the purchase price will be added to the Scholarship Fund.

Funds placed into the Scholarship Fund do not come from the purchase amount paid to landowners and will not reduce the amount that an owner will receive on a purchase.

The Settlement authorizes a five-member Board of Trustees to govern the Scholarship Fund, and the Scholarship Fund is administered by the non-profit organization the American Indian College Fund(AICF). The Scholarship Fund is designed to permit 20 percent of the Fund's portfolio to support directly graduate students through the American Indian Graduate Center (AIGC). Both AICF and AIGC developed an application process to begin awarding scholarships.

20. Why are scholarship funds not being returned specifically to the location where the land was purchased?

The Settlement authorizes a five-member Board of Trustees to govern the Cobell Education Scholarship Fund, which is managed separately by two non-profit organizations: the American Indian College Fund (AICF) and the American Indian Graduate Center (AIGC). These organizations are dedicated to providing financial assistance to Native American students attending post-secondary vocational and college institutions across the country. The Settlement does not direct funds back specifically to locations, but instead gives AIGF and AIGC the power to manage the solicitation for and distribution of funds for Indian students in need nationwide.

II. Tribes

21. What opportunity is there for tribes to play an active role in the implementation of the Buy-Back Program?

The success of the Program hinges on tribal leadership, tribal participation, and tribal facilitation. The Buy-Back Program is interested in partnering with tribes to gain their direct participation in land consolidation efforts. Tribes have the opportunity to actively participate in the process, including identifying acquisition priorities, conducting appraisals, and leading owner outreach

and education. Tribes are encouraged to become involved in the Program and funds are available to support tribal involvement through cooperative agreements.

Tribes are not required to enter into cooperative agreements to participate in the Program. In certain cases, such as when a tribe is not seeking funding to partner with the Department on land consolidation efforts, it may be unnecessary and other vehicles, such as memorandums of agreements (MOA), may be used. More information is available on the Program website at: <http://www.doi.gov/buybackprogram/tribes/agreements.cfm>.

22. How much funding can tribes expect to receive through a cooperative agreement?

The Department recognizes the uniqueness of each location and tribe. The Program will continue to consult with tribes individually, and will continue to evaluate each tribal proposal before initiating Buy-Back Program activities on the respective reservations. The Program's Tribal Relations Advisors are responsible for working closely with each tribe to understand its concerns and goals. Each cooperative agreement between the Program and individual tribes is unique in time, scope and responsibilities based on the expressed interests of the tribe. 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. The Department will partially advance or fully reimburse cooperative agreement funds to the tribe for costs incurred in accordance with the tribe's submitted application and the applicable award terms and conditions.

23. How are cooperative agreements evaluated?

The Department has developed and posted a comprehensive cooperative agreement template and guidance documents, including a list of frequently asked questions, on the Program website (<http://www.doi.gov/buybackprogram/tribes/agreements.cfm>) 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 will use several criteria to evaluate cooperative agreement applications. 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.

24. Which tribes have entered into agreements with the Buy-Back Program so far?

The Department has entered into agreements with ten tribes (Coeur d'Alene Tribe, Confederated Salish and Kootenai Tribes of the Flathead Reservation, Confederated Tribes of the Umatilla Indian Reservation, Fort Belknap Indian Community of the Fort Belknap Reservation of Montana, Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Oglala Sioux Tribe of the Pine

Ridge Reservation, Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, Standing Rock Sioux Tribe of North and South Dakota, and Crow Tribe of Montana). The Department also has a Memorandum of Agreement with Gila River Indian Community of the Gila River Indian Reservation and an informal working agreement with Makah Indian Tribe of the Makah Indian Reservation.

25. Will liens be imposed on interests acquired and transferred to tribes?

No, unlike fractional interests previously acquired under the Indian Land Consolidation Program, no liens are placed on interests that are acquired and transferred to tribal ownership under the Buy-Back Program.

26. When will participating tribes have access to the Department's data for landowner outreach?

Due to the limited timeframe and funding available, the Program 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 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 (CATT) to obtain the land ownership information needed for identifying tribal priorities and planning outreach activities. The Department is also working to make necessary updates to its tracking systems (system of record notices or SORNs) so that it can better facilitate sharing of data with tribal representatives.

