

Service Agreements

Exploring Payment Formulas for
Tribal Trust Lands on the Oneida Reservation

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Many tribal governments throughout the United States struggle with developing and maintaining positive relationships with other governments that have overlapping boundaries.¹ Sometimes a tribe and other governments are able to strike an accord and realize a wide array of ways their respective governments can complement each other in order to provide the best services to their shared communities. Other times tribal and local governments find themselves tied up in litigation and negative public relations campaigns due to their inability to find a way to peacefully coexist. The Oneida Tribe of Indians of Wisconsin is no different: the tribe enjoys cooperative relationships with most local governments and uncooperative relationships with one. With any luck, tribes and local governments throughout the United States can learn from these experiences as they seek to work toward positive government-to-government relationships.

The Oneida Tribe and local governments have negotiated and continue to negotiate agreements to cover the costs of providing government services to these tax-exempt properties. The problem is that there is little guidance for tribes and local governments to use when considering how to value government services and how to determine what constitutes a fair and equitable payment. The purpose of this study is to use the Oneida Reservation as a qualitative case study to start to gain a better understanding of how the Oneida Tribe and local governments have determined how to structure their payments in hopes of providing guidance for future decision makers on the Oneida Reservation and on other reservation communities in the United States. Unlike other literature on the subject of state-tribal intergovernmental relationships, this study did not focus on increasing tribal sovereignty, questioning state

sovereignty, or empowering one government over the other. Rather, this study approached the problem from a community perspective with an end goal of providing guidance for tribal and local government decision makers who want to find ways to work together.

BACKGROUND

History of Landownership

In order to understand the current situation the Oneida Tribe faces with respect to its relationships with surrounding governments, an understanding of the tribe's history with respect to its land base is important. Prior to European contact, the Oneida people lived in what would later become New York State.² In the 1800s the Oneida people were dispossessed of their land through a series of illegal land transactions. At the same time, there was mounting pressure for New York tribes, including the Oneida, to move westward. In the 1820s the Oneida people moved to what would later become the state of Wisconsin. In 1838 the Oneida Tribe entered into a treaty with the United States, securing a 65,400-acre reservation.³ In 1887, as part of a federal Indian policy aimed at assimilating Indian people into mainstream society, Congress passed the General Allotment Act in an attempt to break up tribal landholdings throughout the United States, taking title from tribal governments and transferring ownership to individual tribal members.⁴ The majority of the land on the Oneida Reservation was allotted by 1891. With a handful of exceptions, this land became taxable within a few decades. Through tax foreclosures, mortgage foreclosures, and predatory acquisitions, the Oneida people lost title to much of the land on the Oneida Reservation. Although allotment did not disestablish or diminish the reservation, it had devastating effects on tribal land bases and the Indian community.

In the late 1920s and 1930s, through a publication now known as the Meriam Report, Congress learned that the Allotment Act had not succeeded in assimilating tribal members into mainstream society and had not improved the living conditions of Indian people.⁵ Federal Indian policy shifted to one of self-determination, and in 1934 Congress passed the Indian Reorganization Act (IRA) in an effort to restore management of tribal affairs to tribal governments and to provide a mechanism for tribes to reacquire land lost through the General Allotment Act.⁶ The

IRA allowed the federal government to take land into trust for individual tribal members and for Indian tribes.

The Oneida Tribe, like many other tribes, began the process of reacquiring land shortly after the enactment of the IRA.⁷ The tribe currently holds title to approximately 40 percent of the land on the reservation.⁸ Of the tribe's landholdings, the United States holds approximately half of that land in trust status for the tribe. The tribe is currently applying to have the remaining half of the land it holds in fee status to be taken into trust status. When land is placed into trust status, local governments can no longer impose real estate taxes on the property.⁹ Nonetheless, those governments are required to provide government services to the property.¹⁰

Like many other reservations throughout the United States, the Oneida Reservation contains a "checkerboard" landownership pattern as a direct result of the General Allotment Act and the IRA. This checkerboard pattern consists of noncontiguous tribal trust, individual tribal member trust, tribal fee, individual tribal member fee, and non-Indian fee parcels. In addition, the Oneida Tribe and seven local governments exercise varying levels of jurisdiction on the reservation: Outagamie County, Brown County, the town of Oneida, the village of Hobart, the city of Green Bay, the village of Ashwaubenon, and the town of Pittsfield.

