

entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from participation in this prize contest, whether the injury, death, damage, or loss arises through negligence or otherwise. By participating in this Challenge, contestants agree to indemnify the Federal Government against third party claims for damages arising from or related to Challenge activities.

#### Registration Process for Participants

All Contestants could register on the competition Web site, <http://www.huduser.gov/challenge>. Interested parties can also read all official rules and sign up to receive more information and competition updates on this site.

*Submission Period Begins:* 12:01 a.m., EDT, December 11, 2015.

*Submission Period Ends:* 11:59 p.m., EDT, February 8, 2016.

#### Amount of the Prize

The winning team of the competition will be awarded \$20,000. The runner-up team will be awarded \$10,000. Prizes awarded under this competition may be subject to Federal income taxes. HUD will comply with the Internal Revenue Service withholding and reporting requirements, where applicable.

#### Basis Upon Which Winner Will Be Selected

Submissions to the competition will be assessed by an informed jury of approximately five practitioners and experts in the fields of architecture, urban planning, affordable housing, and other relevant areas, in compliance with the requirements of the COMPETES Act. Jury members will be named after the commencement of the competition.

The jury will make decisions based on the following criteria: Completeness of design, applicability, financial and economic viability, planning criterion, and innovation and creativity.

#### Additional Information

The finalists will be invited to a site visit of the PHA in early March, with expenses paid for two team members. All rules and competition information and updates can be found at [www.huduser.gov/challenge](http://www.huduser.gov/challenge).

*Copyright and Intellectual Property:* Upon submission, each team warrants that the team members are the sole owners of the submission, and that the submission is wholly original to the team and does not infringe on any

copyright or other rights of any third party of which the team is aware.

*Submission Rights:* By participating in this Challenge, each Team grants to HUD an irrevocable, paid-up, royalty-free, non-exclusive license to post, link to, share, and display publicly on the Web. The Public Housing Authority may use ideas from submissions in their future efforts to address the affordable housing design issue.

#### Compliance With Rules and Contacting Contest Winners

Finalists and the Contest Winners must comply with all terms and conditions of these Official Rules, and winning is contingent upon fulfilling all requirements herein. The initial finalists will be notified by email after the date of the judging.

#### Privacy

Personal information provided to HUD by Contestants registering or filling out the submission form through [huduser.gov](http://huduser.gov) is protected by the Privacy Act, and is used to respond to Contestants in matters regarding their submission, announcements of entrants, finalists, and winners of the Contest. Winners are permitted to cite that they won this contest.

#### General Conditions

HUD reserves the right to cancel, suspend, and/or modify the Competition, or any part of it, for any reason, at HUD's sole discretion.

Participation in this competition constitutes a contestant's and team's full and unconditional agreement to abide by the competition's official rules found at <http://www.huduser.gov/challenge>.

**Authority:** 15 U.S.C. 3719

Dated: January 5, 2016.

**Katherine O'Regan,**

*Assistant Secretary for Policy Development and Research.*

[FR Doc. 2016-00520 Filed 1-12-16; 8:45 am]

**BILLING CODE 4210-67-P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

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### HEARTH Act Approval of Ohkay Owingeh Regulations

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** On January 4, 2016, the Bureau of Indian Affairs (BIA) approved

the Ohkay Owingeh leasing regulations under the HEARTH Act. With this approval, the Tribe is authorized to enter into the following type of leases without BIA approval: Business; residential; agricultural wind and solar resource; public; religious; educational; cultural; and other authorized purposes.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sharlene Round Face, Bureau of Indian Affairs, Division of Real Estate Services, MS-4642-MIB, 1849 C Street NW., Washington, DC 20240, at (202) 208-3615.

#### SUPPLEMENTARY INFORMATION:

#### I. Summary of the HEARTH Act

The HEARTH (Helping Expedite and Advance Responsible Tribal Homeownership) Act of 2012 (the Act) makes a voluntary, alternative land leasing process available to Tribes, by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. 415. The Act authorizes Tribes to negotiate and enter into agricultural and business leases of Tribal trust lands with a primary term of 25 years, and up to two renewal terms of 25 years each, without the approval of the Secretary of the Interior. The Act also authorizes Tribes to enter into leases for residential, recreational, religious, or educational purposes for a primary term of up to 75 years without the approval of the Secretary. Participating Tribes develop Tribal leasing regulations, including an environmental review process, and then must obtain the Secretary's approval of those regulations prior to entering into leases. The Act requires the Secretary to approve Tribal regulations if the Tribal regulations are consistent with the Department's leasing regulations at 25 CFR part 162 and provide for an environmental review process that meets requirements set forth in the Act. This notice announces that the Secretary, through the Assistant Secretary—Indian Affairs, has approved the Tribal regulations for the Ohkay Owingeh.

#### II. Federal Preemption of State and Local Taxes

The Department's regulations governing the surface leasing of trust and restricted Indian lands specify that, subject to applicable Federal law, permanent improvements on leased land, leasehold or possessory interests, and activities under the lease are not subject to State and local taxation and may be subject to taxation by the Indian Tribe with jurisdiction. See 25 CFR 162.017. As explained further in the preamble to the final regulations, the Federal government has a strong interest

in promoting economic development, self-determination, and Tribal sovereignty. 77 FR 72440, 72447–48 (December 5, 2012). The principles supporting the Federal preemption of State law in the field of Indian leasing and the taxation of lease-related interests and activities applies with equal force to leases entered into under Tribal leasing regulations approved by the Federal government pursuant to the HEARTH Act.