27. What can our Tribal Nation and/or staff do now until the Buy-Back Program is implemented on our reservation?

There are several things that tribal leaders can do to prepare for the Buy-Back Program. One important activity is to become familiar with the four land consolidation phases. In particular, tribal staff can be identifying tribal participation activities they would like included in a cooperative agreement, determining tribal acquisition priorities, and encouraging interested and willing sellers to register their contact information with the Trust Beneficiary Call Center. More information and resources are available on the Program website at: <http://www.doi.gov/buybackprogram/tribes/preparation.cfm>.

Please note that additional frequently asked questions specifically related to cooperative agreements can be found at <http://www.doi.gov/buybackprogram/tribes/agreements.cfm>.

III. Legislative Proposals

28. There have been requests from Tribal Nations that the Buy-Back Program invest the money for the Program so that additional funds can be returned to Indian Country. Why is this not already being implemented?

The Department has no authority to invest the Consolidation Fund. Under the terms of the Cobell Settlement, unexpended funds revert to the Department of the Treasury if not expended

within ten years. The Department of the Interior has no authority to utilize, disperse, retain or invest any portion of the Consolidation 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.

29. Congress is currently considering legislation that would change the Cobell Settlement to allow tribes to contract with the Buy-Back program under the Indian Self-Determination and Education Assistance Act (using contracts or compacts). How would this change impact the Program?

The Department strongly supports the spirit of self-determination and self-governance. Although the Cobell Settlement Agreement and the Claims Resolution Act do not allow the use of Indian Self-Determination and Education Assistance Act (ISDEAA) agreements to operate Buy-Back Program activities, the Program gains the benefit of tribal participation by entering into cooperative agreements and more informal arrangements with tribes to undertake land consolidation tasks.

The Department and the Obama Administration are strong supporters of the ISDEAA. However, any proposed changes to the Buy-Back Program must take into account the progress the Program has made thus far, and the inevitable delays that new disruptions will cause. Authorization of a new process will cause unwanted delays as the Program addresses implementation of the provisions, and such changes would necessitate additional funding for implementation.

If the ISDEAA were extended to the Buy-Back Program, the ten-year deadline established by the Settlement would likely need to be extended to provide the Program, and tribes, the additional time necessary:

- to consult with tribes to determine an appropriate method for allocating implementation costs under ISDEAA agreements;
- to provide training and conduct security clearances for tribal staff at each location that seeks to accept responsibility for the Program's acquisition phase through an ISDEAA agreement;
- for tribes that choose to use a site-specific appraisal approach rather than a mass appraisal approach; and
- for the Buy-Back Program to transition to any amendment to ensure that it has proper staff and intra-agency agreements in place to implement the law. Even if every tribe chose to utilize ISDEAA agreements, the Program would need to maintain staff to provide final approval of appraisals and land transfers.

Moreover, acquisition and payment processing time may vary from tribe to tribe under ISDEAA agreements. Currently, the Department is able to mail and print 2,000 offer packages per day and pay owners who sell their fractional interests promptly (since December 2013, the Program has paid owners an average total of more than \$700,000 per day). The process integrates land title and trust fund systems of record, which enables landowners to receive their purchase offer packages shortly after appraisal completion. Payments for accepted offers are deposited directly into their Individual Indian Money (IIM) accounts typically within an average of five days of receiving a complete, accepted offer package.

IV. Participation & Eligibility

30. What is staff doing to ensure that landowners get timely information about the Buy-Back Program?

While the Program welcomes the active participation by tribes, staff recognize our commitment to ensure that individual landowners have the information they need to make informed decisions about their land. The Program has held outreach events, launched advertisements in national and regional media outlets, developed and aired Public Service Announcements on tribal radio stations, and worked to achieve story placement in prominent Indian and regional publications. In addition to the purchase offer package, each landowner receives two postcards – one prior to receiving the Package and one after – to alert them to the upcoming opportunity. The Program has also partnered with tribal and allottee organizations on events, publications and speaking opportunities to reach as many landowners as possible.

31. Why should I sell my fractional land interests?

It is your choice whether to sell some, all, or none of your fractional land interests. If you choose to sell any portion of your interests, you will be paid fair market value for your interests – interests which may be of little or no economic benefit to you now. Many individuals have a strong personal and cultural connection to land which transcends economic value. By selling your interests through the Buy-Back Program, you help to preserve the Indian land base because interests purchased by the Program and restored to tribes will remain in trust forever.