Tribal and Local Government Services

Local governments provide a wide array of standard government services to all residents within their municipal boundaries, including maintaining roads and operating polls for state and federal elections.¹¹ The Oneida Tribe provides a wide array of services to its tribal members, including health care, elderly care, social services, housing, public works, waste and recycling pickup, and education.¹² In addition, the tribe provides a wide array of services to all the residents of the Oneida Reservation, including police protection, parks and recreation areas, cultural events, libraries, hunting and fishing permits, environmental restoration, public transportation, snow removal, and utility services.

Despite both governments providing a wide array of services, tribal services are not always similar to local government services. For example, the tribe has two public libraries on the reservation, while no other local governments offer similar services within the reservation boundaries.¹³

Similarly, the tribe relies on local governments to provide fire protection because the tribe does not have a fire department. In addition, an individual's status as a tribal member or as a nonmember and whether an individual lives on fee or trust land does not necessarily determine whose government services that individual will utilize. For example, a local government police officer and a tribal police officer generally render the same type of police protection throughout a community and to all individuals who are in need of that protection, regardless of whether that person is a tribal member and regardless of what type of land the individual is on. These types of complex considerations can make it difficult to calculate a fair and equitable service agreement payment.

Impacts of Taking Land into Trust Status

Since the passage of the IRA, the Oneida Tribe has been working to reacquire land on the Oneida Reservation and to have that land taken into trust status.¹⁴ Taking land into trust status restores the status of the land as inalienable, providing a safe environment to nurture and promote a tribe's culture, economy, and health and political infrastructure.¹⁵ Tribes also gain access to technical expertise from the Bureau of Indian Affairs for trust land, including leases, mortgages, easements, and trespass concerns.¹⁶ Tribes are also no longer obligated to pay real estate taxes on property once it is taken into trust status.

This loss of taxable land can have an impact on local governments.¹⁷ Before the federal government takes the land into trust, one of the factors it must consider is the impact the loss of taxes will have on the local governments. One way tribes can address this concern is by making payments to local governments through intergovernmental agreements such as service agreements.

LITERATURE REVIEW

Tax-Exempt Land Owned by Nonprofits

Research on the financial impacts of tax-exempt land on local government budgets generally addresses either land owned by nonprofit organizations or land owned by governments. Tax-exempt land held by nonprofit organizations primarily includes churches, cemeteries, and

private schools.¹⁸ Often, the local governments have to rely on voluntary payments from the nonprofit groups to make up some of the lost tax revenue.¹⁹ When local governments do succeed in obtaining payments from the nonprofit groups, local governments often lack a comprehensive source to track them, making it difficult to see trends in the use of these payments.

Tax-Exempt Land Owned by Federal and State Governments

The remaining research on the financial impacts of tax-exempt land on local government budgets involves land owned by federal, state, and tribal governments. With respect to federal- and state-owned tax-exempt land, these governments have been discussing how to address services provided to government-owned tax-exempt land for at least the past few hundred years.²⁰ Often, the local governments need to rely on the collection of payments in lieu of taxes (PILT) from the government landowners as compensation for municipal services the local governments provide to these tax-exempt properties.²¹ Federal and state laws often require PILT from these governments for municipal services using a variety of complex formulas.²² However, Congress can choose to not appropriate funds for PILT.²³ Appropriations for PILT were set to expire in 2013 and were extended into 2014; a current proposal would extend them again into 2015.²⁴ This uncertainty in payment appropriations can cause financial-planning difficulties for local governments.²⁵ On the other hand, one scholar pointed out that tax-exempt county forest land could offset local government budgets with state aid, timber revenue, increased tourism, and an increase in property value for lands adjacent to county forest land.²⁶

Dayton Hall explored the tax-exempt land held by the federal government and the payment formulas used to determine the amount of the PILT to local governments.²⁷ While Hall recognized that federal land belongs to and benefits everyone, the study ultimately concluded that the calculations used to determine the payment amounts discriminated against less-populated regions with greater amounts of federal land. Those regions with smaller populations receive fewer PILT, because the formula to determine payment is based on population. However, that method of calculation does not adequately account for the cost of local government services to the federal properties. Hall ultimately called

for a change in the way the PILT are calculated but did not offer specific guidance on what those changes would look like except to suggest that tax-equivalency payments based on property values would be too complicated and inefficient.

