

ORDER NO. 3325

Subject: Land Buy-Back Program for Tribal Nations

Sec. 1 Purpose. This Order establishes the Land Buy-Back Program for Tribal Nations (Buy-Back Program) in the Office of the Secretary to ensure implementation of all land consolidation aspects of the Settlement Agreement in *Cobell v. Salazar*, No. 96-CV-1285-JR.

Sec. 2 Background. The *Cobell* Settlement Agreement (as confirmed by the Claims Resolution Act of 2010 (Pub. L. No. 111-291) and approved with finality after appeals were exhausted to the U.S. Supreme Court (Settlement)), provides for a \$1.9 billion Trust Land Consolidation Fund (Fund). The Settlement charges the Department of the Interior (Department) with the responsibility to expend the Fund within a 10-year period to acquire, at fair market value, fractional interests in trust or restricted land that individuals are willing to sell to the Department. Acquired interests will remain in trust or restricted status and be consolidated for beneficial use by tribal communities. As an additional incentive to participate in the Buy-Back Program, the Settlement provides that a portion of the Fund will be contributed to an Indian Education Scholarship Fund for American Indian and Alaska Native students when individuals sell fractional interests under the Buy-Back Program. As provided in the Settlement, administrative costs, including support for the Secretarial Commission on Trust Reform, must not exceed 15 percent of the Fund. Given the size, limited duration, and importance of the Fund and Buy-Back Program, the Buy-Back Program will be established in the Office of the Secretary, subject to the oversight of the Deputy Secretary, to facilitate coordinated engagement and accountability within the Department and streamlined projects and the prioritization of resources.

Sec. 3 Authority. This Order is issued under the authority of Reorganization Plan No. 3 of 1950 (64 Stat. 1262), as amended; and the Settlement.

Sec. 4 Consultation. The Department recognizes its obligation to engage in government-to-government consultation with Tribal Nations in connection with the Settlement. Consultation has been underway since 2011, before final approval of the Settlement, and the Department will continue consultations regarding the implementation of the Buy-Back Program.

Sec. 5 Goals and Priorities of the Buy-Back Program. The Buy-Back Program is a collaborative endeavor that will depend upon the expertise and direct involvement of all relevant bureaus and offices of the Department, as well as tribes, in order to realize the historic

opportunities afforded by the Settlement. The Buy-Back Program has the following goals and priorities:

- a. Reduce the number of fractional interests in trust or restricted lands, giving priority to the most highly fractionated tracts of land in accordance with the Settlement;
- b. 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;
- c. Increase the number of trust or restricted tracts in which the tribe has majority ownership in order to facilitate economic development or other uses;
- d. Target fractionated tracts that are amenable to cost-efficient valuation techniques;
- e. Actively consult with tribes to realize opportunities for tribal participation and assistance and to identify and accommodate their acquisition priorities to the fullest extent practicable consistent herewith;
- f. Actively report progress and communicate with Indian country throughout the life of the Buy-Back Program;
- g. Provide clear, concise information and guidance to individual Indian land owners concerning their fractional interests and the opportunity to voluntarily participate in the Buy-Back Program; and
- h. Manage administrative expenses in the most cost-efficient manner possible, in a way that facilitates effective, long-term trust management and systems integration.

Sec. 6 Responsibilities and Functions. The Buy-Back Program will draw on the expertise and capabilities throughout the Department, including, in particular, the Assistant Secretary – Indian Affairs; Bureau of Indian Affairs; Office of the Special Trustee for American Indians; Assistant Secretary – Land and Minerals Management; Office of the Solicitor; the Assistant Secretary – Policy, Management and Budget; and the Office of the Secretary. New positions, including those referenced herein, will be established to ensure accountability. The high-level board described in Section 6.b will provide oversight.

a. **Buy-Back Program Manager and Tribal Liaison.** The Buy-Back Program is headed by a Program Manager in the Office of the Secretary who reports to the Deputy Secretary. The Program Manager provides leadership, coordination, communication, management, reporting, and oversight; maintains strong, collaborative government-to-government relationships with tribes, in part by establishing cooperative agreements with tribes

and by active consultation, which will be managed by a Tribal Liaison; manages the Fund in accordance with the Settlement; and establishes performance-based reimbursable support agreements or memorandums of understanding to facilitate Fund expenditures by bureaus and offices.

b. **Tribal Nations Land Buy-Back Oversight Board (Board).** A Board is hereby established to provide policy guidance, ideas for improvement, oversight, and other assistance to the Buy-Back Program. The Secretary, or the Deputy Secretary as designee, shall chair the Board, which shall include the following members: Solicitor; Assistant Secretary – Indian Affairs; Special Trustee for American Indians (or the Principal Deputy Special Trustee as designee); Director, Bureau of Indian Affairs; Deputy Assistant Secretary – Technology, Information & Business Services; and Director, Bureau of Land Management.

c. **Bureaus and Offices.** The Buy-Back Program will be accomplished with the direct participation and full cooperation of the bureaus and offices reporting to the Assistant Secretary – Indian Affairs; Special Trustee for American Indians; the Assistant Secretary – Policy, Management and Budget; and the Assistant Secretary – Land and Minerals Management. Bureaus and offices will implement the Buy-Back Program in a manner that ensures tracking and accountability for use of the Fund.

(1) Bureau of Indian Affairs will have an Acquisition Director with primary responsibility for planning and executing land acquisition and title related functions of the Buy-Back Program.

(2) Office of the Special Trustee for American Indians will have primary responsibility for determining fair market values for trust or restricted tracts with fractional ownership interests, which will be managed by a Deputy Director for Valuations; and developing an accountable process to post payments from the Fund to individual Indian money accounts for the acquisition of fractional interests.

Sec. 7 **Buy-Back Program Requirements.**

a. In coordination with the Program Manager, the heads of all bureaus and offices identified in Section 6.c will ensure that performance measures and standards regarding the Buy-Back Program are included in employee performance appraisal plans for the employees that directly support the Buy-Back Program and that ratings reflect input received from the Program Manager.

b. Each bureau and office with primary responsibility will coordinate with and report regularly to the Program Manager regarding their implementation of the Buy-Back Program as may be further outlined in written agreements or memorandums of understanding.

c. Bureaus and offices will provide the Program Manager or a designee with access to all records, systems, documents, files, and other material, as well as to any officer and employee or contractor thereof, as the Program Manager deems necessary for Buy-Back Program implementation.

d. The Program Manager, bureaus, and offices will ensure that proper internal controls are in place, funds are expended appropriately, and auditors have access to all pertinent records and financial reports.

Sec. 8 Delegations. All of the authority necessary to carry out the responsibilities and functions of the Buy-Back Program is delegated to the Program Manager. This authority may be further delegated. Officials in the bureaus and offices described in Section 6 are delegated the authority necessary to carry out the responsibilities and functions herein.

Sec. 9 Expiration Date. This Order is effective immediately. It will remain in effect until its provisions are converted to the Departmental Manual or until it is amended, superseded, revoked, or until the Fund is fully expended or the time period expires, whichever occurs first.

Secretary of the Interior

Date: