§ 1000.358 Can an initial review of the status of the trust asset be conducted?

If the parties agree and it is practical, the Secretary may determine the status of the trust resource at the time of the transfer of the function or at a later time.

§ 1000.359 What are the responsibilities of the Secretary's designated representative(s) after the annual trust evaluation?

The Secretary's representative(s) must prepare a written report documenting the results of the trust evaluation.

(a) Upon Tribal/Consortium request, the representative(s) will provide the Tribal/Consortium representative(s) with a copy of the report for review and comment before finalization.

(b) The representative(s) will attach to the report any Tribal/Consortium comments that the representative does not accept.

§ 1000.360 Is the trust evaluation standard or process different when the trust asset is held in trust for an individual Indian or Indian allottee?

No, Tribes/Consortia are under the same obligation as the Secretary to perform trust functions and related activities in accordance with trust protection standards and principles whether managing Tribally or individually owned trust assets. The process for conducting annual trust evaluations of Tribal performance of trust functions on behalf of individual Indians is the same as that used in evaluating performance of Tribal trust functions.

§ 1000.361 Will the annual review include a review of the Secretary's residual trust functions?

Yes, if the annual evaluation reveals that deficient performance of a trust function is due to the action or inaction of a bureau, the evaluation report will note the deficiency and the appropriate Department official will be notified of the need for corrective action. The review of the Secretary's trust functions shall be based on the standards in this subpart, other applicable law, and other Federal law.

§ 1000.362 What are the consequences of a finding of imminent jeopardy in the annual trust evaluation?

(a) A finding of imminent jeopardy triggers the Federal reassumption process (see subpart M of this part), unless the conditions in paragraph (b) of this section are met.

(b) The reassumption process will not be triggered if the Secretary's designated representative determines that the Tribe/Consortium:

(1) Can cure the conditions causing jeopardy within 60 days; and

(2) Will not cause significant loss, harm, or devaluation of a trust asset, natural resources, or the public health and safety.

§ 1000.363 What if the trust evaluation reveals problems that do not rise to the level of imminent jeopardy?

Where problems not rising to the level of imminent jeopardy are caused by Tribal action or inaction, the conditions must be:

(a) Documented in the annual trust evaluation report;

(b) Reported to the Secretary; and

(c) Reported in writing to:

(1) The governing body of the Tribe; and

(2) In the case of a Consortium, to the governing body of each Tribe on whose behalf the Consortium is performing the trust functions.

§ 1000.364 Who is responsible for corrective action?

The Tribe/Consortium is primarily responsible for identifying and implementing corrective actions for matters contained in the AFA, but the Department may also suggest possible corrective measures for Tribal consideration.

§ 1000.365 What are the requirements of the review team report?

A report summarizing the results of the trust evaluation will be prepared and copies provided to the Tribe/Consortium. The report must:

(a) Be written objectively, concisely, and clearly; and

(b) Present information accurately and fairly, including only relevant and adequately supported information, findings, and conclusions.