Tax-Exempt Land Owned by Tribal Governments

The research on tribal trust land has primarily been dedicated to efforts of tribes to have land taken into tax-exempt trust status in order to restore the tribal land base, to reverse the impacts of the General Allotment Act, and to recognize the tax advantages of economic development on trust land.²⁸ Scholars point out that federal regulations require the United States to consider, among other factors, the “impact on state and local governments’ tax rolls” before deciding to take land into trust; however, limited research has been dedicated to discussing these financial impacts.²⁹

Frank Pommersheim studied the loss of tax revenue in several states and compared that revenue with the amount of litigation costs states and local governments expended to challenge the process to take land into trust.³⁰ When discussing South Dakota in particular, the study revealed that the loss in tax revenue was “quite modest, arguably less by several magnitudes than the cost of litigating these cases up and down the federal system. Indeed, the state has given no indication that it plans to adopt any new approach inside or outside its commitment to litigation.”³¹ As a solution, Pommersheim recommends requiring the federal government to make PILT to these local governments for the loss of tax revenue.

Amanda Hettler pointed out that some land removed from the tax rolls through trust acquisitions for tribes results in significant losses of tax revenue for local governments.³² Hettler recommended changes to the trust acquisition process that would include greater guidance for the federal government with respect to how much loss of tax revenue would tip the balance and outweigh the benefits of taking land into trust for an Indian tribe. However, Hettler did not pose any recommendations for how to address these lost tax revenues and did not discuss service agreements as a mechanism for doing so. In addition, the recommended change could place a bar on a tribe’s ability to take land into trust solely based on a local government’s desire to keep the property on the tax rolls, thereby defeating the intention of the IRA commitment to help tribes restore their land bases and exercise self-determination.

Kelsey Waples also discussed considerations to local governments when land is removed from the tax rolls, pointing out that the federal government cannot require tribes to make payments to local governments to compensate them for the loss of tax revenue.³³ Waples's study included an evaluation of 111 Bureau of Indian Affairs decisions to take land into trust for tribes. The study concluded that the process to take land into trust did not adequately take into consideration the loss of tax revenue to local governments and instead consisted of "an exercise in rubber-stamping."³⁴ Like Hettler, Waples called for changes to the trust acquisition process that would include greater participation by local governments and more consideration of the revenue losses local governments face when land is taken into trust. One of these changes would include having a process that "should strongly encourage inter-governmental agreements between tribes and affected communities that address the full range of impacts."³⁵

One thing these scholars agree on is the fact that there is no mandate on either tribes or the federal government to compensate local governments for the services local governments provide to trust property.³⁶ While there are federal mandates for payments for federal properties, Congress has not guaranteed any appropriations for PILT beyond 2014. Considering that tribal governments may provide similar services to tribal trust properties (along with other properties), it may not necessarily be the best policy decision to mandate or even "strongly encourage" tribes to make payments to local governments for tribal trust property when no similar mandates exist to recognize the financial contributions and government services tribes provide.

Intergovernmental Agreements

Tribes, like state and federal governments, enjoy immunity from other types of taxation beyond property taxes.³⁷ In Michigan the state and some tribes were able to reach agreements that set forth conditions when the tribes were exempt from taxation, as well as provisions concerning revenue sharing of the taxes the tribes collected. While these agreements did not address property taxes, they did begin to resolve jurisdictional disputes regarding a variety of other taxes addressed in the agreements, including sales tax, use tax, motor fuel tax, income tax, tobacco products tax, and business taxes. Likewise, tribes throughout

the United States are entering into intergovernmental agreements with states and local governments on a wide variety of issues, including taxation, the management of water resources, child welfare, and the administration of justice.³⁸

With no mandate to make any payments for municipal services to tribal trust land, scholars and practitioners debate whether tribes should voluntarily make these payments in the spirit of fostering positive government-to-government relationships. Some advocate for strengthening these intergovernmental relationships.³⁹ Some caution tribes against extending any trust to state or local government.⁴⁰ Ezra Rosser explained that tribes need to focus internally to improve internal governance.⁴¹ Michael Oeser argued that negotiating with state or local government legitimizes state sovereignty, as well as the state's ability to regulate tribes and tribal members.⁴² In light of the potential advantages and disadvantages of entering into intergovernmental agreements with state and local governments, each individual tribe needs to determine for itself whether good public policy calls for negotiating such agreements.

METHODOLOGY

This study reviewed the intergovernmental agreements between the Oneida Tribe and local governments. Twelve of these agreements addressed payments for local government services to tribal trust property. This study focused on the compensation formulas within each of the agreements to determine the methodology utilized to calculate final payments in each agreement. Table 1 outlines these various service agreements, their amendments, and their terms.

