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25 USC SUBCHAPTER II - INDIAN SELF-DETERMINATION AND
EDUCATION ASSISTANCE

01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE

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SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
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25 USC Sec. 450

01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE

-HEAD-

Sec. 450. Congressional statement of findings

-STATUTE-

(a) Findings respecting historical and special legal
relationship,

and resultant responsibilities

The Congress, after careful review of the Federal
Government's

historical and special legal relationship with, and
resulting

responsibilities to, American Indian people, finds that -

(1) the prolonged Federal domination of Indian service
programs

has served to retard rather than enhance the progress of
Indian

people and their communities by depriving Indians of the

full

opportunity to develop leadership skills crucial to the realization of self-government, and has denied to the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of Indian communities; and
(2) the Indian people will never surrender their desire to control their relationships both among themselves and with non-Indian governments, organizations, and persons.

(b) Further findings

The Congress further finds that -
(1) true self-determination in any society of people is dependent upon an educational process which will insure the development of qualified people to fulfill meaningful leadership roles;
(2) the Federal responsibility for and assistance to education of Indian children has not effected the desired level of educational achievement or created the diverse opportunities and personal satisfaction which education can and should provide; and
(3) parental and community control of the educational process is of crucial importance to the Indian people.

-SOURCE-

(Pub. L. 93-638, Sec. 2, Jan. 4, 1975, 88 Stat. 2203.)

-MISC1-

SHORT TITLE OF 2000 AMENDMENTS

Pub. L. 106-568, title VIII, Sec. 801, Dec. 27, 2000, 114 Stat.

2916, provided that: "This title [amending sections 4501, 458cc, 1407, and 3207 of this title and sections 5604, 5608, and 5609 of Title 20, Education, and repealing section 84 of this title

and

sections 438 and 439 of Title 18, Crimes and Criminal Procedure]

may be cited as the 'Native American Laws Technical Corrections Act of 2000'."

Pub. L. 106-568, title XIII, Sec. 1301, Dec. 27, 2000, 114 Stat.

2936, provided that: "This title [enacting part F (Sec. 458bbb et

seq.) of this subchapter] may be cited as the 'American Indian

Education Foundation Act of 2000'."

Pub. L. 106-260, Sec. 1, Aug. 18, 2000, 114 Stat. 711, provided

that: "This Act [enacting part E (Sec. 458aaa et seq.) of this

subchapter, amending sections 450f, 450j, and 450j-1 of this title,

enacting provisions set out as notes under sections 450f and 458aaa

of this title, and repealing provisions set out as a note under

section 450f of this title] may be cited as the 'Tribal Self-

Governance Amendments of 2000'."

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103-413, Sec. 1, Oct. 25, 1994, 108 Stat. 4250, provided

that: "This Act [enacting part D (Sec. 458aa et seq.) of this

subchapter and section 450l of this title, amending sections 450b,

450c, 450e, 450f, 450j to 450k, 450m, and 450m-1 of this title, and

enacting provisions set out as notes under this section and section

458aa of this title] may be cited as the 'Indian Self-Determination

Act Amendments of 1994'."

Pub. L. 103-413, title I, Sec. 101, Oct. 25, 1994, 108 Stat.

4250, provided that: "This title [enacting section 450l of this

title and amending sections 450b, 450c, 450e, 450f, 450j to

450k,
450m, and 450m-1 of this title] may be cited as the 'Indian Self-Determination Contract Reform Act of 1994'."
Pub. L. 103-413, title II, Sec. 201, Oct. 25, 1994, 108 Stat. 4270, provided that: "This title [enacting part D (Sec. 458aa et seq.) of this subchapter and provisions set out as notes under section 458aa of this title] may be cited as the 'Tribal Self-Governance Act of 1994'."

SHORT TITLE OF 1990 AMENDMENT

Pub. L. 101-644, title II, Sec. 201, Nov. 29, 1990, 104 Stat. 4665, provided that: "This title [amending sections 450b, 450c, 450f, 450h, 450j, 450j-1, and 450k of this title and enacting provisions set out as a note under section 450h of this title] may be cited as the 'Indian Self-Determination and Education Assistance Act Amendments of 1990'."

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-472, title I, Sec. 101, Oct. 5, 1988, 102 Stat. 2285, provided that: "This Act [enacting sections 450j-1 and 450m-1 of this title, amending sections 13a, 450a to 450c, 450f to 450j, 450k, and 450n of this title, sections 3371 and 3372 of Title 5, Government Organization and Employees, sections 2004b and 4762 of Title 42, The Public Health and Welfare, and section 456 of the Appendix to Title 50, War and National Defense, transferring section 450l of this title to section 450c(f) of this title, and enacting provisions set out as notes under this section and section 450f of this title] may be cited as the 'Indian Self-

Determination

and Education Assistance Act Amendments of 1988'."

SHORT TITLE

Section 1 of Pub. L. 93-638 provided: "That this Act [enacting this subchapter, section 13a of this title, and section 2004b of Title 42, The Public Health and Welfare, amending section 3371 of Title 5, Government Organization and Employees, section 4762 of Title 42, and section 456 of Title 50, Appendix, War and National Defense, and enacting provisions set out as notes under sections 450f, 455, and 457 of this title] may be cited as the 'Indian Self-Determination and Education Assistance Act'."

Section 101 of title I of Pub. L. 93-638 provided that: "This title [enacting part A (Sec. 450f et seq.) of this subchapter and section 2004b of Title 42, The Public Health and Welfare, and amending section 3371 of Title 5, Government Organization and Employees, section 4762 of Title 42, and section 456 of the Appendix to Title 50, War and National Defense] may be cited as the 'Indian Self-Determination Act'."

Section 201 of title II of Pub. L. 93-638 provided that: "This title [enacting part C (Sec. 458 et seq.) of this subchapter, sections 455 to 457 of this title, and provisions set out as a note under section 457 of this title] may be cited as the 'Indian Education Assistance Act'."

SAVINGS PROVISIONS

Pub. L. 100-472, title II, Sec. 210, Oct. 5, 1988, 102 Stat.

2298, provided that: "Nothing in this Act [see Short Title of 1988

Amendment note above] shall be construed as -

"(1) affecting, modifying, diminishing, or otherwise impairing the sovereign immunity from suit enjoyed by an Indian tribe; or
"(2) authorizing or requiring the termination of any existing trust responsibility of the United States with respect to Indian people."

SEVERABILITY

Pub. L. 100-472, title II, Sec. 211, Oct. 5, 1988, 102 Stat. 2298, provided that: "If any provision of this Act [see Short Title of 1988 Amendment note above] or the application thereof to any Indian tribe, entity, person or circumstance is held invalid, neither the remainder of this Act, nor the application of any provisions herein to other Indian tribes, entities, persons, or circumstances, shall be affected thereby."

CONSULTATION WITH ALASKA NATIVE CORPORATIONS

Pub. L. 108-199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Pub. L. 108-447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, provided that: "The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175 [set out below]."

-EXEC-

EXECUTIVE ORDER NO. 13084

Ex. Ord. No. 13084, May 14, 1998, 63 F.R. 27655, which provided for agencies to establish regular and meaningful consultation and collaboration with Indian tribal governments in the

development of
regulatory practices on Federal matters that significantly
or
uniquely affect their communities, to reduce the imposition
of
unfunded mandates upon Indian tribal governments, and to
streamline
the application process for and increase the availability of
waivers to Indian tribal governments, was revoked, effective
60
days after Nov. 6, 2000, by Ex. Ord. No. 13175, Sec. 9(c),
Nov. 6,
2000, 65 F.R. 67251, set out below.

EX. ORD. NO. 13175. CONSULTATION AND COORDINATION WITH
INDIAN

TRIBAL GOVERNMENTS

Ex. Ord. No. 13175, Nov. 6, 2000, 65 F.R. 67249, provided:
By the authority vested in me as President by the
Constitution
and the laws of the United States of America, and in order
to
establish regular and meaningful consultation and
collaboration
with tribal officials in the development of Federal policies
that
have tribal implications, to strengthen the United States
government-to-government relationships with Indian tribes,
and to
reduce the imposition of unfunded mandates upon Indian
tribes; it
is hereby ordered as follows:
Section 1. Definitions. For purposes of this order:
(a) "Policies that have tribal implications" refers to
regulations, legislative comments or proposed legislation,
and
other policy statements or actions that have substantial
direct
effects on one or more Indian tribes, on the relationship
between
the Federal Government and Indian tribes, or on the
distribution of
power and responsibilities between the Federal Government
and
Indian tribes.

(b) "Indian tribe" means an Indian or Alaska Native tribe,

band,

nation, pueblo, village, or community that the Secretary of the

Interior acknowledges to exist as an Indian tribe pursuant to the

Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

(c) "Agency" means any authority of the United States that is an

"agency" under 44 U.S.C. 3502(1), other than those considered to be

independent regulatory agencies, as defined in 44 U.S.C. 3502(5).

(d) "Tribal officials" means elected or duly appointed officials

of Indian tribal governments or authorized intertribal organizations.

Sec. 2. Fundamental Principles. In formulating or implementing

policies that have tribal implications, agencies shall be guided by

the following fundamental principles:

(a) The United States has a unique legal relationship with Indian

tribal governments as set forth in the Constitution of the United

States, treaties, statutes, Executive Orders, and court decisions.

Since the formation of the Union, the United States has recognized

Indian tribes as domestic dependent nations under its protection.

The Federal Government has enacted numerous statutes and promulgated numerous regulations that establish and define a trust

relationship with Indian tribes.

(b) Our Nation, under the law of the United States, in accordance

with treaties, statutes, Executive Orders, and judicial decisions,

has recognized the right of Indian tribes to self-government. As

domestic dependent nations, Indian tribes exercise inherent sovereign powers over their members and territory. The United

States continues to work with Indian tribes on a government-

to-

government basis to address issues concerning Indian tribal self-government, tribal trust resources, and Indian tribal treaty and other rights.

(c) The United States recognizes the right of Indian tribes to self-government and supports tribal sovereignty and self-determination.

Sec. 3. Policymaking Criteria. In addition to adhering to the fundamental principles set forth in section 2, agencies shall

adhere, to the extent permitted by law, to the following criteria

when formulating and implementing policies that have tribal implications:

(a) Agencies shall respect Indian tribal self-government and sovereignty, honor tribal treaty and other rights, and strive to

meet the responsibilities that arise from the unique legal relationship between the Federal Government and Indian tribal governments.

(b) With respect to Federal statutes and regulations administered

by Indian tribal governments, the Federal Government shall grant

Indian tribal governments the maximum administrative discretion possible.

(c) When undertaking to formulate and implement policies that

have tribal implications, agencies shall:

(1) encourage Indian tribes to develop their own policies to achieve program objectives;

(2) where possible, defer to Indian tribes to establish standards; and

(3) in determining whether to establish Federal standards, consult with tribal officials as to the need for Federal standards

and any alternatives that would limit the scope of Federal standards or otherwise preserve the prerogatives and

authority of
Indian tribes.

Sec. 4. Special Requirements for Legislative Proposals.
Agencies

shall not submit to the Congress legislation that would be
inconsistent with the policymaking criteria in Section 3.

Sec. 5. Consultation. (a) Each agency shall have an
accountable
process to ensure meaningful and timely input by tribal
officials
in the development of regulatory policies that have tribal
implications. Within 30 days after the effective date of
this
order, the head of each agency shall designate an official
with
principal responsibility for the agency's implementation of
this
order. Within 60 days of the effective date of this order,
the
designated official shall submit to the Office of Management
and
Budget (OMB) a description of the agency's consultation
process.

(b) To the extent practicable and permitted by law, no
agency
shall promulgate any regulation that has tribal
implications, that
imposes substantial direct compliance costs on Indian tribal
governments, and that is not required by statute, unless:
(1) funds necessary to pay the direct costs incurred by
the
Indian tribal government or the tribe in complying with the
regulation are provided by the Federal Government; or
(2) the agency, prior to the formal promulgation of the
regulation,

(A) consulted with tribal officials early in the process
of
developing the proposed regulation;

(B) in a separately identified portion of the preamble
to the
regulation as it is to be issued in the Federal Register,
provides to the Director of OMB a tribal summary impact
statement, which consists of a description of the extent
of the

agency's prior consultation with tribal officials, a
summary of

the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and

(C) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.

(c) To the extent practicable and permitted by law, no agency shall promulgate any regulation that has tribal implications and that preempts tribal law unless the agency, prior to the formal promulgation of the regulation,

(1) consulted with tribal officials early in the process of developing the proposed regulation;

(2) in a separately identified portion of the preamble to the regulation as it is to be issued in the Federal Register, provides

to the Director of OMB a tribal summary impact statement, which consists of a description of the extent of the agency's prior consultation with tribal officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of tribal officials have been met; and

(3) makes available to the Director of OMB any written communications submitted to the agency by tribal officials.

(d) On issues relating to tribal self-government, tribal trust resources, or Indian tribal treaty and other rights, each agency should explore and, where appropriate, use consensual mechanisms

for developing regulations, including negotiated rulemaking.

Sec. 6. Increasing Flexibility for Indian Tribal Waivers.

(a) Agencies shall review the processes under which Indian tribes

apply for waivers of statutory and regulatory requirements and take

appropriate steps to streamline those processes.

(b) Each agency shall, to the extent practicable and permitted by

law, consider any application by an Indian tribe for a waiver of

statutory or regulatory requirements in connection with any program

administered by the agency with a general view toward increasing

opportunities for utilizing flexible policy approaches at the

Indian tribal level in cases in which the proposed waiver is consistent with the applicable Federal policy objectives and is

otherwise appropriate.

(c) Each agency shall, to the extent practicable and permitted by

law, render a decision upon a complete application for a waiver

within 120 days of receipt of such application by the agency, or as

otherwise provided by law or regulation. If the application for

waiver is not granted, the agency shall provide the applicant with

timely written notice of the decision and the reasons therefor.

(d) This section applies only to statutory or regulatory requirements that are discretionary and subject to waiver by the agency.

Sec. 7. Accountability.

(a) In transmitting any draft final regulation that has tribal

implications to OMB pursuant to Executive Order 12866 of September

30, 1993 [5 U.S.C. 601 note], each agency shall include a certification from the official designated to ensure compliance

with this order stating that the requirements of this order have

been met in a meaningful and timely manner.

(b) In transmitting proposed legislation that has tribal implications to OMB, each agency shall include a

certification from

the official designated to ensure compliance with this order that

all relevant requirements of this order have been met.

(c) Within 180 days after the effective date of this order the

Director of OMB and the Assistant to the President for Intergovernmental Affairs shall confer with tribal officials to

ensure that this order is being properly and effectively implemented.

Sec. 8. Independent Agencies. Independent regulatory agencies are

encouraged to comply with the provisions of this order.

Sec. 9. General Provisions. (a) This order shall supplement but

not supersede the requirements contained in Executive Order 12866

(Regulatory Planning and Review) [5 U.S.C. 601 note], Executive

Order 12988 (Civil Justice Reform) [28 U.S.C. 519 note], OMB Circular A-19, and the Executive Memorandum of April 29, 1994, on

Government-to-Government Relations with Native American Tribal

Governments [set out below].

(b) This order shall complement the consultation and waiver

provisions in sections 6 and 7 of Executive Order 13132 (Federalism) [5 U.S.C. 601 note].

(c) Executive Order 13084 (Consultation and Coordination with

Indian Tribal Governments) is revoked at the time this order takes effect.

(d) This order shall be effective 60 days after the date of this order.

Sec. 10. Judicial Review. This order is intended only to improve

the internal management of the executive branch, and is not intended to create any right, benefit, or trust responsibility,

substantive or procedural, enforceable at law by a party against

the United States, its agencies, or any person.

William J.

Clinton.

GOVERNMENT-TO-GOVERNMENT RELATIONS WITH NATIVE AMERICAN
TRIBAL

GOVERNMENTS

Memorandum of President of the United States, Apr. 29,
1994, 59

F.R. 22951, provided:

Memorandum for the Heads of Executive Departments and
Agencies

The United States Government has a unique legal
relationship with

Native American tribal governments as set forth in the
Constitution

of the United States, treaties, statutes, and court
decisions. As

executive departments and agencies undertake activities
affecting

Native American tribal rights or trust resources, such
activities

should be implemented in a knowledgeable, sensitive manner
respectful of tribal sovereignty. Today, as part of an
historic

meeting, I am outlining principles that executive
departments and

agencies, including every component bureau and office, are
to

follow in their interactions with Native American tribal
governments. The purpose of these principles is to clarify
our

responsibility to ensure that the Federal Government
operates

within a government-to-government relationship with
federally

recognized Native American tribes. I am strongly committed
to

building a more effective day-to-day working relationship
reflecting respect for the rights of self-government due the
sovereign tribal governments.

In order to ensure that the rights of sovereign tribal
governments are fully respected, executive branch activities
shall

be guided by the following:

(a) The head of each executive department and agency shall
be

responsible for ensuring that the department or agency operates within a government-to-government relationship with federally recognized tribal governments.

(b) Each executive department and agency shall consult, to the greatest extent practicable and to the extent permitted by law, with tribal governments prior to taking actions that affect federally recognized tribal governments. All such consultations are to be open and candid so that all interested parties may evaluate for themselves the potential impact of relevant proposals.

(c) Each executive department and agency shall assess the impact of Federal Government plans, projects, programs, and activities on tribal trust resources and assure that tribal government rights and concerns are considered during the development of such plans, projects, programs, and activities.

(d) Each executive department and agency shall take appropriate steps to remove any procedural impediments to working directly and effectively with tribal governments on activities that affect the trust property and/or governmental rights of the tribes.

(e) Each executive department and agency shall work cooperatively with other Federal departments and agencies to enlist their interest and support in cooperative efforts, where appropriate, to accomplish the goals of this memorandum.

(f) Each executive department and agency shall apply the requirements of Executive Orders Nos. 12875 ("Enhancing the Intergovernmental Partnership") [former 5 U.S.C. 601 note] and 12866 ("Regulatory Planning and Review") [5 U.S.C. 601 note] to design solutions and tailor Federal programs, in appropriate circumstances, to address specific or unique needs of tribal communities.

The head of each executive department and agency shall ensure that the department or agency's bureaus and components are fully aware of this memorandum, through publication or other means, and that they are in compliance with its requirements. This memorandum is intended only to improve the internal management of the executive branch and is not intended to, and does not, create any right to administrative or judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

The Director of the Office of Management and Budget is authorized and directed to publish this memorandum in the Federal Register.

William J.

Clinton.

-End-

-CITE-

25 USC Sec. 450a
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE

-HEAD-

Sec. 450a. Congressional declaration of policy

-STATUTE-

(a) Recognition of obligation of United States
The Congress hereby recognizes the obligation of the

United

States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational as well as other Federal services to Indian communities so as to render such services more responsive to the needs and desires of those communities.

(b) Declaration of commitment

The Congress declares its commitment to the maintenance of the

Federal Government's unique and continuing relationship with, and

responsibility to, individual Indian tribes and to the Indian people as a whole through the establishment of a meaningful Indian

self-determination policy which will permit an orderly transition

from the Federal domination of programs for, and services to,

Indians to effective and meaningful participation by the Indian

people in the planning, conduct, and administration of those programs and services. In accordance with this policy, the United

States is committed to supporting and assisting Indian tribes in

the development of strong and stable tribal governments, capable of

administering quality programs and developing the economies of their respective communities.

(c) Declaration of national goal

The Congress declares that a major national goal of the United

States is to provide the quantity and quality of educational services and opportunities which will permit Indian children to

compete and excel in the life areas of their choice, and to achieve

the measure of self-determination essential to their social and economic well-being.

-SOURCE-

(Pub. L. 93-638, Sec. 3, Jan. 4, 1975, 88 Stat. 2203; Pub. L. 100-472, title I, Sec. 102, Oct. 5, 1988, 102 Stat. 2285.)

-MISC1-

AMENDMENTS

1988 - Subsec. (b). Pub. L. 100-472 added subsec. (b) and struck out former subsec. (b) which read as follows: "The Congress declares its commitment to the maintenance of the Federal Government's unique and continuing relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from Federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services."

-End-

-CITE-

25 USC Sec. 450a-1
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE

-HEAD-

Sec. 450a-1. Tribal and Federal advisory committees

-STATUTE-

Notwithstanding any other provision of law (including any regulation), the Secretary of the Interior and the Secretary

of

Health and Human Services are authorized to jointly establish and fund advisory committees or other advisory bodies composed of members of Indian tribes or members of Indian tribes and representatives of the Federal Government to ensure tribal participation in the implementation of the Indian Self-Determination and Education Assistance Act (Public Law 93-638) [25 U.S.C. 450 et seq.].

-SOURCE-

(Pub. L. 101-644, title II, Sec. 204, as added Pub. L. 103-435, Sec. 22(b), Nov. 2, 1994, 108 Stat. 4575.)

-REFTEXT-

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in text, is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to this subchapter (Sec. 450 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

-COD-

CODIFICATION

Section was enacted as part of the Indian Self-Determination and Education Assistance Act Amendments of 1990, and not as part of the Indian Self-Determination and Education Assistance Act which comprises this subchapter.

