

§ 900.249

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mail to the Indian tribes or tribal organizations served by the contract and the contractor that the contract will be rescinded, in whole or in part.

§ 900.250 What shall the second written notice include?

The second written notice shall include:

- (a) The intended effective date of the reassumption;
- (b) The details and facts supporting the intended reassumption; and
- (c) Instructions that explain the Indian tribe or tribal organization's right to a formal hearing within 30 days of receipt of the notice.

§ 900.251 What is the earliest date on which the contract will be rescinded in a non-emergency re-assumption?

The contract will not be rescinded by the Secretary before the issuance of a final decision in any administrative hearing or appeal.

§ 900.252 In an emergency re-assumption, what is the Secretary required to do?

- (a) Immediately rescind, in whole or in part, the contract;
- (b) Assume control or operation of all or part of the program; and
- (c) Give written notice to the contractor and the Indian tribes or tribal organizations served.

§ 900.253 What shall the written notice include?

The written notice shall include the following:

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(a) A detailed statement of the findings which support the Secretary's determination;

(b) A statement explaining the contractor's right to a hearing on the record under § 900.171 within 10 days of the emergency re-assumption or such later date as the contractor may approve;

(c) An explanation that the contractor may be reimbursed for actual and reasonable "wind up costs" incurred after the effective date of the rescission; and

(d) A request for the return of property, if any.

[61 FR 32501, June 24, 1996, as amended at 75 FR 31701, June 4, 2010]

§ 900.254 May the contractor be reimbursed for actual and reasonable "wind up costs" incurred after the effective date of rescission?

Yes.

§ 900.255 What obligation does the Indian tribe or tribal organization have with respect to returning property that was used in the operation of the rescinded contract?

On the effective date of any rescission, the Indian tribe or tribal organization shall, at the request of the Secretary, deliver to the Secretary all property and equipment provided under the contract which has 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.

§ 900.256 Will a re-assumption adversely affect funding available for the reassumed program?

No. The Secretary shall provide at least the same level of funding that would have been provided if there had been no re-assumption.