Findings

A preliminary evaluation of the contents of the service agreements reveals eight essential characteristics. The characteristics include (1) recognition that each government provides government services, (2) payment to local government and credits for services the tribe provides, (3) recognition of tribal authority over tribal land and tribal members, (4) recognition of limited local government authority over tribal land and tribal members, (5) an agreement that local governments will not object to fee-to-trust applications, (6) a commitment to share zoning, map-

Table 1. Service Agreements between Tribe and Local Governments

<i>Government</i>	<i>Agreement</i>	<i>Execution date</i>	<i>Term</i>
Ashwaubenon	Service agreement	03/30/1995	04/01/1995– 12/31/1998
	First amendment	06/04/1996	NA
	Second amendment	02/01/1999	01/01/1999–GC*
	Service agreement	11/16/2004	11/16/2004– 11/16/2007
	Service agreement	04/15/2011	01/01/2011– 01/01/2014
	Service agreement	12/30/2013	01/01/2014– 12/31/2018
Green Bay	Service agreement	10/16/1996	11/01/1996– 12/31/2006**
	Service agreement	03/09/2009	03/09/2009– 12/31/2024
Brown County	Service agreement	10/22/2001	09/01/2001– 11/07/2003
	Service agreement	05/29/2008	06/30/2008– 10/31/2023
	First amendment	09/18/2008	NA
	Second amendment	07/02/2010	NA
Village of Hobart	Service agreement	11/16/2004	11/16/2004– 11/16/2007
Town of Oneida	Service agreement	07/15/2005	07/01/2005– 06/30/2008
	First amendment	07/16/2008	07/01/2005– 06/30/09
	Second amendment	09/17/2009	07/01/2005– 06/30/2010
	Service agreement	07/27/2012	08/01/2012– 07/30/2015
Outagamie County	Service agreement	03/10/2006	01/01/2006– 12/31/2016

*This agreement contained provisions where the term terminates “when the Gaming Compact between the Oneida Nation and the State of Wisconsin is amended, renewed or terminates”

**An informal agreement to continue making payments until a new agreement is reached.

ping, land data, and census information, (7) a commitment to consider proposals to mitigate costs, and (8) dispute resolution. The purpose of this study was to focus on the first two of these characteristics related to determining the payment amount.

All of the service agreements recognized that local governments derive their revenue to support their government services from the collection of property taxes and agreed to pay for the services the local governments provide to tax-exempt tribal trust land. While the first service agreement in 1995 did not recognize a reciprocal contribution for tribal government services, each successive agreement did. Beginning with the second service agreement in 1996, the local governments consistently recognized that the tribe also provides services and agreed to provide the tribe a credit against the payment to the local government for those services. All of the succeeding service agreements contain both of these provisions.

An evaluation of the payment formulas within the service agreements reveals that the tribe and local government have developed a number of different formulas to arrive at a final payment amount that both governments determined was fair and equitable. The payment formulas within the service agreements are generally comprised of three distinct parts: (1) the primary payment formula making up the main compensation, (2) specific items making up the additional compensation, and (3) credit for services the tribe provides. Table 2 depicts the different formulas used to determine the final payment amount for the different service agreements.

Main Compensation

There are four types of formulas that may be used to determine compensation for government services: (1) a negotiated amount, (2) a ratio based on the cost of local government services, (3) a formula based on the cost of local government services, and (4) a formula based on one used by municipal governments in Wisconsin to determine how much to charge state and federal properties. The 2001 service agreement between Brown County and the tribe contains an example of a negotiated amount as “fair and equitable compensation for the above-mentioned governmental services provided to the Oneida Nation.” Three of the service agreements use a negotiated amount as the base line for the pay-

Table 2. Service Agreement Payment Formulas

Year	Government	Main compensation					Additional compensation						
		Negotiated Amount	Government Services Ratio	Government Services Formula	Gross Entitlement Formula	Fire Services	Commercial Properties	Street Improvements	Stormwater	Specific Items	Tribal Credit		
1995	Ashwaubenon	●				●							
1996	Green Bay		●			●	●	●				●	
2001	Brown County	●											●
2004	Ashwaubenon		●			●	●	●					●
2004	Village of Hobart		●					●					●
2005	Town of Oneida		●					●					●
2006	Outagamie County	●											●
2008	Brown County			●									●
2009	Green Bay			●				●	●			●	●
2011	Ashwaubenon			●				●					●
2012	Town of Oneida			●				●			●		●
2013	Ashwaubenon						●				●		●

ment. The service agreement language does not indicate how the parties reached this amount, only what the final amount was.