-End-

-CITE-

25 USC Sec. 450b
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE

-HEAD-

Sec. 450b. Definitions

-STATUTE-

For purposes of this subchapter, the term -
(a) "construction programs" means programs for the
planning,
design, construction, repair, improvement, and expansion
of
buildings or facilities, including, but not limited to,
housing,
law enforcement and detention facilities, sanitation and
water
systems, roads, schools, administration and health
facilities,
irrigation and agricultural work, and water conservation,
flood
control, or port facilities;
(b) "contract funding base" means the base level from
which
contract funding needs are determined, including all
contract
costs;
(c) "direct program costs" means costs that can be
identified
specifically with a particular contract objective;
(d) "Indian" means a person who is a member of an Indian
tribe;
(e) "Indian tribe" means any Indian tribe, band, nation,
or
other organized group or community, including any Alaska
Native
village or regional or village corporation as defined in
or
established pursuant to the Alaska Native Claims
Settlement Act
(85 Stat. 688) [43 U.S.C. 1601 et seq.], which is
recognized as
eligible for the special programs and services provided by

the

United States to Indians because of their status as Indians;

(f) "indirect costs" means costs incurred for a common or joint

purpose benefiting more than one contract objective, or which are

not readily assignable to the contract objectives specifically

benefited without effort disproportionate to the results achieved;

(g) "indirect cost rate" means the rate arrived at through

negotiation between an Indian tribe or tribal organization and

the appropriate Federal agency;

(h) "mature contract" means a self-determination contract that

has been continuously operated by a tribal organization for three

or more years, and for which there are no significant and material audit exceptions in the annual financial audit of the

tribal organization: Provided, That upon the request of a tribal

organization or the tribal organization's Indian tribe for purposes of section 450f(a) of this title, a contract of the

tribal organization which meets this definition shall be considered to be a mature contract;

(i) "Secretary", unless otherwise designated, means either the

Secretary of Health and Human Services or the Secretary of the

Interior or both;

(j) "self-determination contract" means a contract (or grant or

cooperative agreement utilized under section 450e-1 of this

title) entered into under part A of this subchapter between a

tribal organization and the appropriate Secretary for the planning, conduct and administration of programs or services

which are otherwise provided to Indian tribes and their members

pursuant to Federal law: Provided, That except as provided (!1) the last proviso in section 450j(a) (!2) of this title, no contract (or grant or cooperative agreement utilized under section 450e-1 of this title) entered into under part A of this subchapter shall be construed to be a procurement contract;

(k) "State education agency" means the State board of education or other agency or officer primarily responsible for supervision by the State of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law;

(l) "tribal organization" means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: Provided, That in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant; and

(m) "construction contract" means a fixed-price or cost-reimbursement self-determination contract for a construction project, except that such term does not include any contract -

(1) that is limited to providing planning services and construction management services (or a combination of

such

services);

(2) for the Housing Improvement Program or roads maintenance program of the Bureau of Indian Affairs administered by the Secretary of the Interior; or

(3) for the health facility maintenance and improvement program administered by the Secretary of Health and Human Services.

-SOURCE-

(Pub. L. 93-638, Sec. 4, Jan. 4, 1975, 88 Stat. 2204; Pub. L. 100-472, title I, Sec. 103, Oct. 5, 1988, 102 Stat. 2286; Pub. L. 100-581, title II, Sec. 208, Nov. 1, 1988, 102 Stat. 2940; Pub. L. 101-301, Sec. 2(a)(1)-(3), May 24, 1990, 104 Stat. 206; Pub. L. 101-644, title II, Sec. 202(1), (2), Nov. 29, 1990, 104 Stat. 4665; Pub. L. 103-413, title I, Sec. 102(1), Oct. 25, 1994, 108 Stat. 4250.)

-REFTEXT-

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this Act", meaning Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, known as the Indian Self-Determination and Education Assistance Act, which is classified principally to this subchapter (Sec. 450 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

The Alaska Native Claims Settlement Act, referred to in subsec.

(e), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as

amended,

which is classified generally to chapter 33 (Sec. 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43, and Tables.

Part A of this subchapter, referred to in subsec. (j), was in the original "title I of this act", meaning title I of Pub. L. 93-638,

known as the Indian Self-Determination Act, which is classified

principally to part A (Sec. 450f et seq.) of this subchapter. For

complete classification of title I to the Code, see Short Title note set out under section 450 of this title and Tables.

Section 450j(a) of this title, referred to in subsec. (j), was

repealed and a new subsec. (a) of section 450j was added by Pub. L.

103-413, title I, Sec. 102(10), Oct. 25, 1994, 108 Stat. 4253,

which does not contain provisos.

-MISC1-

AMENDMENTS

1994 - Subsec. (g). Pub. L. 103-413, Sec. 102(1)(A), substituted

"indirect cost rate" for "indirect costs rate".

Subsec. (m). Pub. L. 103-413, Sec. 102(1)(B)-(D), added subsec.

(m).

1990 - Subsec. (e). Pub. L. 101-301, Sec. 2(a)(1), inserted a

comma before "which is recognized".

Subsec. (h). Pub. L. 101-644, Sec. 202(1), struck out "in existence on October 5, 1988," before "which meets this definition".

Subsec. (j). Pub. L. 101-644, Sec. 202(2), substituted "contract

(or grant or cooperative agreement utilized under section 450e-1 of

this title) entered" for "contract entered" in two places.

Pub. L. 101-301, Sec. 2(a)(2), (3), substituted "under this

subchapter" for "pursuant to this Act" in two places and struck out

"the" before "Secretary".

1988 - Pub. L. 100-472 amended section generally, substituting

subsecs. (a) to (l) for former subsecs. (a) to (d) and (f) which

defined "Indian", "Indian tribe", "Tribal organization", "Secretary", and "State education agency".

Subsec. (h). Pub. L. 100-581, Sec. 208(a)(1), substituted "by a

tribal organization" for "by tribal organization".

Pub. L. 100-581, Sec. 208(a)(2), which directed the amendment of

subsec. (h) by substituting "a tribal organization or the tribal

organization's Indian tribe for purposes of section 450f(a) of this

title" for "a tribal organization or a tribal governing body" was

executed by substituting the new language for "a tribal organization or tribal governing body" to reflect the

probable

intent of Congress.

Subsec. (j). Pub. L. 100-581, Sec. 208(b), substituted "the

Secretary for the planning" for "Secretary the planning" and

"except as provided the last proviso in section 450j(a) of this

title, no contract" for "no contract".

-FOOTNOTE-

(!1) So in original. Probably should be "provided in".

(!2) See References in Text note below.

-End-

-CITE-

25 USC Sec. 450c

01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE

-HEAD-

Sec. 450c. Reporting and audit requirements for recipients
of
Federal financial assistance

-STATUTE-

(a) Maintenance of records
(1) Each recipient of Federal financial assistance under
this
subchapter shall keep such records as the appropriate
Secretary
shall prescribe by regulation promulgated under sections 552
and
553 of title 5, including records which fully disclose -
(A) the amount and disposition by such recipient of the
proceeds of such assistance,
(B) the cost of the project or undertaking in connection
with
which such assistance is given or used,
(C) the amount of that portion of the cost of the
project or
undertaking supplied by other sources, and
(D) such other information as will facilitate an
effective
audit.

(2) For the purposes of this subsection, such records for
a
mature contract shall consist of quarterly financial
statements for
the purpose of accounting for Federal funds, the annual
single-
agency audit required by chapter 75 of title 31 (!1) and a
brief
annual program report.

(b) Access to books, documents, papers, and records for
audit and

examination by Comptroller General, etc.

The Comptroller General and the appropriate Secretary, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in the preceding subsection of this section, have access (for the purpose of audit and examination) to any books, documents, papers, and records of such recipients which in the opinion of the Comptroller General or the appropriate Secretary may be related or pertinent to the grants, contracts, subcontracts, subgrants, or other arrangements referred to in the preceding subsection.

(c) Availability by recipient of required reports and information

to Indian people served or represented

Each recipient of Federal financial assistance referred to in

subsection (a) of this section shall make such reports and information available to the Indian people served or represented by

such recipient as and in a manner determined to be adequate by the appropriate Secretary.

(d) Repayment to Treasury by recipient of unexpended or unused

funds

Except as provided in section 13a or 450j-1(a)(3) (!2) of this

title, funds paid to a financial assistance recipient referred to

in subsection (a) of this section and not expended or used for the

purposes for which paid shall be repaid to the Treasury of the

United States through the respective Secretary.

(e) Annual report to tribes

The Secretary shall report annually in writing to each

tribe

regarding projected and actual staffing levels, funding obligations, and expenditures for programs operated directly by the

Secretary serving that tribe.

(f) Single-agency audit report; additional information; declination

criteria and procedures

(1) For each fiscal year during which an Indian tribal organization receives or expends funds pursuant to a contract

entered into, or grant made, under this subchapter, the tribal

organization that requested such contract or grant shall submit to

the appropriate Secretary a single-agency audit report required by

chapter 75 of title 31.

(2) In addition to submitting a single-agency audit report pursuant to paragraph (1), a tribal organization referred to in

such paragraph shall submit such additional information concerning

the conduct of the program, function, service, or activity carried

out pursuant to the contract or grant that is the subject of the

report as the tribal organization may negotiate with the Secretary.

(3) Any disagreement over reporting requirements shall be subject

to the declination criteria and procedures set forth in section

450f of this title.

-SOURCE-

(Pub. L. 93-638, Sec. 5, formerly Sec. 5 and title I, Sec. 108,

Jan. 4, 1975, 88 Stat. 2204, 2212; renumbered and amended Pub. L.

100-472, title I, Sec. 104, title II, Sec. 208, Oct. 5, 1988, 102

Stat. 2287, 2296; Pub. L. 100-581, title II, Sec. 209, Nov. 1,

1988, 102 Stat. 2940; Pub. L. 101-301, Sec. 2(a)(4), May 24, 1990,

104 Stat. 206; Pub. L. 101-644, title II, Sec. 202(3), Nov. 29, 1990, 104 Stat. 4665; Pub. L. 103-413, title I, Sec. 102(2), Oct. 25, 1994, 108 Stat. 4250.)

-REFTEXT-

REFERENCES IN TEXT

Section 450j-1(a)(3) of this title, referred to in subsec. (d), was repealed and a new subsec. (a)(3) of section 450j-1 was added by Pub. L. 103-413, title I, Sec. 102(14)(C), Oct. 25, 1994, 108 Stat. 4257. See section 450j-1(a)(4) of this title.

-MISC1-

AMENDMENTS

1994 - Subsec. (f). Pub. L. 103-413 added subsec. (f) and struck out former subsec. (f) which read as follows: "For each fiscal year during which an Indian tribal organization receives or expends funds pursuant to a contract or grant under this subchapter, the Indian tribe which requested such contract or grant shall submit to the appropriate Secretary a report including, but not limited to, an accounting of the amounts and purposes for which Federal funds were expended, information on the conduct of the program or service involved, and such other information as the appropriate Secretary may request through regulations promulgated under sections 552 and 553 of title 5."
1990 - Subsec. (a)(2). Pub. L. 101-301 substituted "chapter 75 of title 31" for "the Single Audit Act of 1984 (98 Stat. 2327, 31 U.S.C. 7501 et seq.),".

Subsec. (d). Pub. L. 101-644 substituted "Except as

provided in

section 13a or 450j-1(a)(3) of this title," for "Any" and inserted

"through the respective Secretary" before period at end.

1988 - Subsec. (a). Pub. L. 100-472, Sec. 104(a), amended subsec.

(a) generally. Prior to amendment, subsec. (a) read as follows:

"Each recipient of Federal financial assistance from the Secretary

of Interior or the Secretary of Health Education, and Welfare,

under this Act, shall keep such records as the appropriate Secretary shall prescribe, including records which fully disclose

the amount and disposition by such recipient of the proceeds of

such assistance, the cost of the project or undertaking in connection with which such assistance is given or used, the amount

of that portion of the cost of the project or undertaking supplied

by other sources, and such other records as will facilitate an

effective audit."

Subsec. (e). Pub. L. 100-581 substituted "to each tribe" for "to tribes".

Pub. L. 100-472, Sec. 104(b), added subsec. (e).

Subsec. (f). Pub. L. 100-472, Sec. 208, redesignated section 4501

of this title as subsec. (f) of this section and inserted "through

regulations promulgated under sections 552 and 553 of title 5".

-FOOTNOTE-

(!1) So in original. Probably should be followed by a comma.

(!2) See References in Text note below.

-End-

-CITE-

25 USC Sec. 450d
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE

-HEAD-

Sec. 450d. Criminal activities involving grants, contracts,
etc. ;
penalties

-STATUTE-

Whoever, being an officer, director, agent, or employee
of, or
connected in any capacity with, any recipient of a contract,
subcontract, grant, or subgrant pursuant to this subchapter
or the
Act of April 16, 1934 (48 Stat. 596), as amended [25 U.S.C.
452 et
seq.], embezzles, willfully misapplies, steals, or obtains
by fraud
any of the money, funds assets, or property which are the
subject
of such a grant, subgrant, contract, or subcontract, shall
be fined
not more than \$10,000 or imprisoned for not more than two
years, or
both, but if the amount so embezzled, misapplied, stolen, or
obtained by fraud does not exceed \$100, he shall be fined
not more
than \$1,000 or imprisoned not more than one year, or both.

-SOURCE-

(Pub. L. 93-638, Sec. 6, Jan. 4, 1975, 88 Stat. 2205.)

-REFTEXT-

REFERENCES IN TEXT

Act of April 16, 1934, referred to in text, is act Apr.
16, 1934,
ch. 147, 48 Stat. 596, as amended, popularly known as the
Johnson-
O'Malley Act, which is classified generally to section 452

et seq.

of this title. For complete classification of this Act to the Code,
see Short Title note set out under section 452 of this title and
Tables.

-End-

-CITE-

25 USC Sec. 450e
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE

-HEAD-

Sec. 450e. Wage and labor standards

-STATUTE-

(a) Similar construction in locality
All laborers and mechanics employed by contractors or subcontractors (excluding tribes and tribal organizations) in the construction, alteration, or repair, including painting or decorating of buildings or other facilities in connection with contracts or grants entered into pursuant to this subchapter, shall be paid wages at not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141-3144, 3146, and 3147 of title 40. With respect to construction, alteration, or repair work to which the Act of March 3, 1921 (!1) is applicable under the terms of this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered

14, of 1950, and section 3145 of title 40.

(b) Preference requirements for wages and grants

Any contract, subcontract, grant, or subgrant pursuant to this

subchapter, the Act of April 16, 1934 (48 Stat. 596), as amended

[25 U.S.C. 452 et seq.], or any other Act authorizing Federal

contracts with or grants to Indian organizations or for the benefit

of Indians, shall require that to the greatest extent feasible -

(1) preferences and opportunities for training and employment

in connection with the administration of such contracts or grants

shall be given to Indians; and

(2) preference in the award of subcontracts and subgrants in

connection with the administration of such contracts or grants

shall be given to Indian organizations and to Indian-owned economic enterprises as defined in section 1452 of this title.

(c) Self-determination contracts

Notwithstanding subsections (a) and (b) of this section, with

respect to any self-determination contract, or portion of a self-

determination contract, that is intended to benefit one tribe, the

tribal employment or contract preference laws adopted by such tribe

shall govern with respect to the administration of the contract or

portion of the contract.

-SOURCE-

(Pub. L. 93-638, Sec. 7, Jan. 4, 1975, 88 Stat. 2205; Pub. L. 103-

413, title I, Sec. 102(3), (4), Oct. 25, 1994, 108 Stat. 4251.)

-REFTEXT-

REFERENCES IN TEXT

Act of March 3, 1921, referred to in subsec. (a), probably means

the act of March 3, 1931, ch. 411, 46 Stat. 1494, as amended, known

as the Davis Bacon Act, which was classified generally to sections

276a to 276a-5 of former Title 40, Public Buildings, Property, and

Works, and was repealed and reenacted as sections 3141-3144, 3146,

and 3147 of Title 40, Public Buildings, Property, and Works, by

Pub. L. 107-217, Secs. 1, 6(b), Aug. 21, 2002, 116 Stat. 1062,

1304.

Reorganization Plan Numbered 14 of 1950, referred to in subsec.

(a), is set out in the Appendix to Title 5, Government Organization

and Employees.

Act of April 16, 1934, referred to in subsec. (b), is act Apr.

16, 1934, ch. 147, 48 Stat. 596, as amended, popularly known as the

Johnson-O'Malley Act, which is classified generally to section 452

et seq. of this title. For complete classification of this Act to

the Code, see Short Title note set out under section 452 of this

title and Tables.

-COD-

CODIFICATION

In subsec. (a), "sections 3141-3144, 3146, and 3147 of title 40"

substituted for "the Davis-Bacon Act of March 3, 1931 (46 Stat.

1494), as amended" and "section 3145 of title 40" substituted for

"section 2 of the Act of June 13, 1934 (48 Stat. 948, 40 U.S.C.

276c)" on authority of Pub. L. 107-217, Sec. 5(c), Aug. 21, 2002,

116 Stat. 1303, the first section of which enacted Title 40, Public

Buildings, Property, and Works.

-MISC1-

AMENDMENTS

1994 - Subsec. (a). Pub. L. 103-413, Sec. 102(3),
substituted "or
subcontractors (excluding tribes and tribal organizations)"
for "of
subcontractors".

Subsec. (c). Pub. L. 103-413, Sec. 102(4), added subsec.
(c).

-FOOTNOTE-

(!1) See References in Text note below.

-End-

-CITE-

25 USC Sec. 450e-1
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE

-HEAD-

Sec. 450e-1. Grant and cooperative agreements

-STATUTE-

The provisions of this subchapter shall not be subject to
the
requirements of chapter 63 of title 31: Provided, That a
grant
agreement or a cooperative agreement may be utilized in lieu
of a
contract under sections 450f and 450g (!1) of this title
when
mutually agreed to by the appropriate Secretary and the
tribal
organization involved.

-SOURCE-

(Pub. L. 93-638, Sec. 9, as added Pub. L. 98-250, Sec. 1, Apr. 3, 1984, 98 Stat. 118; amended Pub. L. 101-301, Sec. 2(a)(5), May 24, 1990, 104 Stat. 206.)

-REFTEXT-

REFERENCES IN TEXT

Section 450g of this title, referred to in text, was in the original "section 103 of this Act", meaning section 103 of Pub. L. 93-638, the Indian Self-Determination Act. Section 103(a) and (b) and the first sentence of section 103(c) of Pub. L. 93-638, were repealed, and the remainder of section 103(c) of Pub. L. 93-638, was redesignated as section 102(d) of Pub. L. 93-638 (section 450f(d) of this title), by Pub. L. 100-472, title II, Sec. 201(b)(1), Oct. 5, 1988, 102 Stat. 2289. Section 104 of Pub. L. 93-638 was renumbered as section 103 of Pub. L. 93-638 by section 202(a) of Pub. L. 100-472, and is classified to section 450h of this title.

-MISC1-

AMENDMENTS

1990 - Pub. L. 101-301 substituted "chapter 63 of title 31" for "the Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 95-224; 92 Stat. 3)".

-FOOTNOTE-

(!1) See References in Text note below.

-End-

-CITE-

25 USC Sec. 450e-2
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE

-HEAD-

Sec. 450e-2. Use of excess funds

-STATUTE-

Beginning in fiscal year 1998 and thereafter, where the actual costs of construction projects under self-determination contracts, compacts, or grants, pursuant to Public Laws 93-638, 103-413, or 100-297, are less than the estimated costs thereof, use of the resulting excess funds shall be determined by the appropriate Secretary after consultation with the tribes.

-SOURCE-

(Pub. L. 105-83, title III, Sec. 310, Nov. 14, 1997, 111 Stat. 1590.)

-REFTEXT-

REFERENCES IN TEXT

Public Law 93-638, referred to in text, is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, known as the Indian Self-Determination and Education Assistance Act, which is classified principally to this subchapter (Sec. 450 et seq.). For complete classification of this Act to the Code, see Short Title note set

out under section 450 of this title and Tables.

Public Law 103-413, referred to in text, is Pub. L. 103-413, Oct.

25, 1994, 108 Stat. 4250, known as the Indian Self-Determination

Act Amendments of 1994, which is classified principally to part D

(Sec. 458aa et seq.) of this subchapter. For complete classification of this Act to the Code, see Short Title of 1994

Amendment note set out under section 450 of this title and Tables.

Public Law 100-297, referred to in text, is Pub. L. 100-297, Apr.

28, 1988, 102 Stat. 130, as amended, known as the Augustus F.

Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988. For complete classification of this

Act to the Code, see Short Title of 1988 Amendments note set out

under section 6301 of Title 20, Education, and Tables.

-COD-

CODIFICATION

Section was enacted as part of the Department of the Interior and

Related Agencies Appropriations Act, 1998, and not as part of the

Indian Self-Determination and Education Assistance Act which comprises this subchapter.

-MISC1-

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the

following prior appropriation acts:

Pub. L. 104-208, div. A, title I, Sec. 101(d) [title III, Sec.

310], Sept. 30, 1996, 110 Stat. 3009-181, 3009-221.

Pub. L. 104-134, title I, Sec. 101(c) [title III, Sec. 310], Apr.

26, 1996, 110 Stat. 1321-156, 1321-197; renumbered title I, Pub. L.

104-140, Sec. 1(a), May 2, 1996, 110 Stat. 1327.

-End-

-CITE-

25 USC Sec. 450e-3
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE

-HEAD-

Sec. 450e-3. Investment of advance payments; restrictions

-STATUTE-

Advance payments made by the Department of the Interior to Indian tribes, tribal organizations, and tribal consortia pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) or the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) may on and after December 8, 2004, be invested by the Indian tribe, tribal organization, or consortium before such funds are expended for the purposes of the grant, compact, or annual funding agreement so long as such funds are -

(1) invested by the Indian tribe, tribal organization, or consortium only in obligations of the United States, or in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States or securities that are guaranteed or insured by the United States; or

(2) deposited only into accounts that are insured by an

agency

or instrumentality of the United States, or are fully collateralized to ensure protection of the funds, even in the event of a bank failure.

-SOURCE-

(Pub. L. 108-447, div. E, title I, Sec. 111, Dec. 8, 2004, 118 Stat. 3064.)

