

§ 1000.281

25 CFR Ch. VI (4–1–11 Edition)

§ 1000.281 Does FTCA cover employees of the Tribe/Consortium who are paid by the Tribe/Consortium from funds other than those provided through the self-governance AFA?

Yes, FTCA covers employees of the Tribe/Consortium who are not paid from AFA funds as long as the services out of which the claim arose were performed in carrying out the self-governance AFA.

§ 1000.282 May persons who are not Indians or Alaska Natives assert claims under FTCA?

Yes, non-Indian individuals served under the self-governance AFA, may assert claims under this Subpart.

§ 1000.283 If the Tribe/Consortium or Tribe's/Consortium's employee receives a summons and/or a complaint alleging a tort covered by FTCA, what should the Tribe/Consortium do?

As part of the notification required by 28 U.S.C. 2679(c), if the Tribe/Consortium or Tribe's/Consortium's employee receives a summons and/or complaint alleging a tort covered by FTCA, the Tribe/Consortium should immediately:

- (a) Inform the Assistant Solicitor, Procurement and Patents, Office of the Solicitor, Department of the Interior, Room 6511, 1849 C Street NW., Washington, DC 20240,
- (b) Inform the Tribe's/Consortium's tort claims liaison, and
- (c) Forward all of the materials identified in §1000.277(c) to the contacts given in §1000.283 (a) and (b).

Subpart M—Reassumption

§ 1000.300 What is the purpose of this subpart?

This subpart explains when the Secretary can reassume a program without the consent of a Tribe/Consortium.

§ 1000.301 When may the Secretary reassume a Federal program operated by a Tribe/Consortium under an AFA?

The Secretary may reassume any Federal program operated by a Tribe/Consortium upon a finding of imminent jeopardy to:

- (a) A physical trust asset;
- (b) A natural resource; or

(c) Public health and safety.

§ 1000.302 “What is imminent jeopardy” to a trust asset?

Imminent jeopardy means an immediate threat and likelihood of significant devaluation, degradation, damage, or loss of a trust asset, or the intended benefit from the asset caused by the actions or inactions of a Tribe/Consortium in performing trust functions. This includes disregarding Federal trust standards and/or Federal law while performing trust functions if the disregard creates such an immediate threat.

§ 1000.303 What is imminent jeopardy to natural resources?

The standard for natural resources is the same as for a physical trust asset, except that a review for compliance with the specific mandatory statutory provisions related to the program as reflected in the funding agreement must also be considered.

§ 1000.304 What is imminent jeopardy to public health and safety?

Imminent jeopardy to public health and safety means an immediate and significant threat of serious harm to human well-being, including conditions that may result in serious injury, or death, caused by Tribal action or inaction or as otherwise provided in an AFA.

§ 1000.305 In an imminent jeopardy situation, what must the Secretary do?

In an imminent jeopardy situation, the Secretary must:

- (a) The Secretary must immediately notify the Tribe/Consortium in writing following discovery of imminent jeopardy; or
- (b) If there is an immediate threat to human health, safety, or welfare, the Secretary may immediately reassume operation of the program regardless of the timeframes specified in this subpart.

§ 1000.306 Must the Secretary always reassume a program, upon a finding of imminent jeopardy?

Yes, the Secretary must reassume a program within 60 days of a finding of