The remaining three formulas to determine the main compensation of the service agreements contain a descriptive basis for the payment. The government services ratio, used in four of the earlier service agreements, was an attempt to determine the base-line cost to the local government of providing services to the trust property. An example of this ratio language from the 1996 service agreement between the Oneida Tribe and the city of Green Bay is as follows:

The City shall value all property within the City of Green Bay (the City valuation) and, in the same manner, all trust property within the City (trust valuation) using the equalized fair market value. The net cost of operation shall be divided by the City valuation and the resulting ratio shall be referred to as the “service to valuation rate.” The “service to valuation rate” shall be multiplied by the “trust valuation” and the product thereof shall result in the cost of governmental services.⁴³

The government services formula, used in four of the most recent service agreements, is a modification of the ratio formula and applies individual credits for services the tribe provides. This formula breaks out each line item within the local government’s budget to apply individualized credits where the tribe provides a service similar to that provided by the local government. An example of this formula language from the 2008 service agreement between the tribe and Brown County is as follows:

The value of Tribal Trust Land (V) will be multiplied by the tax rate (TR), and the result of that multiplication will be divided by the total tax levy (TL) to arrive at a percentage which will be applied to each County budget line item (BL) for services benefitting Tribal Trust Land. Percentage credits (PC) will then be applied to offset the cost of governmental services provided by the Tribe.⁴⁴

Relying on a formula based initially on land value may not be a good fit for an area of the reservation that consists primarily of tribal gaming and retail with minimal tribal housing. Even liberally applying tribal credits to the government service formula may not produce a fair and

equitable payment amount. In recognition of this fact, in 2013 the tribe and the village of Ashwaubenon came up with a new formula to determine the payment. This formula was based on the state of Wisconsin formula that local governments use to determine how much to charge state and federal properties that are normally exempt from taxation.⁴⁵ While this formula does begin with the value of the property, it only takes into consideration the cost of municipal services such as garbage pickup, police, and fire protection. Because of the complex considerations tied to the variety of government services and the individuals receiving those services, these formulas can only approximate the true cost of local government services and cannot adequately consider the contributions the tribe makes through its government services.

Additional Compensation

In addition to the four types of formulas used to determine the main compensation for government services, the service agreements often contain additional provisions that add to the total amount of the payment. These include costs of fire services, additional local government cost to provide services to commercial properties, actual cost of street improvements along tribal trust and fee property, and costs to mitigate stormwater runoff from tribal trust and fee property. Some of the agreements also include specific line items where the tribe makes contributions to the local government based on shared priorities. For example, in the 2009 service agreement between the tribe and the city of Green Bay, the tribe agreed to contribute an additional annual amount to the city to help support the city's Bay Beach Wildlife Sanctuary. Another example can be found in the 2012 service agreement between the tribe and the town of Oneida. The final payment under that service agreement contained contributions for equipment improvement, town staffing, and a town trash clean-up event.

CONCLUSION

The Oneida Reservation has a unique history leading to checkerboard landownership patterns and the presence of tribal and local governments providing varying levels of government services. With respect to tribal trust land, the Oneida Tribe and local governments have been

working together for the past two decades to find equitable ways to recognize each other's government services through service agreements. The tribe and local governments used a variety of payment formulas over the years as a means of equitably compensating the local governments for providing municipal services while recognizing that the tribe provides services as well. In the future, the tribe and local governments will likely continue to work together to refine and reinvent the payment formulas within upcoming service agreements.

The preambles to these service agreements give some insight into the efforts the parties made to grapple not only with determining an equitable payment but with efforts to enhance positive working relationships. The relationships between tribes and local governments center on more than an exchange of payments. This study looked only at one aspect of one type of intergovernmental agreement tribes have with local governments. Tribes and local governments throughout the United States can learn from these experiences and decide for themselves whether and how they will engage each other to work through these issues. Further research into how other tribes and local governments work out similar agreements would significantly add to this knowledge base and provide further guidance.