-REFTEXT-

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act,

referred to in text, is Pub. L. 93-638, Jan. 4, 1975, 88 Stat.

2203, as amended, which is classified principally to this subchapter (Sec. 450 et seq.). For complete classification of this

Act to the Code, see Short Title note set out under section 450 of this title and Tables.

The Tribally Controlled Schools Act of 1988, referred to in text,

is part B (Secs. 5201-5212) of title V of Pub. L. 100-297, Apr. 28,

1988, 102 Stat. 385, as amended, which is classified generally to

chapter 27 (Sec. 2501 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set

out under section 2501 of this title and Tables.

-COD-

CODIFICATION

Section was enacted as part of the Department of the Interior and

Related Agencies Appropriations Act, 2005, and also as part of the

Consolidated Appropriations Act, 2005, and not as part of the

Indian Self-Determination and Education Assistance Act which comprises this subchapter.

-MISC1-

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the

following prior appropriation acts:

Pub. L. 108-108, title I, Sec. 111, Nov. 10, 2003, 117 Stat.

1266.

Pub. L. 108-7, div. F, title I, Sec. 111, Feb. 20, 2003, 117

Stat. 239.

Pub. L. 107-63, title I, Sec. 111, Nov. 5, 2001, 115 Stat. 438.

Pub. L. 106-291, title I, Sec. 111, Oct. 11, 2000, 114 Stat. 942.

Pub. L. 106-113, div. B, Sec. 1000(a)(3), [title I, Sec. 111],

Nov. 29, 1999, 113 Stat. 1535, 1501A-156.

Pub. L. 105-277, div. A, Sec. 101(e), [title I, Sec. 111], Oct.

21, 1998, 112 Stat. 2681-231, 2681-254.

Pub. L. 105-83, title I, Sec. 112, Nov. 14, 1997, 111 Stat. 1562.

-End-

-CITE-

25 USC Part A - Indian Self-Determination
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS

CHAPTER 14 - MISCELLANEOUS

SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE

Part A - Indian Self-Determination

-HEAD-

PART A - INDIAN SELF-DETERMINATION

-End-

-CITE-

25 USC Sec. 450f
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part A - Indian Self-Determination

-HEAD-

Sec. 450f. Self-determination contracts

-STATUTE-

(a) Request by tribe; authorized programs
(1) The Secretary is directed, upon the request of any
Indian
tribe by tribal resolution, to enter into a self-
determination
contract or contracts with a tribal organization to plan,
conduct,
and administer programs or portions thereof, including
construction
programs -
(A) provided for in the Act of April 16, 1934 (48 Stat.
596),
as amended [25 U.S.C. 452 et seq.];
(B) which the Secretary is authorized to administer for
the
benefit of Indians under the Act of November 2, 1921 (42
Stat.
208) [25 U.S.C. 13], and any Act subsequent thereto;
(C) provided by the Secretary of Health and Human
Services
under the Act of August 5, 1954 (68 Stat. 674), as amended
[42
U.S.C. 2001 et seq.];
(D) administered by the Secretary for the benefit of
Indians
for which appropriations are made to agencies other than
the
Department of Health and Human Services or the Department
of the
Interior; and
(E) for the benefit of Indians because of their status
as

Indians without regard to the agency or office of the Department of Health and Human Services or the Department of the Interior within which it is performed.

The programs, functions, services, or activities that are contracted under this paragraph shall include administrative functions of the Department of the Interior and the Department of Health and Human Services (whichever is applicable) that support the delivery of services to Indians, including those administrative activities supportive of, but not included as part of, the service delivery programs described in this paragraph that are otherwise contractable. The administrative functions referred to in the preceding sentence shall be contractable without regard to the organizational level within the Department that carries out such functions.

(2) If so authorized by an Indian tribe under paragraph (1) of this subsection, a tribal organization may submit a proposal for a self-determination contract, or a proposal to amend or renew a self-determination contract, to the Secretary for review. Subject to the provisions of paragraph (4), the Secretary shall, within ninety days after receipt of the proposal, approve the proposal and award the contract unless the Secretary provides written notification to the applicant that contains a specific finding that clearly demonstrates that, or that is supported by a controlling legal authority that -

(A) the service to be rendered to the Indian beneficiaries of the particular program or function to be contracted will

not be

satisfactory;

(B) adequate protection of trust resources is not assured;

(C) the proposed project or function to be contracted for

cannot be properly completed or maintained by the proposed contract;

(D) the amount of funds proposed under the contract is in

excess of the applicable funding level for the contract, as

determined under section 450j-1(a) of this title; or

(E) the program, function, service, or activity (or portion

thereof) that is the subject of the proposal is beyond the scope

of programs, functions, services, or activities covered under

paragraph (1) because the proposal includes activities that

cannot lawfully be carried out by the contractor.

Notwithstanding any other provision of law, the Secretary may

extend or otherwise alter the 90-day period specified in the second

sentence of this subsection, (!) if before the expiration of such

period, the Secretary obtains the voluntary and express written

consent of the tribe or tribal organization to extend or otherwise

alter such period. The contractor shall include in the proposal of

the contractor the standards under which the tribal organization

will operate the contracted program, service, function, or activity, including in the area of construction, provisions regarding the use of licensed and qualified architects,

applicable

health and safety standards, adherence to applicable Federal,

State, local, or tribal building codes and engineering standards.

The standards referred to in the preceding sentence shall

ensure

structural integrity, accountability of funds, adequate competition

for subcontracting under tribal or other applicable law, the commencement, performance, and completion of the contract, adherence to project plans and specifications (including any applicable Federal construction guidelines and manuals), the use of

proper materials and workmanship, necessary inspection and testing,

and changes, modifications, stop work, and termination of the work

when warranted.

(3) Upon the request of a tribal organization that operates two

or more mature self-determination contracts, those contracts may be

consolidated into one single contract.

(4) The Secretary shall approve any severable portion of a contract proposal that does not support a declination finding

described in paragraph (2). If the Secretary determines under such

paragraph that a contract proposal -

(A) proposes in part to plan, conduct, or administer a program,

function, service, or activity that is beyond the scope of programs covered under paragraph (1), or

(B) proposes a level of funding that is in excess of the applicable level determined under section 450j-1(a) of this

title,

subject to any alteration in the scope of the proposal that the

Secretary and the tribal organization agree to, the Secretary

shall, as appropriate, approve such portion of the program, function, service, or activity as is authorized under paragraph (1)

or approve a level of funding authorized under section 450j-1(a) of

this title. If a tribal organization elects to carry out a severable portion of a contract proposal pursuant to this paragraph, subsection (b) of this section shall only apply

to the

portion of the contract that is declined by the Secretary pursuant

to this subsection.

(b) Procedure upon refusal of request to contract

Whenever the Secretary declines to enter into a self-determination contract or contracts pursuant to subsection

(a) of

this section, the Secretary shall -

(1) state any objections in writing to the tribal organization,

(2) provide assistance to the tribal organization to overcome

the stated objections, and

(3) provide the tribal organization with a hearing on the

record with the right to engage in full discovery relevant to any

issue raised in the matter and the opportunity for appeal on the

objections raised, under such rules and regulations as the Secretary may promulgate, except that the tribe or tribal organization may, in lieu of filing such appeal, exercise

the

option to initiate an action in a Federal district court

and

proceed directly to such court pursuant to section 450m-1

(a) of

this title.

(c) Liability insurance; waiver of defense

(1) Beginning in 1990, the Secretary shall be responsible for

obtaining or providing liability insurance or equivalent coverage,

on the most cost-effective basis, for Indian tribes, tribal organizations, and tribal contractors carrying out contracts, grant

agreements and cooperative agreements pursuant to this subchapter.

In obtaining or providing such coverage, the Secretary shall take

into consideration the extent to which liability under such contracts or agreements are covered by the Federal Tort Claims Act.

(2) In obtaining or providing such coverage, the Secretary shall,

to the greatest extent practicable, give a preference to coverage underwritten by Indian-owned economic enterprises as defined in section 1452 of this title, except that, for the purposes of this subsection, such enterprises may include non-profit corporations.

(3)(A) Any policy of insurance obtained or provided by the Secretary pursuant to this subsection shall contain a provision that the insurance carrier shall waive any right it may have to raise as a defense the sovereign immunity of an Indian tribe from suit, but that such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage or limits of the policy of insurance.

(B) No waiver of the sovereign immunity of an Indian tribe pursuant to this paragraph shall include a waiver to the extent of any potential liability for interest prior to judgment or for punitive damages or for any other limitation on liability imposed by the law of the State in which the alleged injury occurs.

(d) Tribal organizations and Indian contractors deemed part of Public Health Service For purposes of section 233 of title 42, with respect to claims by any person, initially filed on or after December 22, 1987, whether or not such person is an Indian or Alaska Native or is served on a fee basis or under other circumstances as permitted by Federal law or regulations for personal injury, including death, resulting from the performance prior to, including, or after

December 22, 1987, of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, or for purposes of section 2679, title 28, with respect to claims by any such person, on or after November 29, 1990, for personal injury, including death, resulting from the operation of an emergency motor vehicle, an Indian tribe, a tribal organization or Indian contractor carrying out a contract, grant agreement, or cooperative agreement under sections (!2) 450f or 450h of this title is deemed to be part of the Public Health Service in the Department of Health and Human Services while carrying out any such contract or agreement and its employees (including those acting on behalf of the organization or contractor as provided in section 2671 of title 28 and including an individual who provides health care services pursuant to a personal services contract with a tribal organization for the provision of services in any facility owned, operated, or constructed under the jurisdiction of the Indian Health Service) are deemed employees of the Service while acting within the scope of their employment in carrying out the contract or agreement: Provided, That such employees shall be deemed to be acting within the scope of their employment in carrying out such contract or agreement when they are required, by reason of such employment, to perform medical, surgical, dental or related functions at a facility other than the facility operated pursuant to such contract or agreement, but only if such employees are not compensated for the performance of such functions by a person or entity other than such Indian tribe, tribal organization or Indian contractor.

(e) Burden of proof at hearing or appeal declining contract;
final

agency action

(1) With respect to any hearing or appeal conducted
pursuant to

subsection (b)(3) of this section or any civil action
conducted

pursuant to section 450m-1(a) of this title, the Secretary
shall

have the burden of proof to establish by clearly
demonstrating the

validity of the grounds for declining the contract proposal
(or

portion thereof).

(2) Notwithstanding any other provision of law, a decision
by an

official of the Department of the Interior or the Department
of

Health and Human Services, as appropriate (referred to in
this

paragraph as the "Department") that constitutes final agency
action

and that relates to an appeal within the Department that is
conducted under subsection (b)(3) of this section shall be
made

either -

(A) by an official of the Department who holds a
position at a

higher organizational level within the Department than the
level

of the departmental agency (such as the Indian Health
Service or

the Bureau of Indian Affairs) in which the decision that
is the

subject of the appeal was made; or

(B) by an administrative judge.

-SOURCE-

(Pub. L. 93-638, title I, Sec. 102, formerly Secs. 102 and
103(c),

Jan. 4, 1975, 88 Stat. 2206; Pub. L. 100-202, Sec. 101(g)
[title

II, Sec. 201], Dec. 22, 1987, 101 Stat. 1329-213, 1329-246;
Pub. L.

100-446, title II, Sec. 201, Sept. 27, 1988, 102 Stat. 1817;

renumbered Sec. 102 and amended Pub. L. 100-472, title II, Sec. 201(a), (b)(1), Oct. 5, 1988, 102 Stat. 2288, 2289; Pub. L. 100-581, title II, Sec. 210, Nov. 1, 1988, 102 Stat. 2941; Pub. L. 101-644, title II, Sec. 203(b), Nov. 29, 1990, 104 Stat. 4666; Pub. L. 103-413, title I, Sec. 102(5)-(9), Oct. 25, 1994, 108 Stat. 4251-4253; Pub. L. 106-260, Sec. 6, Aug. 18, 2000, 114 Stat. 732.)

-REFTEXT-

REFERENCES IN TEXT

Act of April 16, 1934, referred to in subsec. (a)(1)(A), is act
Apr. 16, 1934, ch. 147, 48 Stat. 596, as amended, popularly known

as the Johnson-O'Malley Act, which is classified generally to

section 452 et seq. of this title. For complete classification of

this Act to the Code, see Short Title note set out under section

452 of this title and Tables.

Act of August 5, 1954, referred to in subsec. (a)(1)(C), is act

Aug. 5, 1954, ch. 658, 68 Stat. 674, as amended, which is classified generally to subchapter I (Sec. 2001 et seq.) of chapter

22 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

This subchapter, referred to in subsec. (c)(1), was in the original "this Act", meaning Pub. L. 93-638, Jan. 4, 1975, 88 Stat.

2203, as amended, known as the Indian Self-Determination and Education Assistance Act, which is classified principally to this

subchapter (Sec. 450 et seq.). For complete classification of this

Act to the Code, see Short Title note set out under section 450 of

this title and Tables.

The Federal Tort Claims Act, referred to in subsec. (c) (1), is

title IV of act Aug. 2, 1946, ch. 753, 60 Stat. 842, which was classified principally to chapter 20 (Secs. 921, 922, 931-934, 941-946) of former Title 28, Judicial Code and Judiciary. Title IV of act Aug. 2, 1946, was substantially repealed and reenacted as sections 1346(b) and 2671 et seq. of Title 28, Judiciary and Judicial Procedure, by act June 25, 1948, ch. 646, 62 Stat. 992, the first section of which enacted Title 28. The Federal Tort Claims Act is also commonly used to refer to chapter 171 of Title 28, Judiciary and Judicial Procedure. For complete classification of title IV to the Code, see Tables. For distribution of former sections of Title 28 into the revised Title 28, see Table at the beginning of Title 28.

-MISC1-

AMENDMENTS

2000 - Subsec. (e)(1). Pub. L. 106-260 inserted "or any civil action conducted pursuant to section 450m-1(a) of this title" after "subsection (b)(3) of this section".

1994 - Subsec. (a)(1). Pub. L. 103-413, Sec. 102(5), inserted concluding provisions.

Subsec. (a)(2). Pub. L. 103-413, Sec. 102(6)(A)(i), (ii), (vi), inserted ", or a proposal to amend or renew a self-determination contract," before "to the Secretary for review" in first sentence and, in second sentence, substituted "Subject to the provisions of paragraph (4), the Secretary" for "The Secretary", inserted "and award the contract" after "approve the proposal", substituted "the

Secretary provides written notification to the applicant that contains a specific finding that clearly demonstrates that, or that is supported by a controlling legal authority that" for ", within sixty days of receipt of the proposal, a specific finding is made that", and inserted concluding provisions.

Subsec. (a)(2)(D), (E). Pub. L. 103-413, Sec. 102(6)(A) (iii)-(v), added subpars. (D) and (E).

Subsec. (a)(4). Pub. L. 103-413, Sec. 102(6)(B), added par. (4).

Subsec. (b)(3). Pub. L. 103-413, Sec. 102(7), inserted "with the right to engage in full discovery relevant to any issue raised in the matter" after "record" and ", except that the tribe or tribal organization may, in lieu of filing such appeal, exercise the option to initiate an action in a Federal district court and proceed directly to such court pursuant to section 450m-1(a) of this title" before period at end.

Subsec. (d). Pub. L. 103-413, Sec. 102(8), substituted "as provided in section 2671 of title 28 and including an individual who provides health care services pursuant to a personal services contract with a tribal organization for the provision of services in any facility owned, operated, or constructed under the jurisdiction of the Indian Health Service)" for "as provided in section 2671 of title 28)".

Subsec. (e). Pub. L. 103-413, Sec. 102(9), added subsec. (e).

1990 - Subsec. (d). Pub. L. 101-644 inserted "or for purposes of section 2679, title 28, with respect to claims by any such person, on or after November 29, 1990, for personal injury, including death, resulting from the operation of an emergency motor

vehicle,"

after "investigations,".

1988 - Pub. L. 100-472, Sec. 201(a), amended section generally,

revising and restating provisions of subsecs. (a) to (c).

Subsec. (c)(2). Pub. L. 100-581 which directed amendment of par.

(2) by substituting "section 1452 of this title" for "section 1425

of title 25, United States Code" was executed by making the substitution for "section 1425, title 25, United States Code" to

reflect the probable intent of Congress.

Subsec. (d). Pub. L. 100-472, Sec. 201(b)(1), redesignated the

last sentence of subsec. (c) of section 450g of this title as

subsec. (d) of this section and substituted "sections 450f or 450h

of this title" for "sections 450g and 450h(b) of this title".

Pub. L. 100-446 inserted into sentence beginning "For purposes

of" the words "by any person, initially filed on or after December

22, 1987, whether or not such person is an Indian or Alaska Native

or is served on a fee basis or under other circumstances as permitted by Federal law or regulations" after "claims",

"prior to,

including, or after December 22, 1987," after "performance", "an

Indian tribe," after "investigations," and ": Provided, That such

employees shall be deemed to be acting within the scope of their

employment in carrying out such contract or agreement when they are

required, by reason of such employment, to perform medical, surgical, dental or related functions at a facility other

than the

facility operated pursuant to such contract or agreement, but only

if such employees are not compensated for the performance of such

functions by a person or entity other than such Indian

tribe,

tribal organization or Indian contractor" after "the contract or agreement".

1987 - Subsec. (d). Pub. L. 100-202 inserted sentence at end
deeming a tribal organization or Indian contractor carrying out a contract, grant agreement, or cooperative agreement to be part of the Public Health Service while carrying out any such contract or agreement and its employees to be employees of the Service while acting within the scope of their employment in carrying out the contract or agreement.

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102-184, Sec. 1, Dec. 4, 1991, 105 Stat. 1278, provided
that: "This Act [amending provisions set out below] may be cited as the 'Tribal Self-Governance Demonstration Project Act'."

SHORT TITLE

For short title of title I of Pub. L. 93-638, which is classified principally to this part, as the "Indian Self-Determination Act",
see section 101 of Pub. L. 93-638, set out as a note under section 450 of this title.

SAVINGS PROVISION

Pub. L. 106-260, Sec. 11, Aug. 18, 2000, 114 Stat. 734, provided
that: "Funds appropriated for title III of the Indian Self-Determination and Education Assistance Act ([Pub. L. 93-638, former] 25 U.S.C. 450f note) shall be available for use under title V of such Act [25 U.S.C. 458aaa et seq]."

TRIBAL SELF-GOVERNANCE - DEPARTMENT OF HEALTH AND HUMAN SERVICES

Title VI of Pub. L. 93-638, as added by Pub. L. 106-260,

Sec. 5,

Aug. 18, 2000, 114 Stat. 731, provided that:

"SEC. 601. DEFINITIONS.

"(a) In General. - In this title, the Secretary may apply the definitions contained in title V [25 U.S.C. 458aaa et seq.].

"(b) Other Definitions. - In this title:

"(1) Agency. - The term 'agency' means any agency or other organizational unit of the Department of Health and Human Services, other than the Indian Health Service.

"(2) Secretary. - The term 'Secretary' means the Secretary of Health and Human Services.

"SEC. 602. DEMONSTRATION PROJECT FEASIBILITY.

"(a) Study. - The Secretary shall conduct a study to determine the feasibility of a tribal self-governance demonstration project

for appropriate programs, services, functions, and activities (or portions thereof) of the agency.

"(b) Considerations. - In conducting the study, the Secretary shall consider -

"(1) the probable effects on specific programs and program beneficiaries of such a demonstration project;

"(2) statutory, regulatory, or other impediments to implementation of such a demonstration project;

"(3) strategies for implementing such a demonstration project;

"(4) probable costs or savings associated with such a demonstration project;

"(5) methods to assure quality and accountability in such a demonstration project; and

"(6) such other issues that may be determined by the Secretary

or developed through consultation pursuant to section 603.

"(c) Report. - Not later than 18 months after the date of the enactment of this title [Aug. 18, 2000], the Secretary shall submit

a report to the Committee on Indian Affairs of the Senate and the Committee on Resources [now Committee on Natural Resources] of the

House of Representatives. The report shall contain -

"(1) the results of the study under this section;

"(2) a list of programs, services, functions, and activities

(or portions thereof) within each agency with respect to which it

would be feasible to include in a tribal self-governance demonstration project;

"(3) a list of programs, services, functions, and activities

(or portions thereof) included in the list provided pursuant to

paragraph (2) that could be included in a tribal self-governance

demonstration project without amending statutes, or waiving

regulations that the Secretary may not waive;

"(4) a list of legislative actions required in order to include

those programs, services, functions, and activities (or portions

thereof) included in the list provided pursuant to paragraph (2)

but not included in the list provided pursuant to paragraph (3)

in a tribal self-governance demonstration project; and

"(5) any separate views of tribes and other entities consulted

pursuant to section 603 related to the information provided

pursuant to paragraphs (1) through (4).

"SEC. 603. CONSULTATION.

"(a) Study Protocol. -

"(1) Consultation with Indian tribes. - The Secretary shall

consult with Indian tribes to determine a protocol for consultation under subsection (b) prior to consultation

under such subsection with the other entities described in such subsection.

"(2) Requirements for protocol. - The protocol shall

require,

at a minimum, that -

Indian "(A) the government-to-government relationship with

tribes forms the basis for the consultation process;

conduct the "(B) the Indian tribes and the Secretary jointly

consultations required by this section; and

direct "(C) the consultation process allows for separate and

entities recommendations from the Indian tribes and other

described in subsection (b).

this "(b) Conducting Study. - In conducting the study under

States, title, the Secretary shall consult with Indian tribes,

interested counties, municipalities, program beneficiaries, and

as public interest groups, and may consult with other entities

appropriate.

"SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

be "There are authorized to be appropriated such sums as may

available necessary to carry out this title. Such sums shall remain

until expended."

