

§ 900.232

conveyed or to be conveyed pursuant to the Alaska Native Claims Settlement Act 43 U.S.C. 1601 *et seq.*; or

(c) An express statutory obligation of the United States to third parties. This section only applies if the conflict was not addressed when the contract was first negotiated. This section only applies where the financial interests of the Indian tribe or tribal organization are significant enough to impair the Indian tribe or tribal organization's objectivity in carrying out the contract, or a portion of the contract.

§ 900.232 What must an Indian tribe or tribal organization do if an organizational conflict of interest arises under a contract?

This section only applies if the conflict was not addressed when the contract was first negotiated. When an Indian tribe or tribal organization becomes aware of an organizational conflict of interest, the Indian tribe or tribal organization must immediately disclose the conflict to the Secretary.

§ 900.233 When must an Indian tribe or tribal organization regulate its employees or subcontractors to avoid a personal conflict of interest?

An Indian tribe or tribal organization must maintain written standards of conduct to govern officers, employees, and agents (including subcontractors) engaged in functions related to the management of trust assets.

§ 900.234 What types of personal conflicts of interest involving tribal officers, employees or subcontractors would have to be regulated by an Indian tribe?

The Indian tribe or tribal organization would need a tribally-approved mechanism to ensure that no officer, employee, or agent (including a subcontractor) of the Indian tribe or tribal organization reviews a trust transaction in which that person has a financial or employment interest that conflicts with that of the trust beneficiary, whether the tribe or an allottee. Interests arising from membership in, or employment by, an Indian tribe or rights to share in a tribal claim need not be regulated.

25 CFR Ch. V (4-1-06 Edition)

§ 900.235 What personal conflicts of interest must the standards of conduct regulate?

The standards must prohibit an officer, employee, or agent (including a subcontractor) from participating in the review, analysis, or inspection of trust transactions involving an entity in which such persons have a direct financial interest or an employment relationship. It must also prohibit such officers, employees, or agents from accepting any gratuity, favor, or anything of more than nominal value, from a party (other than the Indian tribe) with an interest in the trust transactions under review. Such standards must also provide for sanctions or remedies for violation of the standards.

§ 900.236 May an Indian tribe elect to negotiate contract provisions on conflict of interest to take the place of this regulation?

Yes. An Indian tribe and the Secretary may agree to contract provisions, concerning either personal or organizational conflicts, that address the issues specific to the program and activities contracted in a manner that provides equivalent protection against conflicts of interest to these regulations. Agreed-upon contract provisions shall be followed, rather than the related provisions of this regulation. For example, the Indian tribe and the Secretary may agree that using the Indian tribe's own written code of ethics satisfies the objectives of the personal conflicts provisions of this regulation, in whole or in part.

Subpart P—Retrocession and Reassumption Procedures

§ 900.240 What does retrocession mean?

A retrocession means the return to the Secretary of a contracted program, in whole or in part, for any reason, before the expiration of the term of the contract.

§ 900.241 Who may retrocede a contract, in whole or in part?

An Indian tribe or tribal organization authorized by an Indian tribe may retrocede a contract.