NOTES

1. Nicholas Christos Zaferatos, "Planning the Native American Tribal Community: Understanding the Basis of Power Controlling the Reservation Territory," *Journal of the American Planning Association* 64, no. 4 (1998): 395–410. Much of Zaferatos's work was dedicated to a study of the struggles toward successful cooperative land-use planning between the Swinomish Indian Tribal Community and Skagit County, Washington. The tribe and county have overlapping boundaries. See also Zaferatos, "Tribal Nations, Local Governments, and Regional Pluralism in Washington State: The Swinomish Approach in the Skagit Valley," *Journal of the American Planning Association* 70, no. 1 (2004): 81–96.

2. Arlinda Locklear, "The Allotment of the Oneida Reservation and Its Legal Ramifications," in *Oneida Indian Experience: Two Perspectives*, ed. Jack Campisi and Laurence M. Hauptman (Syracuse, NY: Syracuse University Press, 1988), 83–93.

3. Treaty with the Oneida, 7 Stat. 566 (1838).

4. General Allotment Act, 25 U.S.C. § 331 (1887).

5. Many scholars have commented on the dismal failure of the goals of the General Allotment Act to assimilate Indian people. See Locklear, "Allotment." See also W. C. Canby, *American Indian Law in a Nutshell*, Nutshell series, 5th ed. (Minneapolis: West Group, 2004), 11–12.

olis: West, 2009); Armen H. Merjian, “Unbroken Chain of Injustice: The Dawes Act, Native American Trusts, and Cobell v. Salazar,” *Gonzaga Law Review* 46 (2010): 609.

6. Indian Reorganization Act, 25 U.S.C. § 465 et seq. (1934).

7. Canby, *American Indian Law*.

8. Oneida Geographic Land Information Systems, ownership map, copy on file with the author.

9. 25 U.S.C. § 465 (1934). The relevant portion of this section states: “Title to any lands or rights acquired pursuant to this Act . . . shall be taken in the name of the United States in trust for the Indian tribe or individual Indian for which the land is acquired, and such lands or rights shall be exempt from State and local taxation.”

10. Kelsey J. Waples, “Extreme Rubber-Stamping: The Fee-to-Trust Process of the Indian Reorganization Act of 1934,” *Pepperdine Law Review* 40 (2012): 251–1415.

11. *Village of Hobart v. Acting Midwest Regional Director, Bureau of Indian Affairs*, docket nos. IBIA 10-091, 10-092, 11-045, 10-107, 10-131, 11-002 (Interior Board of Indian Appeals, 2013).

12. Oneida Tribe of Indians of Wisconsin, <https://oneida-nsn.gov/>. The Oneida Tribe’s website provides information concerning the various services it provides to tribal members and to nonmembers.

13. Oneida Tribe of Indians of Wisconsin, <https://oneida-nsn.gov/>.

14. *Hobart v. Bureau of Indian Affairs*.

15. Frank Pommersheim, “Land into Trust: An Inquiry into Law, Policy, and History,” *Idaho Law Review* 49 (2013): 519–659.

16. See Title 25 of the Code of Federal Regulations, 25 C.F.R. Part 150—Land Records and Title Documents; 25 C.F.R. Part 162—Leases and Permits; 25 C.F.R. 169—Rights-of-Way over Indian Lands.

17. *Hobart v. Bureau of Indian Affairs*.

18. Thomas M. Ivacko, Debra Horner, and Michael Q. Crawford, “The Impact of Tax-Exempt Properties on Michigan Local Governments,” SSRN 2418503 (2014).

19. Daphne A. Kenyon and Adam H. Langley, *Payments in Lieu of Taxes: Balancing Municipal and Nonprofit Interests* (Cambridge, MA: Lincoln Institute of Land Policy, 2010); Kenyon and Langley, “The Municipal Fiscal Crisis and Payments in Lieu of Taxes by Nonprofits,” Lincoln Institute for Land Policy, <http://www.mrsc.org/artdocmisc/m58pilot.pdf> (2011); Kenyon and Langley, *The Property Tax Exemption for Nonprofits and Revenue Implications for Cities* (Washington, DC: Urban Institute, 2011). Kenyon and Langley dedicated significant research to local government efforts to secure payments from nonprofit organizations and how this uncertainty in future payments can cause concerns for the local government budget process. See also Thomas Longoria, “Predicting Use and Solicitation of Payments in Lieu of Taxes,” *Nonprofit and Voluntary Sector Quarterly* 43, no. 2 (2012): 338–54.