INDIAN TRIBAL TORT CLAIMS AND RISK MANAGEMENT

1998, Pub. L. 105-277, div. A, Sec. 101(e) [title VII], Oct. 21,

112 Stat. 2681-231, 2681-335, provided that:

"SEC. 701. SHORT TITLE.

and "This title may be cited as the 'Indian Tribal Tort Claims

Risk Management Act of 1998'."

"SEC. 702. FINDINGS AND PURPOSE.

"(a) Findings. - Congress finds that -

toward "(1) Indian tribes have made significant achievements

self- developing a foundation for economic self-sufficiency and

determination, and that economic self-sufficiency and self-determination have increased opportunities for the Indian tribes and other entities and persons to interact more frequently in commerce and intergovernmental relationships;

"(2) although Indian tribes have sought and secured liability insurance coverage to meet their needs, many Indian tribes are faced with significant barriers to obtaining liability insurance because of the high cost or unavailability of such coverage in the private market;

"(3) as a result, Congress has extended liability coverage provided to Indian tribes to organizations to carry out activities under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.); and

"(4) there is an emergent need for comprehensive and cost-efficient insurance that allows the economy of Indian tribes to continue to grow and provides compensation to persons that may suffer personal injury or loss of property.

"(b) Purpose. - The purpose of this title is to provide for a study to facilitate relief for a person who is injured as a result of an official action of a tribal government.

"SEC. 703. DEFINITIONS.

"In this title:

"(1) Indian tribe. - The term 'Indian tribe' has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

"(2) Secretary. - The term 'Secretary' means the Secretary of the Interior.

"(3) Tribal organization. - The term 'tribal

organization' has
the meaning given that term in section 4(1) of the Indian
Self-
Determination and Education Assistance Act (25 U.S.C. 450b
(1)).

"SEC. 704. STUDY AND REPORT TO CONGRESS.

"(a) In General. -

"(1) Study. - In order to minimize and, if possible,
eliminate
redundant or duplicative liability insurance coverage and
to
ensure that the provision of insurance to Indian tribes is
cost-
effective, the Secretary shall conduct a comprehensive
survey of
the degree, type, and adequacy of liability insurance
coverage of
Indian tribes at the time of the study.

"(2) Contents of study. - The study conducted under this
subsection shall include -

"(A) an analysis of loss data;

"(B) risk assessments;

"(C) projected exposure to liability, and related
matters;

and

"(D) the category of risk and coverage involved, which
may

include -

"(i) general liability;

"(ii) automobile liability;

"(iii) the liability of officials of the Indian
tribe;

"(iv) law enforcement liability;

"(v) workers' compensation; and

"(vi) other types of liability contingencies.

"(3) Assessment of coverage by categories of risk. - For
each

Indian tribe, for each category of risk identified under
paragraph (2), the Secretary, in conducting the study,
shall

determine whether insurance coverage or coverage under
chapter

171 of title 28, United States Code, applies to that
Indian tribe

for that activity.

"(b) Report. - Not later than June 1, 1999, and annually thereafter, the Secretary shall submit a report to Congress that

contains legislative recommendations that the Secretary determines

to -

"(1) be appropriate to improve the provision of insurance

coverage to Indian tribes; or

"(2) otherwise achieve the purpose of providing relief to

persons who are injured as a result of an official action of a tribal government.

"SEC. 705. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Department of the

Interior such sums as may be necessary to carry out this title."

CLAIMS RESULTING FROM PERFORMANCE OF CONTRACT, GRANT AGREEMENT, OR

COOPERATIVE AGREEMENT; CIVIL ACTION AGAINST TRIBE, TRIBAL

ORGANIZATION, ETC., DEEMED ACTION AGAINST UNITED STATES;

REIMBURSEMENT OF TREASURY FOR PAYMENT OF CLAIMS

Pub. L. 101-512, title III, Sec. 314, Nov. 5, 1990, 104 Stat.

1959, as amended by Pub. L. 103-138, title III, Sec. 308, Nov. 11,

1993, 107 Stat. 1416, provided that: "With respect to claims resulting from the performance of functions during fiscal year 1991

and thereafter, or claims asserted after September 30, 1990, but

resulting from the performance of functions prior to fiscal year

1991, under a contract, grant agreement, or any other agreement or

compact authorized by the Indian Self-Determination and Education

Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450 et

seq.) [Pub. L. 93-638, see Short Title note set out under

section

450 of this title and Tables] or by title V, part B,
Tribally

Controlled School Grants of the Hawkins-Stafford Elementary
and

Secondary School Improvement Amendments of 1988, as amended
(102

Stat. 385; 25 U.S.C. 2501 et seq.), an Indian tribe, tribal
organization or Indian contractor is deemed hereafter to be
part of

the Bureau of Indian Affairs in the Department of the
Interior or

the Indian Health Service in the Department of Health and
Human

Services while carrying out any such contract or agreement
and its

employees are deemed employees of the Bureau or Service
while

acting within the scope of their employment in carrying out
the

contract or agreement: Provided, That after September 30,
1990, any

civil action or proceeding involving such claims brought
hereafter

against any tribe, tribal organization, Indian contractor or
tribal

employee covered by this provision shall be deemed to be an
action

against the United States and will be defended by the
Attorney

General and be afforded the full protection and coverage of
the

Federal Tort Claims Act [See Short Title note under section
2671 of

Title 28, Judiciary and Judicial Procedure]: Provided
further, That

beginning with the fiscal year ending September 30, 1991,
and

thereafter, the appropriate Secretary shall request through
annual

appropriations funds sufficient to reimburse the Treasury
for any

claims paid in the prior fiscal year pursuant to the
foregoing

provisions: Provided further, That nothing in this section
shall in

any way affect the provisions of section 102(d) of the Indian Self-Determination and Education Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450 et seq.) [25 U.S.C. 450f(d)]."

REFERENCE TO SECTION 450G(C) IN PUBLIC LAW 100-446

Section 201(b)(2) of Pub. L. 100-472 provided that: "Any reference to section 103(c) [Sec. 103(c) of Pub. L. 93-638, formerly 25 U.S.C. 450g(c)] contained in an Act making appropriations for the Department of the Interior and Related Agencies for fiscal year 1989 [Pub. L. 100-446] shall be deemed to apply to section 102(d) of such Act [Sec. 102(d) of Pub. L. 93-638, 25 U.S.C. 450f(d)] as amended by this Act."

TRIBAL SELF-GOVERNANCE DEMONSTRATION PROJECT

Title III of Pub. L. 93-638, as added by Pub. L. 100-472, title II, Sec. 209, Oct. 5, 1988, 102 Stat. 2296; amended by Pub. L. 102-184, Secs. 2-6, Dec. 4, 1991, 105 Stat. 1278; Pub. L. 102-573, title VIII, Sec. 814, Oct. 29, 1992, 106 Stat. 4590; Pub. L. 103-435, Sec. 22(a)(2), (3), Nov. 2, 1994, 108 Stat. 4575; Pub. L. 103-437, Sec. 10(c)(1), Nov. 2, 1994, 108 Stat. 4589; Pub. L. 105-244, title IX, Sec. 901(d), Oct. 7, 1998, 112 Stat. 1828, related to tribal self-governance research and demonstration project conducted by Secretary of the Interior and Secretary of Health and Human Services, prior to repeal by Pub. L. 106-260, Sec. 10, Aug. 18, 2000, 114 Stat. 734.

-FOOTNOTE-

(!1) So in original. Probably should be "paragraph,".

(!2) So in original. Probably should be "section".

-End-

-CITE-

25 USC Sec. 450g
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part A - Indian Self-Determination

-HEAD-

Sec. 450g. Repealed or Transferred. Pub. L. 100-472, title
II, Sec.
201(b)(1), Oct. 5, 1988, 102 Stat. 2289

-MISC1-

Section, Pub. L. 93-638, title I, Sec. 103, Jan. 4, 1975,
88
Stat. 2206; Pub. L. 96-88, title V, Sec. 509(b), Oct. 17,
1979, 93
Stat. 695; Pub. L. 100-202, Sec. 101(g) [title II], Dec. 22,
1987,
101 Stat. 1329-213, 1329-246; Pub. L. 100-446, title II,
Sept. 27,
1988, 102 Stat. 1817, which related to contracts by
Secretary of
Health and Human Services with tribal organizations, was
repealed
except for the last sentence of subsec. (c), providing that
tribal
organizations and Indian contractors be deemed part of
Public
Health Service, which was redesignated subsec. (d) of
section 450f
of this title.

-End-

-CITE-

25 USC Sec. 450h
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part A - Indian Self-Determination

-HEAD-

Sec. 450h. Grants to tribal organizations or tribes

-STATUTE-

(a) Request by tribe for contract or grant by Secretary of the

Interior for improving, etc., tribal governmental, contracting, and program planning activities

The Secretary of the Interior is authorized, upon the request of

any Indian tribe (from funds appropriated for the benefit of Indians pursuant to section 13 of this title, and any Act subsequent thereto) to contract with or make a grant or grants to

any tribal organization for -

(1) the strengthening or improvement of tribal government

(including, but not limited to, the development, improvement, and

administration of planning, financial management, or merit personnel systems; the improvement of tribally funded programs or

activities; or the development, construction, improvement, maintenance, preservation, or operation of tribal facilities or

resources);

(2) the planning, training, evaluation of other activities

designed to improve the capacity of a tribal organization to

enter into a contract or contracts pursuant to section 450f of

this title and the additional costs associated with the initial

years of operation under such a contract or contracts; or
(3) the acquisition of land in connection with items (1)
and
(2) above: Provided, That in the case of land within
Indian
country (as defined in chapter 53 of title 18) or which
adjoins
on at least two sides lands held in trust by the United
States
for the tribe or for individual Indians, the Secretary of
(!1)
Interior may (upon request of the tribe) acquire such land
in
trust for the tribe.

(b) Grants by Secretary of Health and Human Services for
development, maintenance, etc., of health facilities or
services
and improvement of contract capabilities implementing
hospital
and health facility functions
The Secretary of Health and Human Services may, in
accordance
with regulations adopted pursuant to section 450k of this
title,
make grants to any Indian tribe or tribal organization for -
(1) the development, construction, operation, provision,
or
maintenance of adequate health facilities or services
including
the training of personnel for such work, from funds
appropriated
to the Indian Health Service for Indian health services or
Indian
health facilities; or
(2) planning, training, evaluation or other activities
designed
to improve the capacity of a tribal organization to enter
into a
contract or contracts pursuant to section 450g (!2) of
this
title.

(c) Use as matching shares for other similar Federal grant
programs
The provisions of any other Act notwithstanding, any funds

made

available to a tribal organization under grants pursuant to this section may be used as matching shares for any other Federal grant programs which contribute to the purposes for which grants under this section are made.

(d) Technical assistance

The Secretary is directed, upon the request of any tribal organization and subject to the availability of appropriations, to

provide technical assistance on a nonreimbursable basis to such

tribal organization -

(1) to develop any new self-determination contract authorized

pursuant to this subchapter;

(2) to provide for the assumption by such tribal organization

of any program, or portion thereof, provided for in section

450f(a)(1) of this title; or

(3) to develop modifications to any proposal for a self-determination contract which the Secretary has declined to approve pursuant to section 450f of this title.

(e) Grants for technical assistance and for planning, etc., Federal

programs for tribe

The Secretary is authorized, upon the request of an Indian tribe,

to make a grant to any tribal organization for -

(1) obtaining technical assistance from providers designated by

the tribal organization, including tribal organizations that

operate mature contracts, for the purposes of program planning

and evaluation, including the development of any management

systems necessary for contract management, and the development of

cost allocation plans for indirect cost rates; and

(2) the planning, designing, monitoring, and evaluating of

Federal programs serving the tribe, including Federal

administrative functions.

-SOURCE-

(Pub. L. 93-638, title I, Sec. 103, formerly Sec. 104, Jan. 4, 1975, 88 Stat. 2207; renumbered Sec. 103 and amended Pub. L. 100-472, title II, Sec. 202, Oct. 5, 1988, 102 Stat. 2289; Pub. L. 101-644, title II, Sec. 203(g)(1), Nov. 29, 1990, 104 Stat. 4666.)

-REFTEXT-

REFERENCES IN TEXT

Section 450g of this title, referred to in subsec. (b)(2), was in the original "section 103 of this Act", meaning section 103 of Pub.

L. 93-638, the Indian Self-Determination Act. Section 103(a) and

(b) and the first sentence of section 103(c) of Pub. L. 93-638 were

repealed, and the remainder of section 103(c) of Pub. L. 93-638 was

redesignated as section 102(d) of Pub. L. 93-638 (section 450f(d)

of this title) by Pub. L. 100-472, title II, Sec. 201(b)(1), Oct.

5, 1988, 102 Stat. 2289. Section 104 of Pub. L. 93-638 was renumbered as section 103 of Pub. L. 93-638 by section 202 (a) of

Pub. L. 100-472, and is classified to this section.

-MISC1-

PRIOR PROVISIONS

A prior section 103 of Pub. L. 93-638 was classified to section

450g of this title and was repealed in part and transferred in part

by section 201(b)(1) of Pub. L. 100-472.

AMENDMENTS

1990 - Subsec. (a)(3). Pub. L. 101-644, which directed the substitution of "Indian country (as defined in chapter 53 of title

18)" for "reservation boundaries" in "section 301(a)(3) of the

Indian Self-Determination Act (25 U.S.C. 450h(a)(3))", was executed

to this section, section 103(a)(3) of that Act, to reflect the

probable intent of Congress.

1988 - Subsec. (a). Pub. L. 100-472, Sec. 202(b), inserted "or"

at end of par. (2), substituted a period for "; or" at end of par.

(3), and struck out par. (4) which read as follows: "the planning,

designing, monitoring, and evaluating of Federal programs serving

the tribe."

Subsec. (b). Pub. L. 100-472, Sec. 202(c), substituted "Health

and Human Services" for "Health, Education, and Welfare".

Subsecs. (d), (e). Pub. L. 100-472, Sec. 202(d), added subsecs.

(d) and (e).

AUTHORITY OF SECRETARY TO ACQUIRE LANDS IN TRUST

Section 203(g)(2) of Pub. L. 101-644 provided that: "The amendment made by paragraph (1) [amending this section] shall not

alter or otherwise modify or affect existing prohibitions or limitations on the Secretary's authority to acquire lands in trust."

-FOOTNOTE-

(!1) So in original. Probably should be followed by "the".

(!2) See References in Text note below.

-End-

-CITE-

25 USC Sec. 450i

01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part A - Indian Self-Determination

-HEAD-

Sec. 450i. Retention of Federal employee coverage, rights
and
benefits by employees of tribal organizations

-STATUTE-

(a) to (d) Omitted
(e) Eligible employees; Federal employee programs subject to
retention
Notwithstanding the provisions of sections 8347(o), 8713,
and
8914 of title 5, executive order, or administrative
regulation, an
employee serving under an appointment not limited to one
year or
less who leaves Federal employment to be employed by a
tribal
organization, the city of St. Paul, Alaska, the city of St.
George,
Alaska, upon incorporation, or the Village Corporations of
St. Paul
and St. George Islands established pursuant to section 1607
of
title 43, in connection with governmental or other
activities which
are or have been performed by employees in or for Indian
communities is entitled, if the employee and the tribal
organization so elect, to the following:
(1) To retain coverage, rights, and benefits under
subchapter I
of chapter 81 ("Compensation for Work Injuries") of title
5, and
for this purpose his employment with the tribal
organization
shall be deemed employment by the United States. However,
if an
injured employee, or his dependents in case of his death,
receives from the tribal organization any payment
(including an
allowance, gratuity, payment under an insurance policy for

which

the premium is wholly paid by the tribal organization, or other

benefit of any kind) on account of the same injury or death, the

amount of that payment shall be credited against any benefit

payable under subchapter I of chapter 81 of title 5, as follows:

(A) payments on account of injury or disability shall be

credited against disability compensation payable to the injured

employee; and

(B) payments on account of death shall be credited against

death compensation payable to dependents of the deceased employee.

(2) To retain coverage, rights, and benefits under chapter 83

("Retirement") or chapter 84 ("Federal Employees Retirement

System") of title 5, if necessary employee deductions and agency

contributions in payment for coverage, rights, and benefits for

the period of employment with the tribal organization are currently deposited in the Civil Service Retirement and Disability Fund (section 8348 of title 5); and the period during

which coverage, rights, and benefits are retained under this

paragraph is deemed creditable service under section 8332 of

title 5. Days of unused sick leave to the credit of an employee

under a formal leave system at the time the employee leaves

Federal employment to be employed by a tribal organization remain

to his credit for retirement purposes during covered service with

the tribal organization.

(3) To retain coverage, rights, and benefits under chapter 89

("Health Insurance") of title 5, if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with the tribal organization are currently deposited in the Employee's Health Benefit Fund (section 8909 of title 5); and the period during which coverage, rights, and benefits are retained under this paragraph is deemed service as an employee under chapter 89 of title 5.

(4) To retain coverage, rights, and benefits under chapter 87

("Life Insurance") of title 5, if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with the tribal organizations are currently deposited in the Employee's Life Insurance Fund (section 8714 of title 5); and the period during which coverage, rights, and benefits are retained under this paragraph is deemed service as an employee under chapter 87 of title 5.

(f) Deposit by tribal organization of employee deductions and

agency contributions in appropriate funds During the period an employee is entitled to the coverage, rights, and benefits pursuant to the preceding subsection, the tribal organization employing such employee shall deposit currently in the appropriate funds the employee deductions and agency contributions required by paragraphs (2), (3), and (4) of such preceding subsection.

(g) Election for retention by employee and tribal organization

before date of employment by tribal organization; transfer of

employee to another tribal organization

An employee who is employed by a tribal organization under subsection (e) of this section and such tribal organization shall

make the election to retain the coverages, rights, and benefits in

paragraphs (1), (2), (3), and (4) of such subsection (e) before the

date of his employment by a tribal organization. An employee who is

employed by a tribal organization under subsection (e) of this

section shall continue to be entitled to the benefits of such

subsection if he is employed by another tribal organization to

perform service in activities of the type described in such subsection.

(h) "Employee" defined

For the purposes of subsections (e), (f), and (g) of this section, the term "employee" means an employee as defined in section 2105 of title 5.

(i) Promulgation of implementation regulations by President

The President may prescribe regulations necessary to carry out

the provisions of subsections (e), (f), (g), and (h) of this section and to protect and assure the compensation, retirement,

insurance, leave, reemployment rights, and such other similar civil

service employment rights as he finds appropriate.

(j) Additional employee employment rights

Anything in sections 205 and 207 of title 18 to the contrary

notwithstanding -

(1) an officer or employee of the United States assigned to a

tribal organization (as defined in section 450b(1) of this title)

or an inter-tribal consortium (as defined in section 458aaa of

this title), as authorized under section 3372 of title 5 or

section 48 of this title may act as agent or attorney for, and

appear on behalf of, such tribal organization or inter-

tribal
consortium in connection with any matter related to a
tribal
governmental activity or Federal Indian program or service
pending before any department, agency, court, or
commission,
including any matter in which the United States is a party
or has
a direct and substantial interest: Provided, That such
officer or
employee must advise in writing the head of the
department,
agency, court, or commission with which the officer or
employee
is dealing or appearing on behalf of the tribal
organization or
inter-tribal consortium of any personal and substantial
involvement with the matter involved; and
(2) a former officer or employee of the United States
who is
carrying out official duties as an employee or as an
elected or
appointed official of a tribal organization (as defined in
section 450b(1) of this title) or inter-tribal consortium
(as
defined in section 458aaa of this title) may act as agent
or
attorney for, and appear on behalf of, such tribal
organization
or intra-tribal consortium in connection with any matter
related
to a tribal governmental activity or Federal Indian
program or
service pending before any department, agency, court, or
commission, including any matter in which the United
States is a
party or has a direct and substantial interest: Provided,
That
such former officer or employee must advise in writing the
head
of the department, agency, court, or commission with which
the
former officer or employee is dealing or appearing on
behalf of
the tribal organization or inter-tribal consortium of any
personal and substantial involvement that he or she may

have had

as an officer or employee of the United States in connection with

the matter involved.

(k), (l) Omitted

(m) Conversion to career appointment

The status of an Indian (as defined in section 479 of this title)

appointed (except temporary appointments) to the Federal service

under an excepted appointment under the authority of section 472 of

this title, or any other provision of law granting a preference to

Indians in personnel actions, shall be converted to a career appointment in the competitive service after three years of continuous service and satisfactory performance. The

conversion

shall not alter the Indian's eligibility for preference in personnel actions.

-SOURCE-

(Pub. L. 93-638, title I, Sec. 104, formerly Sec. 105, Jan. 4,

1975, 88 Stat. 2208; Pub. L. 89-702, title II, Sec. 210(a), as

added Pub. L. 98-129, Sec. 2, Oct. 14, 1983, 97 Stat. 843; Pub. L.

99-221, Sec. 3(a), Dec. 26, 1985, 99 Stat. 1735; renumbered Sec.

104 and amended Pub. L. 100-472, title II, Sec. 203, Oct. 5, 1988,

102 Stat. 2290; Pub. L. 101-301, Sec. 2(a)(6), May 24, 1990, 104

Stat. 206; Pub. L. 110-81, title I, Sec. 104(b), Sept. 14, 2007,

121 Stat. 740.)

-COD-

CODIFICATION

Section is comprised of section 104 of Pub. L. 93-638. Subsecs.

(a) to (d) of section 104 of Pub. L. 93-638 are classified to

section 3371 of Title 5, Government Organization and Employees,

section 2004b of Title 42, The Public Health and Welfare,
section
456 of Title 50, Appendix, War and National Defense, and
section
4762 of Title 42, respectively. Subsecs. (k) and (l) of
section 104
of Pub. L. 93-638 are classified to section 3372 of Title 5.

