

§ 900.242 What is the effective date of retrocession?

The retrocession is effective on the date which is the earliest date among:

- (a) One year from the date of the Indian tribe or tribal organization's request;
- (b) The date the contract expires; or
- (c) A mutually agreed-upon date.

§ 900.243 What effect will an Indian tribe or tribal organization's retrocession have on its rights to contract?

An Indian tribe or tribal organization's retrocession shall not negatively affect:

- (a) Any other contract to which it is a party;
- (b) Any other contracts it may request; and
- (c) Any future request by the Indian tribe or tribal organization to contract for the same program.

§ 900.244 Will an Indian tribe or tribal organization's retrocession adversely affect funding available for the retroceded program?

No. The Secretary shall provide not less than the same level of funding that would have been available if there had been no retrocession.

§ 900.245 What obligation does the Indian tribe or tribal organization have with respect to returning property that was used in the operation of the retroceded program?

On the effective date of any retrocession, the Indian tribe or tribal organization shall, at the request of the Secretary, deliver to the Secretary all requested property and equipment provided under the contract which have a per item current fair market value, less the cost of improvements borne by the Indian tribe or tribal organization, in excess of \$5,000 at the time of the retrocession.

§ 900.246 What does reassumption mean?

Reassumption means rescission, in whole or in part, of a contract and assuming or resuming control or operation of the contracted program by the Secretary without consent of the Indian tribe or tribal organization. There

are two types of reassumption: emergency and non-emergency.

§ 900.247 Under what circumstances is a reassumption considered an emergency instead of non-emergency reassumption?

(a) A reassumption is considered an emergency reassumption if an Indian tribe or tribal organization fails to fulfill the requirements of the contract and this failure poses:

- (1) An immediate threat of imminent harm to the safety of any person; or
- (2) Imminent substantial and irreparable harm to trust funds, trust lands, or interest in such lands.

(b) A reassumption is considered a non-emergency reassumption if there has been:

- (1) A violation of the rights or endangerment of the health, safety, or welfare of any person; or
- (2) Gross negligence or mismanagement in the handling or use of:
 - (i) Contract funds;
 - (ii) Trust funds;
 - (iii) Trust lands; or
 - (iv) Interests in trust lands under the contract.

§ 900.248 In a non-emergency reassumption, what is the Secretary required to do?

The Secretary must:

(a) Notify the Indian tribes or tribal organizations served by the contract and the contractor in writing by certified mail of the details of the deficiencies in contract performance;

(b) Request specified corrective action to be taken within a reasonable period of time, which in no case may be less than 45 days; and

(c) Offer and provide, if requested, the necessary technical assistance and advice to assist the contractor to overcome the deficiencies in contract performance. The Secretary may also make a grant for the purpose of obtaining such technical assistance as provided in section 103 of the Act.

§ 900.249 What happens if the contractor fails to take corrective action to remedy the contract deficiencies identified in the notice?

The Secretary shall provide a second written notice by certified mail to the Indian tribes or tribal organizations