Selling your interests results in land consolidation, which enables tribes to manage and use reservation lands for the benefit of the tribal community and generations to come. Tribes are able to utilize consolidated lands for purposes consistent with the values and needs of their members, whether for housing, community centers or businesses, or for recreational or cultural purposes. Reducing fractionation reinforces the cultural and economic future of tribes, and every interest you choose to sell reduces fractionation.

32. What is the process for individuals to be able to sell their fractional interests in land?

Once a reservation is scheduled for Buy-Back Program implementation and fair market values have been determined, individuals owning fractional interests in purchasable tracts on the reservation will receive a purchase offer package with the required documents and instructions for selling their interests.

Information on selling fractional interests will be distributed through outreach events and local media outlets prior to and during the actual Buy-Back Program implementation at each reservation. Each landowner will also receive at least two postcards alerting them to the purchase offer and pending deadline.

33. Will the Buy-Back Program purchase land interests that I own in fee status?

No, the Buy-Back Program may only purchase interests held in trust or restricted status.

34. Will the Buy-Back Program purchase life estate or joint tenancy interests?

No. Life estate and joint tenancy interests are not purchasable interests under the Buy-Back Program. Joint tenancy is a form of ownership by two or more persons of the same property who share equal ownership of the property and have the equal, undivided right to keep or dispose of the property. Land is not purchasable under the Program if joint tenancy applies to 100 percent of the tract.

35. Will the Program purchase tracts with Operations and Maintenance liens?

Yes. If a landowner's Individual Indian Money (IIM) account is restricted and has a credit hold due to outstanding irrigation Operations and Maintenance charges and the landowner chooses to sell any or all interests included in the purchase offer, the outstanding charges may be deducted from the purchase price before funds are deposited into their IIM account. To determine how outstanding O&M charges could impact a willing seller's accepted offer, the landowner should confirm whether their IIM account is restricted and has a credit hold due to outstanding irrigation O&M charges. If the landowner's account is unrestricted, there will be no deductions from the purchase offer.

36. Can an individual who only owns mineral rights sell?

Yes, a landowner who owns only mineral rights can sell those rights through the Buy-Back Program to the tribe with jurisdiction.

37. Can a seller retain their mineral rights while selling the surface?

Not under this Program. The Buy-Back Program will only purchase the whole interest (mineral and surface), which supports the Program's goal of consolidating fractional interests.

38. Do I have to sell my land to the Buy-Back Program?

No. Participation in the Buy-Back Program is voluntary.

39. Do I have to sell everything?

No. You may decide to sell some, none or all of your interests. If you decide not to sell any of the tracts listed on the Inventory, you don't need to do anything. Neither the deed nor the Inventory has to be returned if you decide not to sell.

40. What if I change my mind about selling?

Be sure to carefully consider your decision before returning your documents for processing. Selling your owner interests in tracts of land that produce lease income means that you will no longer receive that income. Once your documents are processed, the conveyance is approved, and funds are transferred into your Individual Indian Money (IIM) account, the sale is final.

41. If I sell some of my interests, can I later decide to sell more of them?

Be sure to carefully consider your decision before returning your documents for processing. If you choose to sell only some of your interests, you may not be able to sell the rest at a later date. Once you submit your offer package to the Program for processing, you cannot submit a duplicate set of documents for additional interests that may have been included in the Purchasable Interest Inventory that is part of your package. The Program cannot process multiple sales for a landowner under the same offer set.

However, if you have already sold some of your interests by returning your offer package and later wish to sell more, you can register as a willing seller with the Trust Beneficiary Call Center at (888) 678-6836. If you do this, you may receive a second offer package for your remaining interests if and when a subsequent wave of offers is made at your location.

42. Is this income taxable?

No. Under the Internal Revenue Service Ruling 57-407, income derived by an Indian from the sale of trust property is not subject to Federal Income Tax.

43. Will funds from the sale be considered a source of income that affects my ability to participate in assistance and social service benefit programs?

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. Please refer your case worker to the relevant part of the Claims Resolution Act of 2010, P.L. 111-291 (Section 101(f)) (<http://www.gpo.gov/fdsys/pkg/PLAW-111publ291/pdf/PLAW-111publ291.pdf>) that discusses impacts on assistance programs.