-MISC1-

PRIOR PROVISIONS

A prior section 104 of Pub. L. 93-638 was renumbered
section 103
by Pub. L. 100-472 and is classified to section 450h of this
title.

AMENDMENTS

2007 - Subsec. (j). Pub. L. 110-81 amended subsec. (j)
generally.

Prior to amendment, text read as follows: "Anything in
sections 205
and 207 of title 18 to the contrary notwithstanding,
officers and
employees of the United States assigned to an Indian tribe
as
authorized under section 3372 of title 5, or section 48 of
this
title and former officers and employees of the United States
employed by Indian tribes may act as agents or attorneys for
or
appear on behalf of such tribes in connection with any matter
pending before any department, agency, court, or commission,
including any matter in which the United States is a party
or has a
direct and substantial interest: Provided, That each such
officer
or employee or former officer or employee must advise in
writing
the head of the department, agency, court, or commission
with which
he is dealing or appearing on behalf of the tribe of any
personal
and substantial involvement he may have had as an officer or
employee of the United States in connection with the matter
involved."

1990 - Subsec. (m). Pub. L. 101-301 substituted "an Indian

(as defined in section 479 of this title) appointed (except temporary appointments)" for "an Indian appointed".

1988 - Subsecs. (a), (b). Pub. L. 100-472, Sec. 203(b), (c), amended subsecs. (a) and (b). See Codification note above.

Subsec. (e). Pub. L. 100-472, Sec. 203(d), (e), in introductory provisions, substituted "Notwithstanding the provisions of sections 8347(o), 8713, and 8914 of title 5" for "Notwithstanding any other law" and struck out "on or before December 31, 1988" after "title 43", and in par. (2), inserted "or chapter 84 ('Federal Employees Retirement System')". Notwithstanding directory language that the substitution of "Notwithstanding the provisions of sections 8347(o), 8713, and 8914 of title 5" be made in par. (2) of subsec. (e), the substitution was made in introductory provisions of subsec. (e) to reflect the probable intent of Congress because the language replaced appeared only in those introductory provisions.

Subsecs. (k), (l). Pub. L. 100-472, Sec. 203(f), added subsecs. (k) and (l). See Codification note above.

Subsec. (m). Pub. L. 100-472, Sec. 203(f), added subsec. (m).

1985 - Subsec. (e). Pub. L. 99-221 substituted "1988" for "1985".

1983 - Subsec. (e). Pub. L. 89-702, Sec. 210(a), as added by Pub. L. 98-129, inserted ", the city of St. Paul, Alaska, the city of St. George, Alaska, upon incorporation, or the Village Corporations of St. Paul and St. George Islands established pursuant to section 1607 of title 43".

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-81, title I, Sec. 105(d), Sept. 14, 2007, 121

Stat.

741, provided that: "The amendments made by section 104 [amending this section and section 207 of Title 18, Crimes and Criminal Procedure] shall take effect on the date of the enactment of this Act [Sept. 14, 2007], except that section 104(j)(2) of the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450i(j)(2)] (as amended by section 104(b)) shall apply to individuals who leave Federal office or employment to which such amendments apply on or after the 60th day after the date of the enactment of this Act."

PRIBILOF ISLAND NATIVES EMPLOYED BY FEDERAL GOVERNMENT ON OCTOBER

28, 1983

Pub. L. 89-702, title II, Sec. 210(b), as added by Pub. L. 98-129, Sec. 2, Oct. 14, 1983, 97 Stat. 844, provided that: "Notwithstanding any other provision of law, any Native of the Pribilof Islands employed by the Federal government on October 28, 1983, shall be deemed to have been covered under chapters 81, 83, 85 and 87 of title 5, United States Code, on such date for the purposes of determining eligibility for continuity of benefits under section 105(e) of the Act of January 4, 1975 (Public Law 93-638), known as the Indian Self-Determination and Education Assistance Act [subsec. (e) of this section]."

-EXEC-

EX. ORD. NO. 11899. PROVIDING FOR PROTECTION OF CERTAIN CIVIL SERVICE EMPLOYMENT RIGHTS OF FEDERAL PERSONNEL WHO LEAVE FEDERAL

EMPLOYMENT TO BE EMPLOYED BY TRIBAL ORGANIZATIONS
Ex. Ord. No. 11899, Jan. 26, 1976, 41 F.R. 3459, as

amended by

Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055; Ex. Ord.
No.

12608, Sept. 9, 1987, 52 F.R. 34617, provided:

By virtue of the authority vested in me by section 105(i)
of the

Indian Self-Determination and Education Assistance Act (88
Stat.

2210, 25 U.S.C. 450i), section 3301 of title 5 of the United
States

Code, section 301 of title 3 of the United States Code, and
as

President of the United States of America, it is hereby
ordered as

follows:

Section 1. The Office of Personnel Management is hereby
designated and empowered to exercise, without approval,
ratification, or other action by the President, but after
consultation with the Department of the Interior and the
Department

of Health and Human Services, the authority vested in the
President

by Section 105(i) of the Indian Self-Determination and
Education

Assistance Act [subsec. (i) of this section] (hereinafter
referred

to as the Act), to issue regulations necessary to carry out
the

provisions of subsections (e)(2), (e)(3), (e)(4), (f), (g)
and (h)

of section 105 of the act [subsecs. (e)(2), (3), (4), (f),
(g), and

(h) of this section], to carry out the provisions of
subsection

(e)(1) of section 105 of the act [subsec. (e)(1) of this
section]

pertains to section 8151 of title 5 of the United States
Code, and

to protect and assure any other civil service employment
rights

which it finds appropriate.

Sec. 2. The Office of Personnel Management shall, after
consultation with the Department of the Interior and the
Department

of Health and Human Services, issue regulations, as it deems
appropriate, providing for the establishment, granting, and

exercise of reemployment rights for employees who leave
Federal
employment for employment by an Indian tribal organization
under
provisions of the act.

Sec. 3. The Secretary of Labor is hereby designated and
empowered
to exercise, without approval, ratification, or other action
by the
President, the authority vested in the President by section
105(i)
of the act [subsec. (i) of this section] to issue
regulations
necessary to carry out the provisions of section 105(e)(1)
of the
act [subsec. (e)(1) of this section], except as provided in
section
1 of this order.

-End-

-CITE-

25 USC Sec. 450j
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part A - Indian Self-Determination

-HEAD-

Sec. 450j. Contract or grant provisions and administration

-STATUTE-

(a) Applicability of Federal contracting laws and
regulations;
waiver of requirements
(1) Notwithstanding any other provision of law, subject to
paragraph (3), the contracts and cooperative agreements
entered
into with tribal organizations pursuant to section 450f of
this

title shall not be subject to Federal contracting or cooperative agreement laws (including any regulations), except to the extent

that such laws expressly apply to Indian tribes.

(2) Program standards applicable to a nonconstruction self-

determination contract shall be set forth in the contract proposal

and the final contract of the tribe or tribal organization.

(3)(A) With respect to a construction contract (or a subcontract

of such a construction contract), the provisions of the Office of

Federal Procurement Policy Act (41 U.S.C. 401 et seq.) and the

regulations relating to acquisitions promulgated under such Act

shall apply only to the extent that the application of such provision to the construction contract (or subcontract) is -

(i) necessary to ensure that the contract may be carried out in

a satisfactory manner;

(ii) directly related to the construction activity; and

(iii) not inconsistent with this subchapter.

(B) A list of the Federal requirements that meet the requirements

of clauses (i) through (iii) of subparagraph (A) shall be included

in an attachment to the contract pursuant to negotiations between

the Secretary and the tribal organization.

(C)(i) Except as provided in subparagraph (B), no Federal law

listed in clause (ii) or any other provision of Federal law (including an Executive order) relating to acquisition by

the Federal Government shall apply to a construction contract that a

tribe or tribal organization enters into under this subchapter,

unless expressly provided in such law.

(ii) The laws listed in this paragraph are as follows:

(I) The Federal Property and Administrative Services Act of

1949.(!1)

(II) Section 3709 of the Revised Statutes [41 U.S.C. 5].

(III) Section 9(c) of the Act of Aug. 2, 1946 (60 Stat. 809, chapter 744).

(IV) Title III of the Federal Property and Administrative Services Act of 1949 (63 Stat. 393 et seq., chapter 288)

[41 U.S.C. 251 et seq.].

(V) Section 13 of the Act of Oct. 3, 1944 (58 Stat. 770; chapter 479) [50 U.S.C. App. 1622].

(VI) Chapters 21, 25, 27, 29, and 31 of title 44.

(VII) Section 3145 of title 40.

(VIII) Sections 1 through 12 of the Act of June 30, 1936 (49 Stat. 2036 et seq. chapter 881) [41 U.S.C. 35-45].

(IX) The Service Control Act of 1965 (41 U.S.C. 351 et seq.).

(X) The Small Business Act (15 U.S.C. 631 et seq.).

(XI) Executive Order Nos. 12138, 11246, 11701 and 11758.

(b) Payments; transfer of funds by Treasury for disbursement by

tribal organization; accountability for interest accrued prior to disbursement

Payments of any grants or under any contracts pursuant to sections 450f and 450h of this title may be made in advance or by

way of reimbursement and in such installments and on such conditions as the appropriate Secretary deems necessary to carry

out the purposes of this part. The transfer of funds shall be

scheduled consistent with program requirements and applicable

Treasury regulations, so as to minimize the time elapsing between

the transfer of such funds from the United States Treasury and the

disbursement thereof by the tribal organization, whether such

disbursement occurs prior to or subsequent to such transfer of

funds. Tribal organizations shall not be held accountable

for

interest earned on such funds, pending their disbursement by such organization.

(c) Term of self-determination contracts; annual renegotiation

(1) A self-determination contract shall be -

(A) for a term not to exceed three years in the case of other than a mature contract, unless the appropriate Secretary and the

tribe agree that a longer term would be advisable, and

(B) for a definite or an indefinite term, as requested by the

tribe (or, to the extent not limited by tribal resolution, by the tribal organization), in the case of a mature contract.

The amounts of such contracts shall be subject to the availability of appropriations.

(2) The amounts of such contracts may be renegotiated annually to

reflect changed circumstances and factors, including, but not

limited to, cost increases beyond the control of the tribal organization.

(d) Calendar year basis for contracts

(1) Beginning in fiscal year 1990, upon the election of a tribal organization, the Secretary shall use the calendar year as the

basis for any contracts or agreements under this subchapter, unless

the Secretary and the Indian tribe or tribal organization agree on a different period.

(2) The Secretary shall, on or before April 1 of each year beginning in 1992, submit a report to the Congress on the amounts

of any additional obligation authority needed to implement this

subsection in the next following fiscal year.

(e) Effective date for retrocession of contract

If an Indian tribe, or a tribal organization authorized by a

tribe, requests retrocession of the appropriate Secretary for any contract or portion of a contract entered into pursuant to this subchapter, unless the tribe or tribal organization rescinds the request for retrocession, such retrocession shall become effective

on -

(1) the earlier of -

(A) the date that is 1 year after the date the Indian tribe or tribal organization submits such request; or
(B) the date on which the contract expires; or

(2) such date as may be mutually agreed by the Secretary and the Indian tribe.

(f) Use of existing school buildings, hospitals, and other facilities and equipment therein; acquisition and donation of

excess or surplus Government personal property
In connection with any self-determination contract or grant made

pursuant to section 450f or 450h of this title, the appropriate

Secretary may -

(1) permit an Indian tribe or tribal organization in carrying

out such contract or grant, to utilize existing school buildings, hospitals, and other facilities and all equipment therein

or appertaining thereto and other personal property owned by

the Government within the Secretary's jurisdiction under such terms

and conditions as may be agreed upon for their use and maintenance;

(2) donate to an Indian tribe or tribal organization title to

any personal or real property found to be excess to the needs of

the Bureau of Indian Affairs, the Indian Health Service, or the

General Services Administration, except that -

(A) subject to the provisions of subparagraph (B), title to property and equipment furnished by the Federal Government for use in the performance of the contract or purchased with funds under any self-determination contract or grant agreement shall, unless otherwise requested by the tribe or tribal organization, vest in the appropriate tribe or tribal organization;

(B) if property described in subparagraph (A) has a value in excess of \$5,000 at the time of the retrocession, rescission, or termination of the self-determination contract or grant agreement, at the option of the Secretary, upon the retrocession, rescission, or termination, title to such property and equipment shall revert to the Department of the Interior or the Department of Health and Human Services, as appropriate; and

(C) all property referred to in subparagraph (A) shall remain eligible for replacement on the same basis as if title to such property were vested in the United States; and

(3) acquire excess or surplus Government personal or real property for donation to an Indian tribe or tribal organization if the Secretary determines the property is appropriate for use by the tribe or tribal organization for a purpose for which a self-determination contract or grant agreement is authorized under this subchapter.

(g) Performance of personal services
The contracts authorized under section 450f of this title and grants pursuant to section 450h of this title may include provisions for the performance of personal services which

would

otherwise be performed by Federal employees including, but in no

way limited to, functions such as determination of eligibility of

applicants for assistance, benefits, or services, and the extent or

amount of such assistance, benefits, or services to be provided and

the provisions of such assistance, benefits, or services, all in

accordance with the terms of the contract or grant and applicable

rules and regulations of the appropriate Secretary:

Provided, That

the Secretary shall not make any contract which would impair his

ability to discharge his trust responsibilities to any Indian tribe

or individuals.

(h) Fair and uniform provision by tribal organization of services

and assistance to covered Indians

Contracts and grants with tribal organizations pursuant to sections 450f and 450h of this title shall include provisions to

assure the fair and uniform provision by such tribal organizations

of the services and assistance they provide to Indians under such

contracts and grants.

(i) Division of administration of program

(1) If a self-determination contract requires the Secretary to

divide the administration of a program that has previously been

administered for the benefit of a greater number of tribes than are

represented by the tribal organization that is a party to the

contract, the Secretary shall take such action as may be necessary

to ensure that services are provided to the tribes not served by a

self-determination contract, including program redesign in consultation with the tribal organization and all affected

tribes.

(2) Nothing in this part shall be construed to limit or reduce in any way the funding for any program, project, or activity serving a tribe under this or other applicable Federal law. Any tribe or tribal organization that alleges that a self-determination contract is in violation of this section may apply the provisions of section 450m-1 of this title.

(j) Proposal to redesign program, activity, function, or service

Upon providing notice to the Secretary, a tribal organization that carries out a nonconstruction self-determination contract may propose a redesign of a program, activity, function, or service carried out by the tribal organization under the contract, including any nonstatutory program standard, in such manner as to best meet the local geographic, demographic, economic, cultural, health, and institutional needs of the Indian people and tribes served under the contract. The Secretary shall evaluate any proposal to redesign any program, activity, function, or service provided under the contract. With respect to declining to approve a redesigned program, activity, function, or service under this subsection, the Secretary shall apply the criteria and procedures set forth in section 450f of this title.

(k) Access to Federal sources of supply

For purposes of section 501 of title 40 (relating to Federal sources of supply, including lodging providers, airlines and other transportation providers), a tribal organization carrying out a contract, grant, or cooperative agreement under this subchapter

shall be deemed an executive agency and part of the Indian Health Service when carrying out such contract, grant, or agreement and the employees of the tribal organization shall be eligible to have access to such sources of supply on the same basis as employees of an executive agency have such access. For purposes of carrying out such contract, grant, or agreement, the Secretary shall, at the request of an Indian tribe, enter into an agreement for the acquisition, on behalf of the Indian tribe, of any goods, services, or supplies available to the Secretary from the General Services Administration or other Federal agencies that are not directly available to the Indian tribe under this section or under any other Federal law, including acquisitions from prime vendors. All such acquisitions shall be undertaken through the most efficient and speedy means practicable, including electronic ordering arrangements.

(1) Lease of facility used for administration and delivery of services

(1) Upon the request of an Indian tribe or tribal organization, the Secretary shall enter into a lease with the Indian tribe or tribal organization that holds title to, a leasehold interest in, or a trust interest in, a facility used by the Indian tribe or tribal organization for the administration and delivery of services under this subchapter.

(2) The Secretary shall compensate each Indian tribe or tribal organization that enters into a lease under paragraph (1) for the use of the facility leased for the purposes specified in

such

paragraph. Such compensation may include rent, depreciation based

on the useful life of the facility, principal and interest paid or

accrued, operation and maintenance expenses, and such other reasonable expenses that the Secretary determines, by regulation,

to be allowable.

(m) Statutory requirements; technical assistance; precontract

negotiation phase; fixed price construction contract

(1) Each construction contract requested, approved, or awarded

under this subchapter, shall be subject to -

(A) except as otherwise provided in this subchapter, the provisions of this subchapter, other than sections 450f(a)

(2),

450j-1(1), 450l and 450m of this title; and

(B) section 314 of the Department of the Interior and Related

Agencies Appropriations Act, 1991 (104 Stat. 1959).

(2) In providing technical assistance to tribes and tribal organizations in the development of construction contract proposals, the Secretary shall provide, not later than 30 days

after receiving a request from a tribe or tribal organization, all

information available to the Secretary regarding the construction

project, including construction drawings, maps, engineering reports, design reports, plans of requirements, cost estimates,

environmental assessments or environmental impact reports, and

archaeological reports.

(3) Prior to finalizing a construction contract proposal pursuant

to section 450f(a) of this title, and upon request of the tribe or

tribal organization that submits the proposal, the Secretary shall

provide for a precontract negotiation phase in the development of a

contract proposal. Such phase shall include, at a minimum,

the

following elements:

(A) The provision of technical assistance pursuant to section

450h of this title and paragraph (2).

(B) A joint scoping session between the Secretary and the tribe

or tribal organization to review all plans, specifications,

engineering reports, cost estimates, and other information available to the parties, for the purpose of identifying

all

areas of agreement and disagreement.

(C) An opportunity for the Secretary to revise the plans,

designs, or cost estimates of the Secretary in response to concerns raised, or information provided by, the tribe or

tribal

organization.

(D) A negotiation session during which the Secretary and the

tribe or tribal organization shall seek to develop a mutually

agreeable contract proposal.

(E) Upon the request of the tribe or tribal organization, the

use of an alternative dispute resolution mechanism to seek resolution of all remaining areas of disagreement pursuant

to the

dispute resolution provisions under subchapter IV of chapter 5 of

title 5.

(F) The submission to the Secretary by the tribe or tribal

organization of a final contract proposal pursuant to section

450f(a) of this title.

(4)(A) Subject to subparagraph (B), in funding a fixed-price

construction contract pursuant to section 450j-1(a) of this title,

the Secretary shall provide for the following:

(i) The reasonable costs to the tribe or tribal organization

for general administration incurred in connection with the

project that is the subject of the contract.

(ii) The ability of the contractor that carries out the construction contract to make a reasonable profit, taking into

consideration the risks associated with carrying out the contract

and other relevant considerations.

(B) In establishing a contract budget for a construction project,

the Secretary shall not be required to separately identify the

components described in clauses (i) and (ii) of subparagraph (A).

(C) The total amount awarded under a construction contract shall

reflect an overall fair and reasonable price to the parties, including the following costs:

(i) The reasonable costs to the tribal organization of performing the contract, taking into consideration the terms of

the contract and the requirements of this subchapter and any

other applicable law.

(ii) The costs of preparing the contract proposal and supporting cost data.

(iii) The costs associated with auditing the general and administrative costs of the tribal organization associated with

the management of the construction contract.

(iv) In the case of a fixed-price contract, a fair profit

determined by taking into consideration the relevant risks and

local market conditions.

(v) If the Secretary and the tribe or tribal organization are

unable to develop a mutually agreeable construction contract

proposal pursuant to the procedures set forth in this subsection,

the tribe or tribal organization may submit a final contract

proposal to the Secretary. Not later than 30 days after receiving

such final contract proposal, the Secretary shall approve

the
such
title

contract proposal and award the contract, unless, during
period the Secretary declines the proposal pursuant to
subsections (a)(2) and (b) (!2) of section 450f of this
(including providing opportunity for an appeal pursuant to
section 450f(b) of this title).

(n) Rental rates for housing for Government employees in
Alaska

Notwithstanding any other provision of law, the rental
rates for
housing provided to an employee by the Federal Government in
Alaska
pursuant to a self-determination contract shall be
determined on
the basis of -

(1) the reasonable value of the quarters and facilities
(as
such terms are defined under section 5911 of title 5) to
such
employee, and

(2) the circumstances under which such quarters and
facilities
are provided to such employee,

as based on the cost of comparable private rental housing in
the
nearest established community with a year-round population
of 1,500
or more individuals.

(o) Patient records

(1) In general

At the option of an Indian tribe or tribal organization,
patient records may be deemed to be Federal records under
those
provisions of title 44 that are commonly referred to as
the
"Federal Records Act of 1950" for the limited purposes of
making
such records eligible for storage by Federal Records
Centers to
the same extent and in the same manner as other Department
of
Health and Human Services patient records.

(2) Treatment of records

Patient records that are deemed to be Federal records under those provisions of title 44 that are commonly referred to as the "Federal Records Act of 1950" pursuant to this subsection shall not be considered Federal records for the purposes of chapter 5 of title 5.

-SOURCE-

(Pub. L. 93-638, title I, Sec. 105, formerly Sec. 106, Jan. 4, 1975, 88 Stat. 2210; renumbered Sec. 105 and amended Pub. L. 100-472, title II, Sec. 204, Oct. 5, 1988, 102 Stat. 2291; Pub. L. 101-301, Sec. 2(a)(7), May 24, 1990, 104 Stat. 207; Pub. L. 101-644, title II, Sec. 203(c)-(e), Nov. 29, 1990, 104 Stat. 4666; Pub. L. 103-413, title I, Secs. 102(10)-(13), 106, Oct. 25, 1994, 108 Stat. 4253-4255, 4270; Pub. L. 104-109, Sec. 7, Feb. 12, 1996, 110 Stat. 764; Pub. L. 106-260, Secs. 7, 8, Aug. 18, 2000, 114 Stat. 732, 733.)