Section 5 of the Indian Reorganization Act, 25 U.S.C. 465, preempts State and local taxation of permanent improvements on trust land. *Confederated Tribes of the Chehalis Reservation v. Thurston County*, 724 F.3d 1153, 1157 (9th Cir. 2013) (citing *Mescalero Apache Tribe v. Jones*, 411 U.S. 145 (1973)). Similarly, section 465 preempts state taxation of rent payments by a lessee for leased trust lands, because “tax on the payment of rent is indistinguishable from an impermissible tax on the land.” See *Seminole Tribe of Florida v. Stranburg*, No. 14–14524, \*13–\*17, n.8 (11th Cir. 2015). In addition, as explained in the preamble to the revised leasing regulations at 25 CFR part 162, Federal courts have applied a balancing test to determine whether State and local taxation of non-Indians on the reservation is preempted. *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 143 (1980). The *Bracker* balancing test, which is conducted against a backdrop of “traditional notions of Indian self-government,” requires a particularized examination of the relevant State, Federal, and Tribal interests. We hereby adopt the *Bracker* analysis from the preamble to the surface leasing regulations, 77 FR at 72447–48, as supplemented by the analysis below.

The strong Federal and Tribal interests against State and local taxation of improvements, leaseholds, and activities on land leased under the Department’s leasing regulations apply equally to improvements, leaseholds, and activities on land leased pursuant to Tribal leasing regulations approved under the HEARTH Act. Congress’s overarching intent was to “allow Tribes to exercise greater control over their own land, support self-determination, and eliminate bureaucratic delays that stand in the way of homeownership and economic development in Tribal communities.” 158 Cong. Rec. H. 2682 (May 15, 2012). The HEARTH Act was intended to afford Tribes “flexibility to adapt lease terms to suit [their] business and cultural needs” and to “enable [Tribes] to approve leases quickly and efficiently.” *Id.* at 5–6.

Assessment of State and local taxes would obstruct these express Federal policies supporting Tribal economic development and self-determination, and also threaten substantial Tribal interests in effective Tribal government, economic self-sufficiency, and territorial autonomy. See *Michigan v. Bay Mills Indian Community*, 134 S. Ct. 2024, 2043 (2014) (Sotomayor, J., concurring) (determining that “[a] key goal of the Federal Government is to render Tribes more self-sufficient, and better positioned to fund their own sovereign functions, rather than relying on Federal funding”). The additional costs of State and local taxation have a chilling effect on potential lessees, as well as on a Tribe that, as a result, might refrain from exercising its own sovereign right to impose a Tribal tax to support its infrastructure needs. See *id.* at 2043–44 (finding that State and local taxes greatly discourage Tribes from raising tax revenue from the same sources because the imposition of double taxation would impede Tribal economic growth).

Just like BIA’s surface leasing regulations, Tribal regulations under the HEARTH Act pervasively cover all aspects of leasing. See Guidance for the Approval of Tribal Leasing Regulations under the HEARTH Act, NPM–TRUS–29 (effective Jan. 16, 2013) (providing guidance on Federal review process to ensure consistency of proposed tribal regulations with part 162 regulations and listing required Tribal regulatory provisions). Furthermore, the Federal government remains involved in the Tribal land leasing process by approving the Tribal leasing regulations in the first instance and providing technical assistance, upon request by a Tribe, for the development of an environmental review process. The Secretary also retains authority to take any necessary actions to remedy violations of a lease or of the Tribal regulations, including terminating the lease or rescinding approval of the Tribal regulations and reassuming lease approval responsibilities. Moreover, the Secretary continues to review, approve, and monitor individual Indian land leases and other types of leases not covered under the Tribal regulations according to the part 162 regulations.

Accordingly, the Federal and Tribal interests weigh heavily in favor of preemption of State and local taxes on lease-related activities and interests, regardless of whether the lease is governed by Tribal leasing regulations or part 162. Improvements, activities, and leasehold or possessory interests may be subject to taxation by the Ohkay Owingeh.

Dated: January 6, 2016.

**Lawrence S. Roberts,**  
Acting Assistant Secretary—Indian Affairs.  
[FR Doc. 2016–00518 Filed 1–12–16; 8:45 am]  
BILLING CODE 4337–15–P

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

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### Land Buy-Back Program for Tribal Nations Under Cobell Settlement

**AGENCY:** Office of the Deputy Secretary, Interior.

**ACTION:** Notice.

**SUMMARY:** On November 4, 2015, the Department of the Interior released the 2015 Status Report for the Land Buy-Back Program for Tribal Nations (Buy-Back Program or Program), which summarizes its implementation to date: <https://www.doi.gov/buybackprogram/about>. Since December 2013, the Program has paid nearly \$715 million to individual landowners and has restored approximately 1.5 million acres of land to tribal governments.

The Report highlights the Program’s launch of two efforts to help determine its next implementation schedule. The two-pronged planning initiative seeks input from tribal governments and landowners who are interested in participating in the Program. Eligible tribal governments not already scheduled for implementation are invited to formally indicate their interest in participating in the Program no later than March 11, 2016. More information is available to tribal leaders at: <https://www.doi.gov/buybackprogram/tribes>. Additionally, the Program has launched a nationwide recruitment drive to identify and engage landowners who are interested in learning more about this opportunity.

The Department also announced that Deputy Secretary Connor will host a Listening Session on March 3, 2016, at the Albuquerque Convention Center in Albuquerque, New Mexico, from 1:00–5:00 p.m. MT.

**DATES:** The Department will accept expressions of interest from eligible tribal governments that exercise jurisdiction over locations not on its current implementation schedule until March 11, 2016. Interested landowners are strongly encouraged to contact the Trust Beneficiary Call Center (Call Center) at 888–678–6836 to register their interest and confirm contact information by that same deadline, in order for their interest to be incorporated as a factor as