44. What happens to my Individual Indian Money (IIM) account after I sell?

If you sell all interests that you hold, then your Individual Indian Money (IIM) account may be closed because selling your owner interests in tracts of land that produce revenue means that you will no longer receive revenue from those tracts. Please note that the account may only be closed after you receive payment for the sale of all of your interests and there are no other reasons that your IIM account should remain active. You will receive one final Statement of Performance showing the transaction of sale to the tribe. If you inherit new interests and your account was closed, your IIM account will be re-opened with the same account number. If you retain some of your interests your IIM account will remain open and you will continue to receive your Statement of Performance showing the land interests you retain and any income generated as a result of those interests.

45. If I choose not to sell my interests, how do I make sure my heirs get this land?

The Office of the Special Trustee for American Indians (OST) can provide more information on estate planning options under the American Indian Probate Reform Act. Information is also available on their website: <http://www.doi.gov/ost/index.cfm>.

Information is also available from the Division of Probate at <http://www.bia.gov/WhoWeAre/BIA/OTS/Probate/index.htm>.

46. What happens to the land interests for Whereabouts Unknowns (WAU)?

The Cobell Settlement authorizes the purchase of these interests. However, the Buy-Back Program hopes to identify only willing sellers whose addresses are current to actively participate in the Program. The following applies to purchases of WAU interests:

- The Cobell Land Settlement Agreement and enacting legislation require the Department to make stringent notifications and undertake efforts to locate WAU landowners of trust or restricted property.
- If after five years these owners cannot be located, they shall automatically be deemed to have consented to the conveyance of fractionated interests that are located on a parcel of highly fractionated land.
- Any interests purchased from WAU individuals will be paid for at fair market value and the funds will be deposited in the individual's Individual Indian Money (IIM) account.

47. How will the Buy-Back Program affect me if I have a Home Site Lease or another type of lease on any of the tracts in which I have an owner interest?

If you are currently living on or utilizing the land in which you own an interest, and do not have a lease or permit, you should contact your local BIA Realty Office before selling your ownership interest. Existing leases will run their term.

It is important to note: by selling your fractional interests in income producing tracts of land (e.g., tracts with a lease, contract, or permit), you will no longer receive revenue from those tracts. Future revenue will be paid to the tribe with jurisdiction as the new interest owner.

48. What happens if I own fractionated shares at several different locations?

If you own land on more than one reservation, you may receive multiple offer packages over the course of the ten-year Program. Offers are generated by location.

49. Does selling my land impact my ability to receive individual settlement payments from the Cobell Settlement?

No, selling your interests under the Buy-Back Program does not impact your eligibility to receive individual settlement payments from the Cobell Settlement, which are being handled by the Garden City Group. Inquiries regarding Settlement payments should be directed to (800) 961-6109, and more information is available at <http://www.indiantrust.com>.

V. Willing Sellers

50. I am interested in selling my owner interests. What is required?

Landowners do not need to wait until the Buy-Back Program begins implementation to get more information. If you are interested in registering as a willing seller, learning more about how the Program works, understanding the appraisal process, or receiving financial training and resources

to think strategically about how to use funds you may receive, please visit <http://www.doi.gov/buybackprogram> or call the Trust Beneficiary Call Center at (888) 678-6836.

When you call the Call Center, you should make sure your Individual Indian Money (IIM) account information is current and let the operator know that you are interested in selling your interests. The Call Center will need your name, Social Security Number, IIM account number, and current address. The Call Center can then identify you as an interested seller and will make sure your current name and contact information are on file.

Owners will not receive a purchase offer until:

- The reservation containing their fractional owner interests is scheduled for implementation;
- Appraisal work has been completed; and
- The analysis of the purchase criteria for the Buy-Back Program on the reservation is completed.

51. When and how will I receive a purchase offer?

You will only receive a purchase offer if: (1) the reservation on which you own fractional interests is scheduled for implementation; (2) you have been identified as owning an interest in a fractionated tract of land (defined as a tract in trust or restricted status with two or more owners); (3) the tract has been appraised; and (4) your interests meet the purchase criteria for the reservation.

If these conditions are met, you will receive a purchase offer package in the mail. Please see Section VII for questions about this process.

52. Can you tell me if my relative is going through with the sale or how much they received? Can my husband or other relative call in for me?

No. The Privacy Act of 1974 prevents us from sharing personal information without written permission from the individual landowner.

VI. Appraisals

53. What is fair market value?

Fair market value is the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would have sold on the effective date of the appraisal, after a reasonable exposure time on the open market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal (Interagency Indian Land Acquisition Conference, Uniform Appraisal Standards for Federal Land Acquisition, 5th ed. (Appraisal Institute 2000)).

54. How is the value of the land determined?

Value estimates for the Buy-Back Program are performed by a licensed appraiser. An appraisal is the act or process of developing an opinion of value. A determination of value is developed and reported by a licensed appraiser researching many factors, including location, local market values and sales patterns, condition of the property, and zoning. One of the methods to calculate an accurate value is to use sales of comparable properties located near the subject property, which have recently sold. The subject property is compared to the sales to see how it aligns or differs with the comparable sales in many factors which may include size, location, access, utilities, etc. The appraiser then analyzes and makes adjustments to compensate for differences between the comparable sales and the subject property and reconciles for a final opinion of value.

The appraiser values land as if it is non-fractionated (single owner) and in fee status.

55. How is the calculation determined for the purchase offer I received?

An appraisal will determine the fair market value that will be offered for purchase of individual interests in various trust or restricted Indian lands.

56. Is the fair market value the same for each tract in which I have an owner interest?

The fair market value may vary for each tract depending on a variety of factors, including land use, location, acreage, access, and local market conditions. For example, you may own an interest in a 50-acre agriculture tract that is planted in dry crop (wheat). You might also own an interest in another tract that is a 50-acre agricultural tract, but this tract is an irrigated apple orchard. Upon researching the market, the appraiser may find comparable sales of irrigated orchards in the area running at \$3,000 per acre and dry crop running at \$500 per acre. Another example is that you may have two 50-acre tracts adjacent to each other and each is dry crop running at \$500 per acre. There is a high probability the value will be the same. Each property is unique and may have a different value.

57. Why is the Program using mass appraisal techniques?

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 value many acres simultaneously. It will also assist in ensuring effective, efficient and expeditious use of the Consolidation Fund, and reduces the risk of being required to return some portion of the Consolidation 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.

58. What reviews has the Department undertaken to evaluate the appraisal method being used?

Appraisal methods used by the Buy-Back Program will conform to the Uniform Standards of Professional Appraisal Practice. This ensures that there is no subjective analysis or conflicts of interest in the Program's appraisal process. To ensure that the valuation methods and techniques meet industry standards, the Department also obtained a third-party review of its valuation techniques from The Appraisal Foundation (TAF). TAF 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. TAF'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 at: <http://www.doi.gov/buybackprogram/appraisals.cfm>.

59. When are the appraisals for the Buy-Back Program completed?

Appraisals are completed as close to the offer date as can be reasonably managed for each location. The appraisal completion dates will vary for each reservation depending on the schedule.

60. What is the shelf life of the fair market value for my tracts?

Because continual reassessment of market values is not feasible given the Program's limited time frame and limited implementation funds, the Program has established an administrative appraisal validity period of up to nine months from the date of valuation. 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 can decline to sell.

61. Where can I find out what the fair market value is for each tract in which I hold an owner interest?

This information can be found within the Purchasable Interests Inventory, which is included with the purchase offer package.

62. Why is the amount of my offer more/less than ILCP offers made in the past?

The Buy-Back Program is a separate program from the Indian Land Consolidation Program (ILCP). As of October 2013, the ILCP is no longer acquiring fractional interests. The ILCP also purchased interests from willing sellers at fair market value, but it was at the value at the time those interests were purchased. Fair market value is based on the current market and circumstances, and it changes over time. As a result, the values the Program is now offering under the Buy-Back Program for interests in a tract may not be the same as previous ILCP values for interests in the tract.

63. Will my mineral and timber rights be included in the valuation?

Yes, if there are mineral or timber rights associated with a property, they will be included in the valuation process. Please note, these rights may have very small or no contributory value if there are no minerals or timber present or if there is no market for the minerals or timber. For those situations where the mineral rights have a very small or no contributory value, a payment of \$7.50 per acre will be included with the total value of the land to account for the conveyance of the mineral rights.