-REFTEXT-

REFERENCES IN TEXT

The Office of Federal Procurement Policy Act, referred to in subsec. (a)(3)(A), is Pub. L. 93-400, Aug. 30, 1974, 88 Stat. 796, as amended, which is classified principally to chapter 7 (Sec. 401 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 401 of Title 41 and Tables.

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (a)(3)(C)(ii)(I), (IV), is act June

30,

1949, ch. 288, 63 Stat. 377, as amended. Except for title III of the Act, which is classified generally to subchapter IV (Sec. 251 et seq.) of chapter 4 of Title 41, Public Contracts, the Act was repealed and reenacted by Pub. L. 107-217, Secs. 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304, as chapters 1 to 11 of Title 40, Public Buildings, Property, and Works.

Section 9(c) of the Act of Aug. 2, 1946, referred to in subsec.

(a)(3)(C)(ii)(III), is section 9(c) of act Aug. 2, 1946, ch. 744, 60 Stat. 809, which amended section 5 of Title 41.

The Service Control Act of 1965, referred to in subsec.

(a)(3)(C)(ii)(IX), probably means the Service Contract Act of 1965,

or Pub. L. 89-286, Oct. 22, 1965, 79 Stat. 1034, as amended, which

is classified generally to chapter 6 (Sec. 351 et seq.) of Title

41. For complete classification of this Act to the Code, see Short

Title note set out under section 351 of Title 41 and Tables.

The Small Business Act, referred to in subsec. (a)(3)(C)(ii)(X),

is Pub. L. 85-536, Sec. 2(1 et seq.), July 18, 1958, 72 Stat. 384,

which is classified generally to chapter 14A (Sec. 631 et seq.) of

Title 15, Commerce and Trade. For complete classification of this

Act to the Code, see Short Title note set out under section 631 of

Title 15 and Tables.

Executive Order Nos. 12138, 11246, 11701 and 11758, referred to

in subsec. (a)(3)(C)(ii)(XI), are Ex. Ord. No. 12138, May 18, 1979,

44 F.R. 29637, as amended, which is set out as a note under section

631 of Title 15, Ex. Ord. No. 11246, Sept. 24, 1965, 30 F.R. 12319,

as amended, which is set out as a note under section 2000e of Title 42, The Public Health and Welfare, Ex. Ord. No. 11701, Jan. 24, 1973, 38 F.R. 2675, which is set out as a note under section 4212 of Title 38, Veterans' Benefits, and Ex. Ord. No. 11758, Jan. 15, 1974, 39 F.R. 2075, as amended, which is set out as a note under section 701 of Title 29, Labor.

This part, referred to in subsecs. (b) and (i)(2), was in the original "this title", meaning title I of Pub. L. 93-638, known as the Indian Self-Determination Act, which is classified principally to this part (450f et seq.). For complete classification of title I to the Code, see Short Title note set out under section 450 of this title and Tables.

Section 314 of the Department of the Interior and Related Agencies Appropriations Act, 1991, referred to in subsec. (m)(1)(B), is section 314 of Pub. L. 101-512, which is set out as a note under section 450f of this title.

Subsections (a)(2) and (b) of section 450f of this title, referred to in subsec. (m)(4)(C)(v), was in the original "sections

102(a)(2) and 102(b) of section 102", and was translated as reading

"subsections (a)(2) and (b) of section 102", meaning section 102 of Pub. L. 93-638, to reflect the probable intent of Congress.

The Federal Records Act of 1950, referred to in subsec. (o), was

title V of act June 30, 1949, ch. 288, as added Sept. 5, 1950, ch.

849, Sec. 6(d), 64 Stat. 583, which was classified generally to

sections 392 to 396 and 397 to 401 of former Title 44, Public

Printing and Documents. Section 6(d) of act Sept. 5, 1950, was

repealed by Pub. L. 90-620, Oct. 22, 1968, 82 Stat. 1238,

the first

section of which enacted Title 44, Public Printing and Documents.

For disposition of sections of former Title 44, see Table at the

beginning of Title 44. Title V of act June 30, 1949, was repealed

by Pub. L. 107-217, Sec. 4, Aug. 21, 2002, 116 Stat. 1303.

-COD-

CODIFICATION

"Section 3145 of title 40" substituted in subsec.

(a)(3)(C)(ii)(VII) for "Section 2 of the Act of June 13, 1934 (48

Stat 948, chapter 483 [meaning chapter 482])" and "section 501 of

title 40" substituted in subsec. (k) for "section 201(a) of the

Federal Property and Administrative Services Act of 1949 (40 U.S.C.

481(a))" on authority of Pub. L. 107-217, Sec. 5(c), Aug. 21, 2002,

116 Stat. 1303, the first section of which enacted Title 40, Public

Buildings, Property, and Works.

-MISC1-

PRIOR PROVISIONS

A prior section 105 of Pub. L. 93-638 was renumbered section 104

by Pub. L. 100-472 and is classified to section 450i of this title.

AMENDMENTS

2000 - Subsec. (k). Pub. L. 106-260, Sec. 7, substituted "deemed

an executive agency and part of the Indian Health Service" for

"deemed an executive agency" and inserted at end "For purposes of

carrying out such contract, grant, or agreement, the Secretary

shall, at the request of an Indian tribe, enter into an agreement

for the acquisition, on behalf of the Indian tribe, of any

goods,

services, or supplies available to the Secretary from the General

Services Administration or other Federal agencies that are not

directly available to the Indian tribe under this section or under

any other Federal law, including acquisitions from prime vendors.

All such acquisitions shall be undertaken through the most efficient and speedy means practicable, including electronic ordering arrangements."

Subsec. (o). Pub. L. 106-260, Sec. 8, added subsec. (o).

1996 - Subsec. (e). Pub. L. 104-109 made technical amendment to

directory language of Pub. L. 103-413, Sec. 102(11). See 1994

Amendment note below.

1994 - Subsec. (a). Pub. L. 103-413, Sec. 102(10), added subsec.

(a) and struck out former subsec. (a) which read as follows:

"Contracts with tribal organizations pursuant to section 450f of

this title shall be in accordance with all Federal contracting laws

and regulations except that, in the discretion of the appropriate

Secretary, such contracts may be negotiated without advertising and

need not conform with the provisions of sections 270a to 270d of

title 40: Provided, That the appropriate Secretary may waive any

provisions of such contracting laws or regulations which he determines are not appropriate for the purposes of the contract

involved or inconsistent with the provisions of this Act: Provided

further, That, except for construction contracts (or sub-contracts

of such a construction contract), the Office of Federal Procurement

Policy Act (88 Stat. 796; 41 U.S.C. 401 et seq.) and Federal acquisition regulations promulgated thereunder shall not apply to

self-determination contracts."

Subsec. (e). Pub. L. 103-413, Sec. 102(11), as amended by Pub. L.

104-109, added subsec. (e) and struck out former subsec. (e) which

read as follows: "Whenever an Indian tribe requests retrocession of

the appropriate Secretary for any contract entered into pursuant to

this Act, such retrocession shall become effective one year from

the date of the request by the Indian tribe or at such date as may

be mutually agreed by the Secretary and the Indian tribe."

Subsec. (f)(2). Pub. L. 103-413, Sec. 102(12), added par. (2) and

struck out former par. (2) which read as follows: "donate to an

Indian tribe or tribal organization the title to any personal or

real property found to be excess to the needs of the Bureau of

Indian Affairs, the Indian Health Service, or the General Services

Administration, including property and equipment purchased with

funds under any self-determination contract or grant agreement;

and".

Subsec. (h). Pub. L. 103-413, Sec. 106, struck out "and the rules

and regulations adopted by the Secretaries of the Interior and

Health and Human Services pursuant to section 450k of this title"

after "sections 450f and 450h of this title".

Subsecs. (i) to (n). Pub. L. 103-413, Sec. 102(13), added subsecs. (i) to (n).

1990 - Subsec. (a). Pub. L. 101-301 substituted "sub-contracts of

such a construction contract" for "sub-contracts in such cases

where the tribal contractor has sub-contracted the activity".

Subsec. (c)(1)(B). Pub. L. 101-644, Sec. 203(c), amended subpar.

(B) generally. Prior to amendment, subpar. (B) read as

follows:

"for an indefinite term in the case of a mature contract."

Subsec. (d). Pub. L. 101-644, Sec. 203(d), amended subsec. (d)

generally. Prior to amendment, subsec. (d) read as follows:

"(1) No later than fiscal year 1990, the Secretary shall begin

using the calendar year as the basis for contracts and agreements

under this Act except for instances where the Secretary and the

Indian tribe or tribal organization agree on a different period.

"(2) The Secretary shall submit a report to the Congress within

ninety days of October 5, 1988, on the amounts of any additional

obligational authority needed to implement this subsection in

fiscal year 1989."

Subsec. (f)(2), (3). Pub. L. 101-644, Sec. 203(e), inserted "or

real" after "personal".

1988 - Subsec. (a). Pub. L. 100-472, Sec. 204(b), (c), substituted "section 450f" for "sections 450f and 450g" and inserted proviso relating to nonapplication of Office of Federal

Procurement Policy Act to self-determination contracts.

Subsec. (b). Pub. L. 100-472, Sec. 204(d), which directed the

amendment of subsec. (b) by substituting "sections 450f and 450h"

for "sections 450f, 450g, and 450h" was executed by substituting

the new language for "section 450f, 450g, or 450h" as the probable

intent of Congress.

Subsec. (c). Pub. L. 100-472, Sec. 204(e), added subsec. (c) and

struck out former subsec. (c) which read as follows: "Any contract

requested by a tribe pursuant to sections 450f and 450g of this

title shall be for a term not to exceed one year unless the appropriate Secretary determines that a longer term would be advisable: Provided, That such term may not exceed three

years and

shall be subject to the availability of appropriations:

Provided,

further, That the amounts of such contracts may be

renegotiated

annually to reflect factors, including but not limited to cost

increases beyond the control of a tribal organization."

Subsec. (d). Pub. L. 100-472, Sec. 204(e), added subsec. (d) and

struck out former subsec. (d) which related to revision or amendment of contracts or grants at request or with consent

of

tribal organization and effective date for retrocession of contracts.

Subsec. (e). Pub. L. 100-472, Sec. 204(e), added subsec. (e) and

struck out former subsec. (e) which authorized the Secretary to

permit tribal organizations to use existing school buildings,

hospitals, and other facilities and equipment therein in carrying

out grants or contracts.

Subsec. (f). Pub. L. 100-472, Sec. 204(e), added subsec. (f).

Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 100-472, Sec. 204(f), redesignated former

subsec. (f) as (g) and substituted "section 450f" for "sections

450f and 450g". Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 100-472, Sec. 204(g), (h), redesignated

former subsec. (g) as (h), substituted "sections 450f and 450h" for

"sections 450f, 450g, and 450h", and "Health and Human Services"

for "Health, Education, and Welfare". Former subsec. (h), which

related to minimum amount of funds under terms of contracts, was

struck out.

CONTINUED AVAILABILITY OF CERTAIN FUNDS

Pub. L. 105-277, div. A, Sec. 101(e) [title I], Oct. 21,

1998,

105 Stat. 2681-231, 2681-246, provided in part that:

"hereafter

funds made available to tribes and tribal organizations
through

contracts, compact agreements, or grants, as authorized by
the

Indian Self-Determination Act of 1975 [25 U.S.C. 450f et
seq.] or

grants authorized by the Indian Education Amendments of 1988
(25

U.S.C. 2001 and 2008A [probably means prior versions of 25
U.S.C.

2001 and 2008a]) shall remain available until expended by
the

contractor or grantee".

-FOOTNOTE-

(!1) See References in Text note below.

(!2) See References in Text note below.

-End-

-CITE-

25 USC Sec. 450j-1

01/08/2008

-EXPCITE-

TITLE 25 - INDIANS

CHAPTER 14 - MISCELLANEOUS

SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION

ASSISTANCE

Part A - Indian Self-Determination

-HEAD-

Sec. 450j-1. Contract funding and indirect costs

-STATUTE-

(a) Amount of funds provided

(1) The amount of funds provided under the terms of self-
determination contracts entered into pursuant to this

subchapter

shall not be less than the appropriate Secretary would have otherwise provided for the operation of the programs or portions

thereof for the period covered by the contract, without regard to

any organizational level within the Department of the Interior or

the Department of Health and Human Services, as appropriate, at

which the program, function, service, or activity or portion thereof, including supportive administrative functions that are

otherwise contractable, is operated.

(2) There shall be added to the amount required by paragraph (1)

contract support costs which shall consist of an amount for the

reasonable costs for activities which must be carried on by a

tribal organization as a contractor to ensure compliance with the

terms of the contract and prudent management, but which -

(A) normally are not carried on by the respective Secretary in

his direct operation of the program; or

(B) are provided by the Secretary in support of the contracted

program from resources other than those under contract.

(3)(A) The contract support costs that are eligible costs for the

purposes of receiving funding under this subchapter shall include

the costs of reimbursing each tribal contractor for reasonable and

allowable costs of -

(i) direct program expenses for the operation of the Federal

program that is the subject of the contract, and

(ii) any additional administrative or other expense related to

the overhead incurred by the tribal contractor in connection with

the operation of the Federal program, function, service, or

activity pursuant to the contract,

except that such funding shall not duplicate any funding provided

under subsection (a)(1) of this section.

(B) On an annual basis, during such period as a tribe or tribal

organization operates a Federal program, function, service, or

activity pursuant to a contract entered into under this subchapter,

the tribe or tribal organization shall have the option to negotiate

with the Secretary the amount of funds that the tribe or tribal

organization is entitled to receive under such contract pursuant to

this paragraph.

(4) For each fiscal year during which a self-determination contract is in effect, any savings attributable to the operation of

a Federal program, function, service, or activity under a self-

determination contract by a tribe or tribal organization

(including a cost reimbursement construction contract) shall

-

(A) be used to provide additional services or benefits under

the contract; or

(B) be expended by the tribe or tribal organization in the

succeeding fiscal year, as provided in section 13a of this title.

(5) Subject to paragraph (6), during the initial year that a self-

determination contract is in effect, the amount required to be

paid under paragraph (2) shall include startup costs consisting of

the reasonable costs that have been incurred or will be incurred on

a one-time basis pursuant to the contract necessary -

(A) to plan, prepare for, and assume operation of the program,

function, service, or activity that is the subject of the

contract; and
(B) to ensure compliance with the terms of the contract
and
prudent management.

(6) Costs incurred before the initial year that a self-determination contract is in effect may not be included in the amount required to be paid under paragraph (2) if the Secretary does not receive a written notification of the nature and extent of the costs prior to the date on which such costs are incurred.

(b) Reductions and increases in amount of funds provided
The amount of funds required by subsection (a) of this section -

(1) shall not be reduced to make funding available for contract

monitoring or administration by the Secretary;

(2) shall not be reduced by the Secretary in subsequent years

except pursuant to -

(A) a reduction in appropriations from the previous fiscal

year for the program or function to be contracted;

(B) a directive in the statement of the managers accompanying

a conference report on an appropriation bill or continuing

resolution;

(C) a tribal authorization;

(D) a change in the amount of pass-through funds needed under

a contract; or

(E) completion of a contracted project, activity, or program;

(3) shall not be reduced by the Secretary to pay for Federal

functions, including, but not limited to, Federal pay costs,

Federal employee retirement benefits, automated data processing,

contract technical assistance or contract monitoring;

(4) shall not be reduced by the Secretary to pay for the

costs

of Federal personnel displaced by a self-determination contract;

and

(5) may, at the request of the tribal organization, be increased by the Secretary if necessary to carry out this subchapter or as provided in section 450j(c) of this title.

Notwithstanding any other provision in this subchapter, the provision of funds under this subchapter is subject to the availability of appropriations and the Secretary is not required to

reduce funding for programs, projects, or activities serving a

tribe to make funds available to another tribe or tribal organization under this subchapter.

(c) Annual reports

Not later than May 15 of each year, the Secretary shall prepare

and submit to Congress an annual report on the implementation of

this subchapter. Such report shall include -

(1) an accounting of the total amounts of funds provided for

each program and the budget activity for direct program costs and

contract support costs of tribal organizations under self-determination;

(2) an accounting of any deficiency in funds needed to provide

required contract support costs to all contractors for the fiscal

year for which the report is being submitted;

(3) the indirect cost rate and type of rate for each tribal

organization that has been negotiated with the appropriate Secretary;

(4) the direct cost base and type of base from which the indirect cost rate is determined for each tribal organization;

(5) the indirect cost pool amounts and the types of costs

included in the indirect cost pool; and

(6) an accounting of any deficiency in funds needed to maintain

the preexisting level of services to any Indian tribes affected

by contracting activities under this subchapter, and a statement

of the amount of funds needed for transitional purposes to enable

contractors to convert from a Federal fiscal year accounting

cycle, as authorized by section 450j(d) of this title.

(d) Treatment of shortfalls in indirect cost recoveries

(1) Where a tribal organization's allowable indirect cost recoveries are below the level of indirect costs that the tribal

organizations should have received for any given year pursuant to

its approved indirect cost rate, and such shortfall is the result

of lack of full indirect cost funding by any Federal, State, or

other agency, such shortfall in recoveries shall not form the basis

for any theoretical over-recovery or other adverse adjustment to

any future years' indirect cost rate or amount for such tribal

organization, nor shall any agency seek to collect such shortfall

from the tribal organization.

(2) Nothing in this subsection shall be construed to authorize

the Secretary to fund less than the full amount of need for indirect costs associated with a self-determination contract.

(e) Liability for indebtedness incurred before fiscal year 1992

Indian tribes and tribal organizations shall not be held liable

for amounts of indebtedness attributable to theoretical or actual

under-recoveries or theoretical over-recoveries of indirect costs,

as defined in Office of Management and Budget Circular A-87, incurred for fiscal years prior to fiscal year 1992.

(f) Limitation on remedies relating to cost disallowances

Any right of action or other remedy (other than those relating to

a criminal offense) relating to any disallowance of costs shall be barred unless the Secretary has given notice of any such disallowance within three hundred and sixty-five days of receiving any required annual single agency audit report or, for any period covered by law or regulation in force prior to October 19, 1984, any other required final audit report. Such notice shall set forth the right of appeal and hearing to the board of contract appeals pursuant to section 450m-1 of this title. For the purpose of determining the 365-day period specified in this paragraph, an audit report shall be deemed to have been received on the date of actual receipt by the Secretary, if, within 60 days after receiving the report, the Secretary does not give notice of a determination by the Secretary to reject the single-agency report as insufficient due to noncompliance with chapter 75 of title 31 or noncompliance with any other applicable law. Nothing in this subsection shall be deemed to enlarge the rights of the Secretary with respect to section 476 of this title.

(g) Addition to contract of full amount contractor entitled; adjustment

Upon the approval of a self-determination contract, the Secretary shall add to the contract the full amount of funds to which the

contractor is entitled under subsection (a) of this section, subject to adjustments for each subsequent year that such tribe or tribal organization administers a Federal program, function, service, or activity under such contract.

(h) Indirect costs for contracts for construction programs

In calculating the indirect costs associated with a self-determination contract for a construction program, the Secretary

shall take into consideration only those costs associated with the

administration of the contract and shall not take into consideration those moneys actually passed on by the tribal organization to construction contractors and subcontractors.

(i) Indian Health Service and Bureau of Indian Affairs budget

consultations

On an annual basis, the Secretary shall consult with, and solicit

the participation of, Indian tribes and tribal organizations in the

development of the budget for the Indian Health Service and the

Bureau of Indian Affairs (including participation of Indian tribes

and tribal organizations in formulating annual budget requests that

the Secretary submits to the President for submission to Congress

pursuant to section 1105 of title 31).

(j) Use of funds for matching or cost participation requirements

Notwithstanding any other provision of law, a tribal organization

may use funds provided under a self-determination contract to meet

matching or cost participation requirements under other Federal and

non-Federal programs.

(k) Allowable uses of funds without approval of Secretary

Without intending any limitation, a tribal organization may,

without the approval of the Secretary, expend funds provided under

a self-determination contract for the following purposes, to the

extent that the expenditure of the funds is supportive of a contracted program:

(1) Depreciation and use allowances not otherwise specifically

prohibited by law, including the depreciation of facilities owned

by the tribe or tribal organization.

(2) Publication and printing costs.

(3) Building, realty, and facilities costs, including

rental

costs or mortgage expenses.

(4) Automated data processing and similar equipment or services.

(5) Costs for capital assets and repairs.

(6) Management studies.

(7) Professional services, other than services provided

in

connection with judicial proceedings by or against the United States.

(8) Insurance and indemnification, including insurance covering

the risk of loss of or damage to property used in connection with

the contract without regard to the ownership of such property.

(9) Costs incurred to raise funds or contributions from non-

Federal sources for the purpose of furthering the goals and objectives of the self-determination contract.

(10) Interest expenses paid on capital expenditures such as

buildings, building renovation, or acquisition or fabrication of

capital equipment, and interest expenses on loans necessitated

due to delays by the Secretary in providing funds under a contract.

(11) Expenses of a governing body of a tribal organization that

are attributable to the management or operation of programs under

this subchapter.

(12) Costs associated with the management of pension funds,

self-insurance funds, and other funds of the tribal organization

that provide for participation by the Federal Government.

