

**§ 137.248**

**§ 137.248 What effect will a retrocession have on a retroceding Self-Governance Tribe's rights to contract or compact under the Act?**

A retrocession request shall not negatively affect:

(a) Any other contract or compact to which the retroceding Self-Governance Tribe is a party;

(b) Any other contracts or compacts the retroceding Self-Governance Tribe may request; and

(c) Any future request by such Self-Governance Tribe or an Indian Tribe to compact or contract for the same program.

**§ 137.249 Will retrocession adversely affect funding available for the retroceded program?**

No, the Secretary shall provide no less than the same level of funding that would have been available if there had been no retrocession.

**§ 137.250 How are funds distributed when a Self-Governance Tribe fully or partially retrocedes from its compact or funding agreement?**

Any funds not obligated by the Self-Governance Tribe and associated with the Self-Governance Tribe's returned PSFAs, less close out costs, must be returned by the Self-Governance Tribe to IHS for operation of the PSFA's associated with the compact or funding agreement from which the Self-Governance Tribe retroceded in whole or in part.

**§ 137.251. What obligation does the retroceding Self-Governance Tribe have with respect to returning property that was provided by the Secretary under the compact or funding agreement and that was used in the operation of the retroceded program?**

On the effective date of any retrocession, the retroceding Self-Governance Tribe, shall, at the option of the Secretary, deliver to the Secretary all requested property and equipment provided by the Secretary under the compact or funding agreement, to the extent used to carry out the retroceded PSFAs, which at the time of retrocession has a per item current fair market value, less the cost of improvements borne by the Self-Governance Tribe in

**42 CFR Ch. I (10-1-10 Edition)**

excess of \$5,000 at the time of the retrocession.

**Subpart M—Reassumption**

**§ 137.255 What does reassumption mean?**

Reassumption means rescission by the Secretary without consent of the Self-Governance Tribe of PSFAs and associated funding in a compact or funding agreement and resuming responsibility to provide such PSFAs.

**§ 137.256 Under what circumstances may the Secretary reassume a program, service, function, or activity (or portion thereof)?**

(a) Subject to the steps in §137.257, the Secretary may reassume a program, service, function, or activity (or portion thereof) and associated funding if the Secretary makes a specific finding relative to that PSFA of:

(1) Imminent endangerment of the public health caused by an act or omission of the Self-Governance Tribe, and the imminent endangerment arises out of a failure to carry out the compact or funding agreement; or

(2) Gross mismanagement with respect to funds transferred to the Self-Governance Tribe by a compact or funding agreement, as determined by the Secretary, in consultation with the Inspector General, as appropriate.

(b) Immediate reassumption may occur under additional requirements set forth in §137.261.

**§ 137.257 What steps must the Secretary take prior to reassumption becoming effective?**

Except as provided in §137.261 for immediate reassumption, prior to a reassumption becoming effective, the Secretary must:

(a) Notify the Self-Governance Tribe in writing by certified mail of the details of findings required under §137.256(a)(1) and (2);

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

(c) Offer and provide, if requested, the necessary technical assistance and advice to assist the Self-Governance Tribe to overcome the conditions that