64. Will improvements be included in the valuation?

As a general rule, the Department considers permanent improvements to be non-trust property. 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 comparable properties to allow for mass appraisal, such properties may not be included in mass appraisal. These properties will be set aside for consideration depending upon tribal priorities, timing, and availability of funding for a site-specific appraisal or other work.

65. If a person believes there is something valuable beneath the surface of their land, are they responsible for a separate valuation?

No, the landowner is not responsible for a separate valuation. The federal government is responsible for the valuation of the property (surface and subsurface rights). If that same person owns the combined estate (mineral and surface), then the mineral values are considered in the highest and best use scenario. The owner of any rights can confirm that they are being paid for all their rights and that all those rights were considered in the valuation by checking the purchase offer package.

66. Can I request an appraisal?

The Program is working with tribal representations at each location to identify which lands to appraise. If you are interested in participating in the Program, please see the answer to Question 48 on steps to take to ensure OST has your updated contact information.

67. Will individuals be able to negotiate the value of the land?

No. Due to implementation time and cost constraints as set forth by the Cobell Settlement Agreement, the Program does not have the time or resources to negotiate each sale price. If an owner is not satisfied with the amount offered for the sale of their interests, they may decline to sell. Additionally, individuals can sell some of their interests but keep others.

VII. *Selling Your Land*

68. What is included in the purchase offer package?

A purchase offer package includes:

1. **Cover Letter**
2. **Instructions:** The instructions explain how to fill out the documents necessary for the sale of your fractional ownership interests.
3. **Deed:** The deed is the legal document for the conveyance of any fractional ownership interests you choose to sell, as reflected on the Purchasable Interests Inventory included in the offer package. Completing and returning the deed and Purchasable Interests Inventory signifies your acceptance of the Purchase Offer in whole or in part. If you decide to sell some or all of your interests, you must sign your name exactly as it is typed on the deed in front of a Notary Public, and the Notary must completely fill out and place their seal on the lower portion of the deed.
4. **Purchasable Interests Inventory (Inventory):** The Inventory lists your ownership interests in each tract of trust or restricted land that is eligible for purchase under the Buy-Back Program, and the value of your interests in each tract. There are two parts to the Inventory: a SUMMARY and a DETAIL section. Additional information, including a legal description of each tract and the Scholarship Fund contribution for each of your interests, is included in the DETAIL section. Use the “Item” number for cross reference between the SUMMARY and the DETAIL section. If you decide to sell some or all of your interests, all pages of both sections of the Inventory must be returned.
5. **Map(s):** Maps show the general location of the tracts of land in which you own fractional interests.
6. **Self-Addressed Return Envelope:** The Package includes an envelope to allow you to return the completed Purchase Offer free of charge for processing by the Bureau of Indian Affairs (BIA).

The Program’s website has a section to help landowners become familiar with offer package materials at: <http://www.doi.gov/buybackprogram/landowners/offer-docs.cfm>. The Trust Beneficiary Call Center is available to assist you if you have any questions at (888) 678-6836.

The Indian Land Tenure Foundation has also produced a useful brochure to help landowners walk through offer package documents, which is available at:
http://www.doi.gov/buybackprogram/landowners/upload/ILTF_Pamphlet_Final.pdf.

69. What do I do when I receive a purchase offer package?

There are four key steps to take when considering your purchase offer:

1. First, review the deed and Purchasable Interests Inventory (Inventory) to assure your name and personal information are correct, and then determine whether to sell any or all of your ownership interests listed on the Inventory. If your name or other personal

information is not correct, **do not complete and return the deed and Inventory**. Instead, contact the Trust Beneficiary Call Center at (888) 678-6836 or visit your local Office of the Special Trustee for American Indians (OSTI) office to get any necessary corrections made, after which you will be provided with a new purchase offer package.

2. If opting to sell, use the Inventory to fill in the bubble adjacent to each ownership interest you wish to sell, or select the “Sell All Tracts” bubble if you wish to sell all interests.
3. In front of a Notary Public, sign the deed exactly as your name is typed. A Notary Public is required in order to validate the signature and to serve as the official witness. Make sure the Notary completely fills out and places a visible seal on the lower portion of the deed.
4. Return the original signed and notarized deed, along with all pages of the Inventory (both the SUMMARY and the DETAIL sections), in the self-addressed, postage paid envelope provided. **You must return the original documents in order for the sale to be processed.**

70. Does my deed need to be notarized in the state in which my ownership interests are being sold?

No, the deed may be notarized in any state.