(1) Suspension, withholding, or delay in payment of funds

(1) The Secretary may only suspend, withhold, or delay the payment of funds for a period of 30 days beginning on the date the

Secretary makes a determination under this paragraph to a tribal

organization under a self-determination contract, if the Secretary determines that the tribal organization has failed to substantially carry out the contract without good cause. In any such case, the Secretary shall provide the tribal organization with reasonable advance written notice, technical assistance (subject to available resources) to assist the tribal organization, a hearing on the record not later than 10 days after the date of such determination or such later date as the tribal organization shall approve, and promptly release any funds withheld upon subsequent compliance.

(2) With respect to any hearing or appeal conducted pursuant to this subsection, the Secretary shall have the burden of proof to establish by clearly demonstrating the validity of the grounds for suspending, withholding, or delaying payment of funds.

(m) Use of program income earned

The program income earned by a tribal organization in the course of carrying out a self-determination contract -

(1) shall be used by the tribal organization to further the general purposes of the contract; and

(2) shall not be a basis for reducing the amount of funds otherwise obligated to the contract.

(n) Reduction of administrative or other responsibilities of Secretary; use of savings

To the extent that programs, functions, services, or activities carried out by tribal organizations pursuant to contracts entered

into under this subchapter reduce the administrative or other

responsibilities of the Secretary with respect to the operation of

Indian programs and result in savings that have not

otherwise been

included in the amount of contract funds determined under subsection (a) of this section, the Secretary shall make such

savings available for the provision of additional services to

program beneficiaries, either directly or through contractors, in a

manner equitable to both direct and contracted programs.

(o) Rebudgeting by tribal organization

Notwithstanding any other provision of law (including any regulation), a tribal organization that carries out a self-determination contract may, with respect to allocations within the

approved budget of the contract, rebudget to meet contract requirements, if such rebudgeting would not have an adverse effect

on the performance of the contract.

-SOURCE-

(Pub. L. 93-638, title I, Sec. 106, as added Pub. L. 100-472, title II, Sec. 205, Oct. 5, 1988, 102 Stat. 2292; amended Pub. L. 101-301, Sec. 2(a)(8), (9), May 24, 1990, 104 Stat. 207; Pub. L. 101-644, title II, Sec. 203(a), Nov. 29, 1990, 104 Stat. 4666; Pub. L. 103-413, title I, Sec. 102(14)-(19), Oct. 25, 1994, 108 Stat. 4257-4259; Pub. L. 105-362, title VIII, Sec. 801(g), Nov. 10, 1998, 112 Stat. 3288; Pub. L. 106-260, Sec. 9, Aug. 18, 2000, 114 Stat. 733.)

-MISC1-

PRIOR PROVISIONS

A prior section 106 of Pub. L. 93-638 was renumbered section 105

by Pub. L. 100-472 and is classified to section 450j of this title.

AMENDMENTS

2000 - Subsecs. (c) to (o). Pub. L. 106-260 added subsec. (c) and

redesignated former subsecs. (c) to (n) as (d) to (o), respectively.

1998 - Subsecs. (c) to (o). Pub. L. 105-362 redesignated subsecs.

(d) to (o) as (c) to (n), respectively, and struck out former

subsec. (c) which related to Secretary's annual report to Congress

on implementation of this subchapter.

1994 - Subsec. (a)(1). Pub. L. 103-413, Sec. 102(14)(A), inserted

before period at end ", without regard to any organizational level

within the Department of the Interior or the Department of Health

and Human Services, as appropriate, at which the program, function,

service, or activity or portion thereof, including supportive

administrative functions that are otherwise contractable, is operated".

Subsec. (a)(2). Pub. L. 103-413, Sec. 102(14)(B), inserted "an

amount for" after "consist of".

Subsec. (a)(3). Pub. L. 103-413, Sec. 102(14)(C), added par. (3)

and struck out former par. (3) which read as follows: "Any savings

in operation under a self-determination contract shall be utilized

to provide additional services or benefits under the contract or be

expended in the succeeding fiscal year as provided in section 13a

of this title."

Subsec. (a)(4) to (6). Pub. L. 103-413, Sec. 102(14)(C), added

pars. (4) to (6).

Subsec. (c). Pub. L. 103-413, Sec. 102(15)(A), substituted "May

15" for "March 15" in introductory provisions.

Subsec. (c)(1), (2). Pub. L. 103-413, Sec. 102(15)(B), substituted "contract support costs" for "indirect costs".

Subsec. (c)(6). Pub. L. 103-413, Sec. 102(15)(C)-(E), added par.

(6).

Subsec. (f). Pub. L. 103-413, Sec. 102(16), inserted after second

sentence "For the purpose of determining the 365-day period specified in this paragraph, an audit report shall be deemed to

have been received on the date of actual receipt by the Secretary,

if, within 60 days after receiving the report, the Secretary does

not give notice of a determination by the Secretary to reject the

single-agency report as insufficient due to noncompliance with

chapter 75 of title 31 or noncompliance with any other applicable

law."

Subsec. (g). Pub. L. 103-413, Sec. 102(17), added subsec. (g) and

struck out former subsec. (g) which read as follows: "Upon the

approval of a self-determination contract and at the request of an

Indian tribe or tribal organization, the Secretary shall add the

indirect cost funding amount awarded for a self-determination

contract to the amount awarded for direct program funding for the

first year and, subject to adjustments in the amount of direct

program costs for the contract, for each subsequent year that the

program remains continuously under contract."

Subsec. (i). Pub. L. 103-413, Sec. 102(18), added subsec. (i) and

struck out former subsec. (i) which read as follows: "Within one

month after October 5, 1988, the Secretary is mandated to establish

a team in each area of the Bureau of Indian Affairs which consists

of agency personnel (area personnel in the Navajo Area and in the

case of Indian tribes not served by an agency) and tribal representatives for the purpose of analyzing the 'Indian

Priority

System' and other aspects of the budgeting and funding allocation process of the Bureau of Indian Affairs for the purpose of making a report to Congress with appropriate recommendations for changes and legislative actions to achieve greater tribal decision-making authority over the use of funds appropriated for the benefit of the tribes and their members. The report along with the analysis, findings and recommendations of the area teams shall be submitted to Congress within six months of October 5, 1988. The Secretary may submit to Congress separate comments on the information and recommendations on the report."

Subsecs. (j) to (o). Pub. L. 103-413, Sec. 102(19), added subsecs. (j) to (o).

1990 - Subsec. (e). Pub. L. 101-644 substituted "1992" for "1988".

Subsec. (f). Pub. L. 101-301, Sec. 2(a)(8), substituted "prior to enactment of chapter 75 of title 31" for "prior to enactment of the Single Agency Audit Act of 1984 (chapter 75 of title 31)", which for purposes of codification was translated as "prior to October 19, 1984", requiring no change in text.

Subsec. (i). Pub. L. 101-301, Sec. 2(a)(9), substituted "agency personnel (area personnel in the Navajo Area and in the case of Indian tribes not served by an agency)" for "agency personnel".

-End-

-CITE-

25 USC Sec. 450j-2
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS

CHAPTER 14 - MISCELLANEOUS

SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION

ASSISTANCE

Part A - Indian Self-Determination

-HEAD-

Sec. 450j-2. Indian Health Service: availability of funds
for

Indian self-determination or self-governance contract or
grant
support costs

-STATUTE-

Before, on, and after October 21, 1998, and
notwithstanding any

other provision of law, funds available to the Indian Health
Service in this Act or any other Act for Indian self-
determination

or self-governance contract or grant support costs may be
expended

only for costs directly attributable to contracts, grants
and

compacts pursuant to the Indian Self-Determination Act [25
U.S.C.

450f et seq.] and no funds appropriated by this or any other
Act

shall be available for any contract support costs or
indirect costs

associated with any contract, grant, cooperative agreement,
self-

governance compact, or funding agreement entered into
between an

Indian tribe or tribal organization and any entity other
than the

Indian Health Service.

-SOURCE-

(Pub. L. 105-277, div. A, Sec. 101(e) [title II], Oct. 21,
1998,

112 Stat. 2681-231, 2681-280.)

-REFTEXT-

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in text, is

title

I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to this part (Sec. 450f et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

-End-

-CITE-

25 USC Sec. 450j-3
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE
Part A - Indian Self-Determination

-HEAD-

Sec. 450j-3. Department of the Interior: availability of funds for Indian self-determination or self-governance contract or grant support costs

-STATUTE-

Notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended [25 U.S.C. 450f et seq.], on and after November 29, 1999, funds available to the Department of the Interior for Indian self-determination or self-governance contract or grant support costs may be expended only for costs directly attributable to contracts, grants and compacts pursuant to the Indian Self-Determination Act of 1975 and on and after November 29, 1999, funds

appropriated in

this title (!1) shall not be available for any contract support costs or indirect costs associated with any contract, grant, cooperative agreement, self-governance compact or funding agreement entered into between an Indian tribe or tribal organization and any entity other than an agency of the Department of the Interior.

-SOURCE-

(Pub. L. 106-113, div. B, Sec. 1000(a)(3) [title I, Sec. 113], Nov. 29, 1999, 113 Stat. 1535, 1501A-157.)

-REFTEXT-

REFERENCES IN TEXT

The Indian Self-Determination Act of 1975, referred to in text, probably means the Indian Self-Determination Act, title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to this part (Sec. 450f et seq.). For complete classification of this Act to the Code, see Short Title

note set out under section 450 of this title and Tables.

This title, referred to in text, is title I of the Department of the Interior and Related Agencies Appropriations Act, 2000, as enacted by Pub. L. 106-113, div. B, Sec. 1000(a)(3), Nov. 29, 1999, 113 Stat. 1535, 1501A-135. For complete classification of this title to the Code, see Tables.

-MISC1-

SIMILAR PROVISIONS

Similar provisions were contained in Pub. L. 105-277, div. A, Sec. 101(e) [title I, Sec. 114], Oct. 21, 1998, 112 Stat. 2681-231, 2681-255.

-FOOTNOTE-

(!1) See References in Text note below.

-End-

-CITE-

25 USC Sec. 450k

01/08/2008

-EXPCITE-

TITLE 25 - INDIANS

CHAPTER 14 - MISCELLANEOUS

SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION

ASSISTANCE

Part A - Indian Self-Determination

-HEAD-

Sec. 450k. Rules and regulations

-STATUTE-

(a) Authority of Secretaries of the Interior and of Health and

Human Services to promulgate; time restriction

(1) Except as may be specifically authorized in this subsection,

or in any other provision of this subchapter, the Secretary of the

Interior and the Secretary of Health and Human Services may not

promulgate any regulation, nor impose any nonregulatory requirement, relating to self-determination contracts or the approval, award, or declination of such contracts, except

that the

Secretary of the Interior and the Secretary of Health and Human

Services may promulgate regulations under this subchapter relating

to chapter 171 of title 28, commonly known as the "Federal Tort

Claims Act", the Contract Disputes Act of 1978 (41 U.S.C. 601 et

seq.), declination and waiver procedures, appeal procedures,

reassumption procedures, discretionary grant procedures for grants

awarded under section 450h of this title, property donation procedures arising under section 450j(f) of this title, internal

agency procedures relating to the implementation of this subchapter, retrocession and tribal organization

relinquishment

procedures, contract proposal contents, conflicts of interest,

construction, programmatic reports and data requirements, procurement standards, property management standards, and financial

management standards.

(2)(A) The regulations promulgated under this subchapter, including the regulations referred to in this subsection, shall be

promulgated -

(i) in conformance with sections 552 and 553 of title 5 and

subsections (c), (d), and (e) of this section; and

(ii) as a single set of regulations in title 25 of the Code of Federal Regulations.

(B) The authority to promulgate regulations set forth in this

subchapter shall expire if final regulations are not promulgated

within 20 months after October 25, 1994.

(b) Conflicting laws and regulations

The provisions of this subchapter shall supersede any conflicting

provisions of law (including any conflicting regulations) in effect

on the day before October 25, 1994, and the Secretary is authorized

to repeal any regulation inconsistent with the provisions of this subchapter.

(c) Revisions and amendments; procedures applicable

The Secretary of the Interior and the Secretary of Health and

Indian Human Services are authorized, with the participation of

tribes and tribal organizations, to revise and amend any

rules or

regulations promulgated pursuant to this section: Provided,
That

prior to any revision or amendment to such rules or
regulations,

the respective Secretary or Secretaries shall present the
proposed

revision or amendment to the Committee on Energy and Natural
Resources of the Senate and the Committee on Natural
Resources of

the House of Representatives and shall, to the extent
practicable,

consult with appropriate national or regional Indian
organizations

and shall publish any proposed revisions in the Federal
Register

not less than sixty days prior to the effective date of such
rules

and regulations in order to provide adequate notice to, and
receive

comments from, other interested parties.

(d) Consultation in drafting and promulgating; negotiation
process;

interagency committees; extension of deadlines

(1) In drafting and promulgating regulations as provided
in

subsection (a) of this section (including drafting and
promulgating

any revised regulations), the Secretary of the Interior and
the

Secretary of Health and Human Services shall confer with,
and allow

for active participation by, representatives of Indian
tribes,

tribal organizations, and individual tribal members.

(2)(A) In carrying out rulemaking processes under this
subchapter, the Secretary of the Interior and the Secretary
of

Health and Human Services shall follow the guidance of -

(i) subchapter III of chapter 5 of title 5, commonly
known as

the "Negotiated Rulemaking Act of 1990"; and

(ii) the recommendations of the Administrative
Conference of

the United States numbered 82-4 and 85-5 entitled
"Procedures for

Negotiating Proposed Regulations" under sections 305.82-4 and 305.85-5 of title 1, Code of Federal Regulations, and any successor recommendation or law (including any successor regulation).

(B) The tribal participants in the negotiation process referred to in subparagraph (A) shall be nominated by and shall represent the groups described in this paragraph and shall include tribal representatives from all geographic regions.

(C) The negotiations referred to in subparagraph (B) shall be conducted in a timely manner. Proposed regulations to implement the amendments made by the Indian Self-Determination Contract Reform Act of 1994 shall be published in the Federal Register by the Secretary of the Interior and the Secretary of Health and Human Services not later than 180 days after October 25, 1994.

(D) Notwithstanding any other provision of law (including any regulation), the Secretary of the Interior and the Secretary of Health and Human Services are authorized to jointly establish and fund such interagency committees or other interagency bodies, including advisory bodies comprised of tribal representatives, as may be necessary or appropriate to carry out the provisions of this subchapter.

(E) If the Secretary determines that an extension of the deadlines under subsection (a)(2)(B) of this section and subparagraph (C) of this paragraph is appropriate, the Secretary may submit proposed legislation to Congress for the extension of such deadlines.

(e) Exceptions in or waiver of regulations

The Secretary may, with respect to a contract entered into

under

this subchapter, make exceptions in the regulations promulgated to carry out this subchapter, or waive such regulations, if the Secretary finds that such exception or waiver is in the best interest of the Indians served by the contract or is consistent with the policies of this subchapter, and is not contrary to statutory law. In reviewing each request, the Secretary shall follow the timeline, findings, assistance, hearing, and appeal procedures set forth in section 450f of this title.

-SOURCE-

(Pub. L. 93-638, title I, Sec. 107, Jan. 4, 1975, 88 Stat. 2212;
Pub. L. 96-88, title V, Sec. 509(b), Oct. 17, 1979, 93 Stat. 695;
Pub. L. 100-472, title II, Sec. 207, Oct. 5, 1988, 102 Stat. 2295;
Pub. L. 101-644, title II, Sec. 203(f), Nov. 29, 1990, 104 Stat. 4666; Pub. L. 103-413, title I, Sec. 105, Oct. 25, 1994, 108 Stat. 4269; Pub. L. 103-435, Sec. 22(a)(1), Nov. 2, 1994, 108 Stat. 4575;
Pub. L. 103-437, Sec. 10(c)(2), Nov. 2, 1994, 108 Stat. 4589; Pub. L. 104-133, Sec. 1, Apr. 25, 1996, 110 Stat. 1320; Pub. L. 104-287, Sec. 6(e), Oct. 11, 1996, 110 Stat. 3399.)

-REFTEXT-

REFERENCES IN TEXT

The Contract Disputes Act of 1978, referred to in subsec. (a)(1), is Pub. L. 95-563, Nov. 1, 1978, 92 Stat. 2383, as amended, which is classified principally to chapter 9 (Sec. 601 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 41 and Tables.

The Indian Self-Determination Contract Reform Act of 1994, referred to in subsec. (d)(2)(C), is title I of Pub. L. 103-413, Oct. 25, 1994, 108 Stat. 4250, which enacted section 4501 of this title, amended this section and sections 450b, 450c, 450e, 450f, 450j, 450j-1, 450m, and 450m-1 of this title, and enacted provisions set out as a note under section 450 of this title. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 450 of this title and Tables.

-MISC1-

AMENDMENTS

1996 - Subsec. (a)(2)(B). Pub. L. 104-133 substituted "20 months" for "18 months".

Subsec. (b). Pub. L. 104-287 repealed Pub. L. 103-437, Sec.

10(c)(2)(A). See 1994 Amendment note below.

1994 - Subsec. (a). Pub. L. 103-413, Sec. 105(1), added subsec.

(a) and struck out former subsec. (a) which read as follows: "The

Secretaries of the Interior and of Health and Human Services are

each authorized to perform any and all acts and to make such rules

and regulations as may be necessary and proper for the purposes of

carrying out the provisions of this subchapter: Provided, however,

That all Federal requirements for self-determination contracts and

grants under this Act shall be promulgated as regulations in conformity with sections 552 and 553 of title 5."

Subsec. (b). Pub. L. 103-437, Sec. 10(c)(2)(A), which directed

that subsec. (b) be repealed, was itself repealed by Pub. L. 104-

287, Sec. 6(e). See Effective Date and Construction of 1996

Amendment note below.

Pub. L. 103-435, which directed substitution of "Committee on

Natural Resources" for "Committee on Interior and Insular Affairs"

in par. (2), could not be executed because "Committee on Interior

and Insular Affairs" did not appear in text subsequent to amendment

by Pub. L. 103-413, Sec. 105(1). See below.

Pub. L. 103-413, Sec. 105(1), added subsec. (b) and struck out

former subsec. (b) which read as follows:

"(b)(1) Within three months from October 5, 1988, the Secretary

shall consider and formulate appropriate regulations to implement

the provisions of this Act, with the participation of Indian tribes. Such proposed regulations shall contain all Federal requirements applicable to self-determination contracts and grants

under this Act.

"(2) Within six months from October 5, 1988, the Secretary shall

present the proposed regulations to the Select Committee on Indian

Affairs of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives.

"(3) Within seven months from October 5, 1988, the Secretary

shall publish proposed regulations in the Federal Register for the

purpose of receiving comments from tribes and other interested

parties.

"(4) Within ten months from October 5, 1988, the Secretary shall

promulgate regulations to implement the provisions of such Act."

Subsec. (c). Pub. L. 103-437, Sec. 10(c)(2)(B), substituted

"Committee on Energy and Natural Resources of the Senate and the

Committee on Natural Resources of the House of Representatives" for

"Committees on Interior and Insular Affairs of the United States

Senate and House of Representatives".

Subsecs. (d), (e). Pub. L. 103-413, Sec. 105(2), added subsecs.

(d) and (e).

1990 - Subsec. (c). Pub. L. 101-644 inserted ", with the participation of Indian tribes and tribal organizations," after

"authorized".

1988 - Subsec. (a). Pub. L. 100-472, Sec. 207(a), substituted

"Health and Human Services" for "Health, Education, and Welfare",

and inserted proviso relating to promulgation of Federal requirements for self-determination contracts as regulations.

Subsec. (b). Pub. L. 100-472, Sec. 207(b), amended subsec. (b)

generally. Prior to amendment, subsec. (b) read as follows:

"(1) Within six months from January 4, 1975, the Secretary of the

Interior and the Secretary of Health and Human Services shall each

to the extent practicable, consult with national and regional

Indian organizations to consider and formulate appropriate rules

and regulations to implement the provisions of this subchapter.

"(2) Within seven months from January 4, 1975, the Secretary of

the Interior and the Secretary of Health and Human Services shall

each present the proposed rules and regulations to the Committees

on Interior and Insular Affairs of the United States Senate and

House of Representatives.

"(3) Within eight months from January 4, 1975, the Secretary of

the Interior and the Secretary of Health and Human Services shall

publish proposed rules and regulations in the Federal Register for

the purpose of receiving comments from interested parties.

"(4) Within ten months from January 4, 1975, the Secretary of the Interior and the Secretary of Health and Human Services shall promulgate rules and regulations to implement the provisions of this subchapter."

-CHANGE-

CHANGE OF NAME

"Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" in subsec. (c), pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

-MISC2-

EFFECTIVE DATE AND CONSTRUCTION OF 1996 AMENDMENT

Section 6(e) of Pub. L. 104-287 provided that: "Effective November 2, 1994, section 10(c)(2)(A) of the Act of November 2, 1994 (Public Law 103-437, 108 Stat. 4589) [amending this section], is repealed and section 107(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450k(b)), as amended by section 105(1) of the Indian Self-Determination Act (Public Law 103-413, 108 Stat. 4269), is revived and shall read as if section 10(c)(2)(A) of the Act of November 2, 1994 (Public Law 103-437, 108 Stat. 4589), had not been enacted.

-End-

-CITE-

25 USC Sec. 4501
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS

CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE

Part A - Indian Self-Determination

-HEAD-

Sec. 4501. Contract or grant specifications

-STATUTE-

(a) Terms

Each self-determination contract entered into under this subchapter shall -

(1) contain, or incorporate by reference, the provisions of the

model agreement described in subsection (c) of this section (with

modifications where indicated and the blanks appropriately filled

in), and

(2) contain such other provisions as are agreed to by the parties.

(b) Payments; Federal records

Notwithstanding any other provision of law, the Secretary may

make payments pursuant to section 1(b)(6) of such model agreement.

