

Justification for emergency approval of an information collection request for the Planning Initiative of the Department of the Interior's Land Buy-Back Program for Tribal Nations

- **Why following the normal clearance process is reasonably likely to lead to public harm and to disrupt the collection of information.**

We seek emergency approval for information collection for the Land Buy-Back Program for Tribal Nations (Program) Planning Initiative because following the normal Paperwork Reduction Act clearance procedures is reasonably likely to result in public harm and to disrupt the collection of information as discussed below.

The Secretary of the Interior established the Program to implement the land consolidation provisions of the Settlement Agreement in *Cobell v. Salazar*, No. 96-CV-1285-JR. As a result, the Program is now carrying out its work in accordance with the Claims Resolution Act of 2010 (Public Law 111-291). The Settlement provided for a \$1.9 billion Trust Land Consolidation Fund to consolidate fractional land interests across Indian Country.

The Program allows interested individual owners to receive payments for voluntarily selling their land. All lands sold will immediately be held in trust for the tribe with jurisdiction. There are approximately 150 unique reservations that have fractional interests. Tribal leadership, participation, and facilitation are crucial to the success of the Program.

The Settlement Agreement provides ten years for Program implementation. Consequently, the Program, its federal partners, and the Program beneficiaries (i.e., tribal nations and landowners with purchasable fractional interests), have limited time to plan and execute our work. The Program began its work in 2012 and must conclude its work in 2022. Work on 42 locations on our current implementation schedule is set to conclude in approximately mid-2017. To have adequate time to prepare for implementation at additional locations, the Program must determine its next schedule by early 2016. An implementation schedule must be determined sufficiently in advance to allow for the necessary coordination and preparation activities (e.g., performing mapping activities, preparing appraisals and mineral evaluations, planning and conducting outreach activities, etc.).

Failure to immediately implement the collection of tribal expressions of interest will result in the Program developing a schedule without the significant benefit of input from eligible tribal governments. Without immediately collecting and reviewing input from tribal governments that exercise jurisdiction over locations not on our current implementation schedule, the Program risks harming our tribal nation beneficiaries by planning our work without an understanding of (1) whether they are interested in the Program, (2) how ready they are for implementation, and (3) what their priorities are for the Program.

Additionally, there are almost 245,000 owners of nearly three million fractional interests who are eligible to participate in the Program. Individuals who choose to sell their interests receive payments directly into their Individual Indian Money accounts. Any delay in implementing the

Program will cause public harm to landowners who are depending on receiving these payments. It also undermines the Program and Department's commitment to strengthen tribal sovereignty by freeing up resources that have been locked-up due to fractionation.

Lastly, the Program must stay on schedule to avoid inefficient use of the Trust Land Consolidation Fund Administrative Costs, which are capped at 15 percent of the total Fund.

- **This information collection is essential to the Department of the Interior's mission.**

The Program embodies the priorities set forth by the Obama Administration's goal to build effective partnerships with American Indian communities, promote sustainable economic development and tribal culture and protect tribal lands. The Program generates new opportunities to work more efficiently, stimulate community dialogue and facilitate land use planning, while ensuring that lands stay in trust for the benefit of tribal nations.

The Program is carrying out its work in accordance with the Claims Resolution Act of 2010 (Public Law 111-291). The Act requires that "[t]he Secretary shall consult with Indian tribes to identify fractional interests within the respective jurisdictions of the Indian tribes for purchase in a manner that is consistent with the priorities of the Secretary" (124 Stat. 3067). Moreover, the obligation to engage in meaningful consultations with Federally-recognized tribes is rooted in the United States Constitution and Federal treaties, statutes, executive orders and policies. Federal agencies are required to consult on actions that will have substantial, direct effect or implications for tribal nations, including regulations, rulemakings, policy, guidance, legislative proposals, grant formula changes, and operational activities.

In light of the Program's duty to consult with tribes, we are planning this information collection request to obtain information from the remaining eligible tribal governments regarding their interest in implementing the Program at their locations and their readiness to do so. The Program will evaluate the expressions of interest provided by tribal governments, among other factors, as it develops its next implementation schedule.

- **The Program has consulted with several tribal nations regarding our planned information collection request.**

The Program consulted with a diverse sample of tribes about the planned collection request and incorporated their feedback to the degree possible.