71. Can I make changes to the deed?

No. The deed is a legal document. It must be filled out neatly and completely. White out, cross outs, or stray markings will void the document. If necessary, a new deed may be requested. The Trust Beneficiary Call Center can assist with fulfilling this request at (888) 678-6836.

72. Will I get a copy of the deed that I returned?

The seller may make a copy of the signed, notarized deed and Purchasable Interests Inventory before returning them. **You must return the original documents in order for the sale to be processed.** A copy of the deed can be requested from any BIA Realty Office but will not be provided by the Program once the conveyance is completed.

73. Will I be contacted when the sale/conveyance is complete?

An Acknowledgement Notice will be mailed to each seller upon approval of the sale. The Notice specifies the amount deposited to the seller’s Individual Indian Money account for the interests sold, and the amount contributed by the Program to the Cobell Scholarship Fund on the seller’s behalf. The contribution is not deducted from the seller’s payment.

74. Who did I inherit interests from?

Individuals may contact the Trust Beneficiary Call Center at (888) 678-6836 for assistance in determining who their interests were inherited from.

75. Will the tracts listed on my Purchasable Interest Inventory be the same as those listed on my Statement of Performance?

Not all of the tracts on your Statement of Performance may be listed on your Purchasable Interests Inventory. The Inventory will only list those tracts that the Program is offering to purchase.

76. I need more specific information about my land ownership interests. Where can I obtain additional assistance?

Individuals may contact the Trust Beneficiary Call Center at (888) 678-6836 for more information about their interests, or visit the local Bureau of Indian Affairs or Office of the Special Trustee for American Indians office for further assistance.

77. How long do I have to decide whether to sell all or some of my interests?

Purchase offers are valid for 45 calendar days from the date of the Cover Letter in the offer package. Signed and notarized deeds and the corresponding Purchasable Interests Inventory must be post-marked by the deadline indicated in the Cover Letter.

78. What happens if I return my package and it's incomplete?

In order for your package to be processed, the required documents must be filled out correctly and returned to the Program within 45 days. Required documents include the Purchasable Interests Inventory (both the SUMMARY and DETAIL sections) and the signed and notarized deed. If any of the required documents are missing, or if the documents are filled out incorrectly, the Program may provide you with new documents to complete if time and resources allow. If time and resources don't allow, your sale will be declined, but you may receive a new offer if a second wave of offers is made for the location.

79. I returned my purchase offer package and have received an Acknowledgement of Conveyance Letter. What does it mean?

An Acknowledgement Notice is mailed to each seller upon closing of the Sale/Conveyance. The Notice will list the amount deposited into the seller's Individual Indian Money account for the purchase of the owner interests that the seller selected on the Purchasable Interests Inventory. The letter lists:

- Base Payment of \$75;
- Total Payment Amount; and
- Amount disbursed to Indian Education Scholarship Fund

80. When and how will I be paid?

When your completed purchase package is received by the Program within the established timeframe, the Buy-Back Program has 60 days to process your payment. When BIA approves the purchase, payment will be made to your Individual Indian Money account.

81. I received a “reminder” postcard from DOI. What does it mean?

Approximately half way through each 45-day window, the Program will send “reminder” postcards to landowners who already received a purchase offer package. If you have already returned your purchase offer package, you do not need to do anything further. If you received a postcard, but did not receive a purchase offer package, please contact the Trust Beneficiary Call Center at (888) 678-6836 immediately so they can help you receive a replacement package.

82. What if I miss the 45-day deadline to accept my offer?

If you own fractional land interests on a reservation and missed the 45-day deadline to accept your offer, you may:

- Return your offer (including a signed, notarized deed) even though it is past the deadline. This late submission will be reviewed based on capacity, appraisal expiration, and the availability of funds. We cannot guarantee acceptance of late submissions.
- Call the TBCC and indicate you are a Willing Seller. As resources allow, the Buy-Back Program may send offers to landowners who are interested in selling their interests after the Program’s offer response deadline for a particular location provided there is a current appraisal and funds are available.