

**§ 1000.353**

**25 CFR Ch. VI (4–1–10 Edition)**

property, assets, or claims, and any intangible right or interest in any of the foregoing;

(2) Any other property, asset, or interest therein, or treaty right for which the United States is charged with a trust responsibility. For example, water rights and off-reservation treaty rights.

(c) This definition defines trust resources for purposes of the trust evaluation process only.

**§ 1000.353 What are “trust functions” for the purposes of the trust evaluation process?**

Trust functions are those programs necessary to the management of assets held in trust by the United States for an Indian Tribe or individual Indian.

**ANNUAL TRUST EVALUATIONS**

**§ 1000.354 What is a trust evaluation?**

A trust evaluation is an annual review and evaluation of trust functions performed by a Tribe/Consortium to ensure that the functions are performed in accordance with trust standards as defined by Federal law. Trust evaluations address trust functions performed by the Tribe/Consortium on its own behalf as well as trust functions performed by the Tribe/Consortium for the benefit of individual Indians or Alaska Natives.

**§ 1000.355 How are trust evaluations conducted?**

(a) Each year the Secretary’s designated representative(s) will conduct trust evaluations for each self-governance AFA. The Secretary’s designated representative(s) will coordinate with the designated Tribe’s/Consortium’s representative(s) throughout the review process, including the written report required by § 1000.365.

(b) This section describes the general framework for trust reviews. However, each Tribe/Consortium may develop, with the appropriate bureau, an individualized trust evaluation process to allow for the Tribe’s/Consortium’s unique history and circumstances and the terms and conditions of its AFA. An individualized trust evaluation process must, at a minimum, contain

the measures in paragraph (d) of this section.

(c) To facilitate the review process so as to mitigate costs and maximize efficiency, each Tribe/Consortium must provide access to all records, plans, and other pertinent documents relevant to the program(s) under review not otherwise available to the Department.

(d) The Secretary’s designated representative(s) will:

- (1) Review trust transactions;
- (2) Conduct on-site inspections of trust resources, as appropriate;
- (3) Review compliance with applicable statutory and regulatory requirements;
- (4) Review compliance with the trust provisions of the AFA;
- (5) Ensure that the same level of trust services is provided to individual Indians as would have been provided by the Secretary;
- (6) Document deficiencies in the performance of trust functions discovered during the review process; and
- (7) Ensure the fulfillment of the Secretary’s trust responsibility to Tribes and individual Indians by documenting the existence of:
  - (i) Systems of internal controls;
  - (ii) Trust standards; and
  - (iii) Safeguards against conflicts of interest in the performance of trust functions.

(e) At the request of a Tribe/Consortium, at the time the AFA is negotiated, the standards will be negotiated, except where standards are otherwise provided for by law.

**§ 1000.356 May the trust evaluation process be used for additional reviews?**

Yes, if the parties agree.

**§ 1000.357 May the parties negotiate standards of review for purposes of the trust evaluation?**

Yes, unless standards are otherwise provided by Federal treaties, statutes, case law or regulations not waived, the Secretary’s designated representative will negotiate standards of review at the request of the Tribe/Consortium.