20. Devin Thomas Kenney, “How the West Was Bought: How a ‘Simple’ Payment to Compensate Local Governments Became an Uncontrollable Federal Subsidy,” SSRN 2497048 (2014).

21. Ivacko, Horner, and Crawford, "The Impact of Tax-Exempt Properties." See also Mary Lynne Corn, "PILT (Payments in Lieu of Taxes): Somewhat Simplified," Congressional Research Service, Library of Congress, 1998; Dayton L. Hall, "Payments in Lieu of Taxes: Congress's Flawed Solution to the Burden of Federal Land Ownership," *SSRN 2196683* (2013).
22. Jennifer Bodine and Tomas M. Koontz. "Impacts of Federal Lands on Local Government Tax Bases" (2003), <http://ess.osu.edu/sites/essl/files/imce/Impacts%20of%20Federal%20Lands%20on%20Local%20Government%20Tax%20Bases.pdf>.
23. Hall, "Payments in Lieu of Taxes."
24. United States Department of the Interior, "Payments in Lieu of Taxes," <http://www.doi.gov/pilt/index.cfm>.
25. Hall, "Payments in Lieu of Taxes"; Kenney, "How the West Was Bought."
26. Steven M. Davis, "The Forests Nobody Wanted: The Politics of Land Management in the County Forests of the Upper Midwest," *Journal of Land Use & Environmental Law* 28, no. 2 (2013): 197–225.
27. Hall, "Payments in Lieu of Taxes."
28. Pommersheim, "Land into Trust."
29. See Waples, "Extreme Rubber-Stamping."
30. Pommersheim, "Land into Trust."
31. Pommersheim, "Land into Trust," 538.
32. Amanda D. Hettler, "Beyond a Carcieri Fix: The Need for Broader Reform of the Land-into-Trust Process of the Indian Reorganization Act of 1934," *Iowa Law Review* 96 (2010): 1377.
33. Waples, "Extreme Rubber-Stamping." Waples criticized the fee-to-trust process for its failure to adequately account for local governments' loss of tax revenue but failed to recognize that tribal governments often provide similar government services to tribal members and nonmembers residing within tribal reservation boundaries.
34. Waples, "Extreme Rubber-Stamping," 292.
35. Waples, "Extreme Rubber-Stamping," 305.
36. Hettler, "Beyond a Carcieri Fix"; Waples, "Extreme Rubber-Stamping"; Pommersheim, "Land into Trust."
37. Matthew L. M. Fletcher, "The Power to Tax, the Power to Destroy, and the Michigan Tribal-State Tax Agreement," *University of Detroit Mercy Law Review* 82 (2004): 1.
38. Martin Papillon, "Adapting Federalism: Indigenous Multilevel Governance in Canada and the United States," *Publius: The Journal of Federalism* 42, no. 2 (2011): pjr032.
39. Matthew L. M. Fletcher, "Reviving Local Tribal Control in Indian Country," *Federal Lawyer* 53 (2006): 38–44; Joel H. Mack and Gwyn Goodson Timms, "Cooperative Agreements: Government-to-Government Relations to Foster Reservation

Business Development,” *Pepperdine Law Review* 20 (1993): 1295; Wenona T. Singel, “The First Federalists,” *Drake Law Review* 62 (2014): 775–885.

40. Michael Oeser, “Tribal Citizen Participation in State and National Politics: Welcome Wagon or Trojan Horse?,” *William Mitchell Law Review* 36, no. 2 (2010): 793–858; Ezra Rosser, “Caution, Cooperative Agreements, and the Actual State of Things: A Reply to Professor Fletcher,” *Tulsa Law Review* 42 (2006): 57.

41. Rosser, “Caution.”

42. Oeser, “Tribal Citizen Participation.”

43. Paragraph 5.a. of the 1996 service agreement between the Oneida Tribe and the city of Green Bay.

44. Paragraph 5.a. of the 2008 service agreement between the Oneida Tribe and Brown County.

45. Wis. Stat. § 70.119 (2013). The relevant portions of this statute describe what is included in the municipal service payments. “The state . . . shall make reasonable payments at established rates for water, sewer and electrical services and all other services directly provided by a municipality to state facilities . . . including garbage and trash disposal and collection, which are financed in whole or in part by special charges or fees” (§ 70.119[1]). Municipal services also include “police and fire protection, garbage and trash disposal and collection . . . and . . . any other direct general government service provided by municipalities to state facilities” (§ 70.119[3][d]).

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