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(3) The Secretary shall provide the Indian tribe or tribal organization with any documentation needed to transfer title to the remaining listed property to the Indian tribe or tribal organization.

(b) For government-furnished real property made available to an Indian tribe or tribal organization before October 25, 1994:

(1) The Secretary, in consultation with the Indian tribe or tribal organization, shall develop a list of the property furnished for use in a self-determination contract.

(2) The Secretary shall inspect any real property on the list to determine the presence of any hazardous substance activity, as defined in 41 CFR 101-47.202.2(b)(10). If the Indian tribe or tribal organization desires to take title to any real property on the list, the Indian tribe or tribal organization shall inform the Secretary, who shall take such steps as necessary to transfer title to the Indian tribe or tribal organization.

(c) For government-furnished real and personal property made available to an Indian tribe or tribal organization on or after October 25, 1994:

(1) The Indian tribe or tribal organization shall take title to all property unless the Indian tribe or tribal organization requests that the United States retain the title.

(2) The Secretary shall determine the presence of any hazardous substance activity, as defined in 41 CFR 101-47.202.2(b)(10).

**§ 900.88 What should the Indian tribe or tribal organization do if it wants to obtain title to government-furnished real property that includes land not already held in trust?**

If the land is owned by the United States but not held in trust for an Indian tribe or individual Indian, the Indian tribe or tribal organization shall specify whether it wants to acquire fee title to the land or whether it wants the land to be held in trust for the benefit of a tribe.

(a) If the Indian tribe or tribal organization requests fee title, the Secretary shall take the necessary action under Federal law and regulations to transfer fee title.

(b) If the Indian tribe or tribal organization requests beneficial ownership with fee title to be held by the United States in trust for an Indian tribe:

(1) The Indian tribe or tribal organization shall submit with its request a resolution of support from the governing body of the Indian tribe in which the beneficial ownership is to be registered.

(2) If the request is submitted to the Secretary of Health and Human Services for land under the jurisdiction of that Secretary, the Secretary shall take all necessary steps to effect a transfer of the land to the Secretary of the Interior and shall also forward the Indian tribe or tribal organization's request and the tribe's resolution.

(3) The Secretary of the Interior shall expeditiously process all requests in accordance with applicable Federal law and regulations.

(4) The Secretary shall not require the Indian tribe or tribal organization to furnish any information in support of a request other than that required by law or regulation.

**§ 900.89 When may the Secretary elect to reacquire government-furnished property whose title has been transferred to an Indian tribe or tribal organization?**

(a) Except as provided in paragraph (b) of this section, when a self-determination contract or grant agreement, or portion thereof, is retroceded, reassumed, terminated, or expires, the Secretary shall have the option to take title to any item of government-furnished property:

(1) That title has been transferred to an Indian tribe or tribal organization;

(2) That is still in use in the program; and

(3) That has a current fair market value, less the cost of improvements borne by the Indian tribe or tribal organization in excess of \$5,000.

(b) If property referred to in paragraph (a) of this section is shared between one or more ongoing contracts or grant agreements and a contract or grant agreement that is retroceded, reassumed, terminated or expires and the Secretary wishes to use such property in the retroceded or reassumed program, the Secretary and the contractor or grantee using such property shall

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negotiate an acceptable arrangement for continued sharing of such property and for the retention or transfer of title.

**§ 900.90 Does government-furnished real property to which an Indian tribe or tribal organization has taken title continue to be eligible for facilities operation and maintenance funding from the Secretary?**

Yes.

**CONTRACTOR-PURCHASED PROPERTY**

**§ 900.91 Who takes title to property purchased with funds under a self-determination contract or grant agreement pursuant to section 105(f)(2)(A) of the Act?**

The contractor takes title to such property, unless the contractor chooses to have the United States take title. In that event, the contractor must inform the Secretary of the purchase and identify the property and its location in such manner as the contractor and the Secretary deem necessary. A request for the United States to take title to any item of contractor-purchased property may be made at any time. A request for the Secretary to take fee title to real property shall be expeditiously processed in accordance with applicable Federal law and regulation.

**§ 900.92 What should the Indian tribe or tribal organization do if it wants contractor-purchased real property to be taken into trust?**

The contractor shall submit a resolution of support from the governing body of the Indian tribe in which the beneficial ownership is to be registered. If the request to take contractor-purchased real property into trust is submitted to the Secretary of Health and Human Services, that Secretary shall transfer the request to the Secretary of the Interior. The Secretary of the Interior shall expeditiously process all requests in accord with applicable Federal law and regulation.

**§ 900.93 When may the Secretary elect to acquire title to contractor-purchased property?**

(a) Except as provided in paragraph (b) of this section when a self-determination contract or grant agreement,

or portion thereof, is retroceded, re-assumed, terminated, or expires, the Secretary shall have the option to take title to any item of government-furnished property:

(1) Whose title has been transferred to an Indian tribe or tribal organization;

(2) That is still in use in the program; and

(3) That has a current fair market value, less the cost of improvements borne by the Indian tribe or tribal organization, in excess of \$5,000.

(b) If property referred to in paragraph (a) of this section is shared between one or more ongoing contracts or grant agreements and a contract or grant agreement that is retroceded, re-assumed, terminated or expires and the Secretary wishes to use such property in the retroceded or reassumed program, the Secretary and the contractor or grantee using such property shall negotiate an acceptable arrangement for continued sharing of such property and for the retention or transfer of title.

**§ 900.94 Is contractor-purchased real property to which an Indian tribe or tribal organization holds title eligible for facilities operation and maintenance funding from the Secretary?**

Yes.

**BIA AND IHS EXCESS PROPERTY**

**§ 900.95 What is BIA or IHS excess property?**

BIA or IHS excess property means property under the jurisdiction of the BIA or IHS that is excess to the agency's needs and the discharge of its responsibilities.

**§ 900.96 How can Indian tribes or tribal organizations learn about BIA and IHS excess property?**

The Secretary shall not less than annually send to Indian tribes and tribal organizations a listing of all excess BIA or IHS personal property before reporting the property to GSA or to any other Federal agency as excess. The listing shall identify the agency official to whom a request for donation shall be submitted.