As provided in section 1(b)(7) of the model agreement, the records

of the tribal government or tribal organization specified in such

section shall not be considered Federal records for purposes of

chapter 5 of title 5.

(c) Model agreement

The model agreement referred to in subsection (a)(1) of this

section reads as follows:

"SECTION 1. AGREEMENT BETWEEN THE SECRETARY AND THE _____
TRIBAL

GOVERNMENT.

"(a) Authority and Purpose. -

"(1) Authority. - This agreement, denoted a Self-Determination

Contract (referred to in this agreement as the

'Contract'), is entered into by the Secretary of the Interior or the Secretary of Health and Human Services (referred to in this agreement as the 'Secretary'), for and on behalf of the United States pursuant to title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and by the authority of the _____ tribal government or tribal organization (referred to in this agreement as the 'Contractor'). The provisions of title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) are incorporated in this agreement.

"(2) Purpose. - Each provision of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and each provision of this Contract shall be liberally construed for the benefit of the Contractor to transfer the funding and the following related functions, services, activities, and programs (or portions thereof), that are otherwise contractable under section 102(a) of such Act, including all related administrative functions, from the Federal Government to the Contractor: (List functions, services, activities, and programs).

"(b) Terms, Provisions, and Conditions. -
"(1) Term. - Pursuant to section 105(c)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(c)(1)), the term of this contract shall be __ years. Pursuant to section 105(d)(1) of such Act (25 U.S.C. 450j (d)), upon the election by the Contractor, the period of this Contract shall be determined on the basis of a calendar year, unless the

Secretary and the Contractor agree on a different period in the annual funding agreement incorporated by reference in subsection

(f)(2).

"(2) Effective date. - This Contract shall become effective

upon the date of the approval and execution by the Contractor and

the Secretary, unless the Contractor and the Secretary agree on

an effective date other than the date specified in this paragraph.

"(3) Program standard. - The Contractor agrees to administer

the program, services, functions and activities (or portions

thereof) listed in subsection (a)(2) of the Contract in conformity with the following standards: (list standards).

"(4) Funding amount. - Subject to the availability of appropriations, the Secretary shall make available to the Contractor the total amount specified in the annual funding

agreement incorporated by reference in subsection (f)(2).

Such

amount shall not be less than the applicable amount determined

pursuant to section 106(a) of the Indian Self-Determination and

Education Assistance Act (25 U.S.C. 450j-1).

"(5) Limitation of costs. - The Contractor shall not be obligated to continue performance that requires an expenditure of

funds in excess of the amount of funds awarded under this Contract. If, at any time, the Contractor has reason to believe

that the total amount required for performance of this Contract

or a specific activity conducted under this Contract would be

greater than the amount of funds awarded under this Contract, the

Contractor shall provide reasonable notice to the appropriate

Secretary. If the appropriate Secretary does not take such action

as may be necessary to increase the amount of funds awarded under this Contract, the Contractor may suspend performance of the Contract until such time as additional funds are awarded.

"(6) Payment. -

"(A) In general. - Payments to the Contractor under this Contract shall -

"(i) be made as expeditiously as practicable; and
"(ii) include financial arrangements to cover funding during periods covered by joint resolutions adopted by Congress making continuing appropriations, to the extent permitted by such resolutions.

"(B) Quarterly, semiannual, lump-sum, and other methods of payment. -

"(i) In general. - Pursuant to section 108(b) of the Indian Self-Determination and Education Assistance Act, and notwithstanding any other provision of law, for each fiscal year covered by this Contract, the Secretary shall make available to the Contractor the funds specified for the fiscal year under the annual funding agreement incorporated by reference pursuant to subsection (f)(2) by paying to the Contractor, on a quarterly basis, one-quarter of the total amount provided for in the annual funding agreement for that fiscal year, in a lump-sum payment or as semiannual payments, or any other method of payment authorized by law, in accordance with such method as may be requested by the Contractor and specified in the annual funding agreement.

"(ii) Method of quarterly payment. - If quarterly payments are specified in the annual funding agreement

incorporated by reference pursuant to subsection (f)(2), each quarterly payment made pursuant to clause (i) shall be made on the first day of each quarter of the fiscal year, except that in any case in which the Contract year coincides with the Federal fiscal year, payment for the first quarter shall be made not later than the date that is 10 calendar days after the date on which the Office of Management and Budget apportions the appropriations for the fiscal year for the programs, services, functions, and activities subject to this Contract.

"(iii) Applicability. - Chapter 39 of title 31, United States Code, shall apply to the payment of funds due under this Contract and the annual funding agreement referred to in clause (i).

"(7) Records and monitoring. -

"(A) In general. - Except for previously provided copies of tribal records that the Secretary demonstrates are clearly required to be maintained as part of the recordkeeping system of the Department of the Interior or the Department of Health and Human Services (or both), records of the Contractor shall not be considered Federal records for purposes of chapter 5 of title 5, United States Code.

"(B) Recordkeeping system. - The Contractor shall maintain a recordkeeping system and, upon reasonable advance request, provide reasonable access to such records to the Secretary.

"(C) Responsibilities of contractor. - The Contractor shall

be responsible for managing the day-to-day operations conducted

under this Contract and for monitoring activities conducted

under this Contract to ensure compliance with the Contract and

applicable Federal requirements. With respect to the monitoring

activities of the Secretary, the routine monitoring visits

shall be limited to not more than one performance monitoring

visit for this Contract by the head of each operating division,

departmental bureau, or departmental agency, or duly authorized

representative of such head unless -

"(i) the Contractor agrees to one or more additional visits; or

"(ii) the appropriate official determines that there is

reasonable cause to believe that grounds for reassumption of

the Contract, suspension of Contract payments, or other

serious Contract performance deficiency may exist.

No additional visit referred to in clause (ii) shall be made

until such time as reasonable advance notice that includes a

description of the nature of the problem that requires the

additional visit has been given to the Contractor.

"(8) Property. -

"(A) In general. - As provided in section 105(f) of the

Indian Self-Determination and Education Assistance Act (25

U.S.C. 450j(f)), at the request of the Contractor, the Secretary may make available, or transfer to the Contractor,

all reasonably divisible real property, facilities,

equipment,
and personal property that the Secretary has used to
provide or
administer the programs, services, functions, and
activities
covered by this Contract. A mutually agreed upon list
specifying the property, facilities, and equipment so
furnished
shall also be prepared by the Secretary, with the
concurrence
of the Contractor, and periodically revised by the
Secretary,
with the concurrence of the Contractor.

"(B) Records. - The Contractor shall maintain a record
of all
property referred to in subparagraph (A) or other
property
acquired by the Contractor under section 105(f)(2)(A) of
such
Act for purposes of replacement.

"(C) Joint use agreements. - Upon the request of the
Contractor, the Secretary and the Contractor shall enter
into a
separate joint use agreement to address the shared use
by the
parties of real or personal property that is not
reasonably
divisible.

"(D) Acquisition of property. - The Contractor is
granted the
authority to acquire such excess property as the
Contractor may
determine to be appropriate in the judgment of the
Contractor
to support the programs, services, functions, and
activities
operated pursuant to this Contract.

"(E) Confiscated or excess property. - The Secretary
shall
assist the Contractor in obtaining such confiscated or
excess
property as may become available to tribes, tribal
organizations, or local governments.

"(F) Screener identification card. - A screener
identification card (General Services Administration
form

numbered 2946) shall be issued to the Contractor not later than the effective date of this Contract. The designated official shall, upon request, assist the Contractor in securing the use of the card.

"(G) Capital equipment. - The Contractor shall determine the capital equipment, leases, rentals, property, or services the Contractor requires to perform the obligations of the Contractor under this subsection, and shall acquire and maintain records of such capital equipment, property rentals, leases, property, or services through applicable procurement procedures of the Contractor.

"(9) Availability of funds. - Notwithstanding any other provision of law, any funds provided under this Contract -

"(A) shall remain available until expended; and

"(B) with respect to such funds, no further -

"(i) approval by the Secretary, or

"(ii) justifying documentation from the Contractor,

shall be required prior to the expenditure of such funds.

"(10) Transportation. - Beginning on the effective date of this

Contract, the Secretary shall authorize the Contractor to obtain

interagency motor pool vehicles and related services for performance of any activities carried out under this Contract.

"(11) Federal program guidelines, manuals, or policy directives. - Except as specifically provided in the Indian Self-

Determination and Education Assistance Act (25 U.S.C. 450 et

seq.) the Contractor is not required to abide by program guidelines, manuals, or policy directives of the Secretary,

unless otherwise agreed to by the Contractor and the Secretary,

or otherwise required by law.

"(12) Disputes. -

"(A) Third-party mediation defined. - For the purposes of this Contract, the term 'third-party mediation' means a form of mediation whereby the Secretary and the Contractor nominate a third party who is not employed by or significantly involved with the Secretary of the Interior, the Secretary of Health and Human Services, or the Contractor, to serve as a third-party mediator to mediate disputes under this Contract.

"(B) Alternative procedures. - In addition to, or as an alternative to, remedies and procedures prescribed by section 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450m-1), the parties to this Contract may jointly -

"(i) submit disputes under this Contract to third-party mediation;

"(ii) submit the dispute to the adjudicatory body of the Contractor, including the tribal court of the Contractor;

"(iii) submit the dispute to mediation processes provided for under the laws, policies, or procedures of the Contractor; or

"(iv) use the administrative dispute resolution processes authorized in subchapter IV of chapter 5 of title 5, United States Code.

"(C) Effect of decisions. - The Secretary shall be bound by decisions made pursuant to the processes set forth in subparagraph (B), except that the Secretary shall not be bound by any decision that significantly conflicts with the interests of Indians or the United States.

"(13) Administrative procedures of contractor. - Pursuant to the Indian Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.), the laws, policies, and procedures of the Contractor shall provide for administrative due process (or the equivalent of administrative due process) with respect to programs, services, functions, and activities that are provided by the Contractor pursuant to this Contract.

"(14) Successor annual funding agreement. - "(A) In general. - Negotiations for a successor annual funding agreement, provided for in subsection (f)(2), shall begin not later than 120 days prior to the conclusion of the preceding annual funding agreement. Except as provided in section 105(c)(2) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(c)(2)) the funding for each such successor annual funding agreement shall only be reduced pursuant to section 106(b) of such Act (25 U.S.C. 450j-1(b)).

"(B) Information. - The Secretary shall prepare and supply relevant information, and promptly comply with any request by the Contractor for information that the Contractor reasonably needs to determine the amount of funds that may be available for a successor annual funding agreement, as provided for in subsection (f)(2) of this Contract.

"(15) Contract requirements; approval by secretary. - "(A) In general. - Except as provided in subparagraph (B),

for the term of the Contract, section 2103 of the Revised

Statutes (25 U.S.C. 81), section 16 of the Act of June 18, 1934

(48 Stat. 987, chapter 576; 25 U.S.C. 476), and the Act of July

3, 1952 (25 U.S.C. 82a), shall not apply to any contract entered into in connection with this Contract.

"(B) Requirements. - Each Contract entered into by the Contractor with a third party in connection with performing the

obligations of the Contractor under this Contract shall

-

"(i) be in writing;

"(ii) identify the interested parties, the authorities of

such parties, and purposes of the Contract;

"(iii) state the work to be performed under the Contract;

and

"(iv) state the process for making any claim, the payments

to be made, and the terms of the Contract, which shall be

fixed.

"(c) Obligation of the Contractor. -

"(1) Contract performance. - Except as provided in subsection

(d)(2), the Contractor shall perform the programs, services,

functions, and activities as provided in the annual funding

agreement under subsection (f)(2) of this Contract.

"(2) Amount of funds. - The total amount of funds to be paid

under this Contract pursuant to section 106(a) shall be determined in an annual funding agreement entered into between

the Secretary and the Contractor, which shall be incorporated

into this Contract.

"(3) Contracted programs. - Subject to the availability of

appropriated funds, the Contractor shall administer the programs,

services, functions, and activities identified in this Contract

and funded through the annual funding agreement under subsection

(f)(2).

"(4) Trust services for individual indians. -

"(A) In general. - To the extent that the annual funding agreement provides funding for the delivery of trust services to individual Indians that have been provided by the Secretary, the Contractor shall maintain at least the same level of service as the Secretary provided for such individual Indians, subject to the availability of appropriated funds for such services.

"(B) Trust services to individual indians. - For the purposes of this paragraph only, the term 'trust services for individual Indians' means only those services that pertain to land or financial management connected to individually held allotments.

"(5) Fair and uniform services. - The Contractor shall provide services under this Contract in a fair and uniform manner and shall provide access to an administrative or judicial body empowered to adjudicate or otherwise resolve complaints, claims, and grievances brought by program beneficiaries against the Contractor arising out of the performance of the Contract.

"(d) Obligation of the United States. -

"(1) Trust responsibility. -

"(A) In general. - The United States reaffirms the trust responsibility of the United States to the _____ Indian tribe(s) to protect and conserve the trust resources of the Indian tribe(s) and the trust resources of individual Indians.

"(B) Construction of contract. - Nothing in this

Contract may

be construed to terminate, waive, modify, or reduce the trust

responsibility of the United States to the tribe(s) or individual Indians. The Secretary shall act in good faith in

upholding such trust responsibility.

"(2) Good faith. - To the extent that health programs are

included in this Contract, and within available funds, the Secretary shall act in good faith in cooperating with the Contractor to achieve the goals set forth in the Indian Health

Care Improvement Act (25 U.S.C. 1601 et seq.).

"(3) Programs retained. - As specified in the annual funding

agreement, the United States hereby retains the programs, services, functions, and activities with respect to the tribe(s)

that are not specifically assumed by the Contractor in the annual

funding agreement under subsection (f)(2).

"(e) Other Provisions. -

"(1) Designated officials. - Not later than the effective date

of this Contract, the United States shall provide to the Contractor, and the Contractor shall provide to the United States, a written designation of a senior official to serve as a

representative for notices, proposed amendments to the Contract,

and other purposes for this Contract.

"(2) Contract modifications or amendment. -

"(A) In general. - Except as provided in subparagraph (B), no

modification to this Contract shall take effect unless such

modification is made in the form of a written amendment to the

Contract, and the Contractor and the Secretary provide written

consent for the modification.

"(B) Exception. - The addition of supplemental funds for

programs, functions, and activities (or portions thereof) already included in the annual funding agreement under subsection (f)(2), and the reduction of funds pursuant to section 106(b)(2), shall not be subject to subparagraph (A).

"(3) Officials not to benefit. - No Member of Congress, or resident commissioner, shall be admitted to any share or part of any contract executed pursuant to this Contract, or to any benefit that may arise from such contract. This paragraph may not be construed to apply to any contract with a third party entered into under this Contract if such contract is made with a corporation for the general benefit of the corporation.

"(4) Covenant against contingent fees. - The parties warrant that no person or selling agency has been employed or retained to solicit or secure any contract executed pursuant to this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business.

"(f) Attachments. -

"(1) Approval of contract. - Unless previously furnished to the Secretary, the resolution of the _____ Indian tribe(s) authorizing the contracting of the programs, services, functions, and activities identified in this Contract is attached to this Contract as attachment 1.

"(2) Annual funding agreement. -

"(A) In general. - The annual funding agreement under this Contract shall only contain -

"(i) terms that identify the programs, services, functions, and activities to be performed or administered, the general budget category assigned, the funds to be provided, and the time and method of payment; and
description "(ii) such other provisions, including a brief of the programs, services, functions, and activities to be performed (including those supported by financial resources other than those provided by the Secretary), to which the parties agree.

"(B) Incorporation by reference. - The annual funding agreement is hereby incorporated in its entirety in this Contract and attached to this Contract as attachment 2."

-SOURCE-

(Pub. L. 93-638, title I, Sec. 108, as added Pub. L. 103-413, title I, Sec. 103, Oct. 25, 1994, 108 Stat. 4260; amended Pub. L. 106-568, title VIII, Sec. 812(a), Dec. 27, 2000, 114 Stat. 2917.)

-REFTEXT-

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in section 1(a), (b)(6)(B)(i), (11) of the provisions of subsec. (c) setting out the model agreement, is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to this subchapter (Sec. 450 et seq.). Title I of the Act is classified principally to this part (Sec. 450f et seq.). Section 102(a) of the Act is classified to section 450f(a) of this title. Section 108(b) of the Act is classified to subsec. (b) of

this section. For complete classification of this Act to the Code,
see Short Title note set out under section 450 of this title and
Tables.

The Indian Civil Rights Act of 1968, referred to in section
1(b)(13) of the provisions of subsec. (c) setting out the model
agreement, is title II of Pub. L. 90-284, Apr. 11, 1968, 82
Stat.

77, as amended, which is classified generally to subchapter
I (Sec. 1301 et seq.) of chapter 15 of this title. For complete
classification of this Act to the Code, see Tables.

The Act of July 3, 1952, referred to in section 1(b)(15)
(A) of the provisions of subsec. (c) setting out the model
agreement, is
act July 3, 1952, ch. 549, 66 Stat. 323, which enacted
section 82a
of this title and provisions set out as a note under section
82a of
this title.

The Indian Health Care Improvement Act, referred to in
section
1(d)(2) of the provisions of subsec. (c) setting out the
model
agreement, is Pub. L. 94-437, Sept. 30, 1976, 90 Stat. 1400,
as
amended, which is classified principally to chapter 18 (Sec.
1601
et seq.) of this title. For complete classification of this
Act to
the Code, see Short Title note set out under section 1601 of
this
title and Tables.

-MISC1-

PRIOR PROVISIONS

A prior section 4501, Pub. L. 93-638, title I, Sec. 108,
Jan. 4,
1975, 88 Stat. 2212, which related to report by tribe
requesting
contract or grant, was renumbered section 5(f) of Pub. L.

93-638,

by Pub. L. 100-472, title II, Sec. 208, Oct. 5, 1988, 102 Stat.

2296, and is classified to section 450c(f) of this title.

AMENDMENTS

2000 - Subsec. (c). Pub. L. 106-568 substituted ", section 16 of

the Act of June 18, 1934" for "and section 16 of the Act of June

18, 1934" and "and the Act of July 3, 1952 (25 U.S.C. 82a), shall

not apply" for "shall not apply" in section 1(b)(15)(A) of the

provisions setting out the model agreement.

QUARTERLY PAYMENTS OF FUNDS TO TRIBES

Pub. L. 105-83, title III, Sec. 311, Nov. 14, 1997, 111 Stat.

1590, provided that: "Notwithstanding Public Law 103-413 [see Short

Title of 1994 Amendment note set out under section 450 of this

title], quarterly payments of funds to tribes and tribal organizations under annual funding agreements pursuant to section

108 of Public Law 93-638 [25 U.S.C. 4501], as amended, beginning in

fiscal year 1998 and thereafter, [sic] may be made on the first

business day following the first day of a fiscal quarter."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 104-208, div. A, title I, Sec. 101(d) [title III, Sec.

311], Sept. 30, 1996, 110 Stat. 3009-181, 3009-221.

Pub. L. 104-134, title I, Sec. 101(c) [title III, Sec. 311], Apr.

26, 1996, 110 Stat. 1321-156, 1321-197; renumbered title I, Pub. L.

104-140, Sec. 1(a), May 2, 1996, 110 Stat. 1327.

-End-

-CITE-

25 USC Sec. 450m
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part A - Indian Self-Determination

-HEAD-

Sec. 450m. Rescission of contract or grant and assumption of
control of program, etc.; authority; grounds; procedure;
correction of violation as prerequisite to new contract or
grant
agreement; construction with occupational safety and
health
requirements

-STATUTE-

Each contract or grant agreement entered into pursuant to
sections 450f, 450g, and 450h (!1) of this title shall
provide that
in any case where the appropriate Secretary determines that
the
tribal organization's performance under such contract or
grant
agreement involves (1) the violation of the rights or
endangerment
of the health, safety, or welfare of any persons; or (2)
gross
negligence or mismanagement in the handling or use of funds
provided to the tribal organization pursuant to such
contract or
grant agreement, or in the management of trust fund, trust
lands or
interests in such lands pursuant to such contract or grant
agreement, such Secretary may, under regulations prescribed
by him
and after providing notice and a hearing on the record to
such
tribal organization, rescind such contract or grant
agreement, in
whole or in part, and assume or resume control or operation
of the

program, activity, or service involved if he determines that the tribal organization has not taken corrective action as prescribed by the Secretary to remedy the contract deficiency, except that the appropriate Secretary may, upon written notice to a tribal organization, and the tribe served by the tribal organization, immediately rescind a contract or grant, in whole or in part, and resume control or operation of a program, activity, function, or service, if the Secretary finds that (i) there is an immediate threat of imminent harm to the safety of any person, or imminent substantial and irreparable harm to trust funds, trust lands, or interests in such lands, and (ii) such threat arises from the failure of the contractor to fulfill the requirements of the contract. In such cases, the Secretary shall provide the tribal organization with a hearing on the record within ten days or such later date as the tribal organization may approve. Such Secretary may decline to enter into a new contract or grant agreement and retain control of such program, activity, or service until such time as he is satisfied that the violations of rights or endangerment of health, safety, or welfare which necessitated the rescission has been corrected. In any hearing or appeal provided for under this section, the Secretary shall have the burden of proof to establish, by clearly demonstrating the validity of the grounds for rescinding, assuming, or reassuming the contract that is the subject of the hearing. Nothing in this section shall be construed as contravening the Occupational Safety and Health

Act of
1970, as amended [29 U.S.C. 651 et seq.].

-SOURCE-

(Pub. L. 93-638, title I, Sec. 109, Jan. 4, 1975, 88 Stat. 2212;
Pub. L. 100-581, title II, Sec. 211, Nov. 1, 1988, 102 Stat. 2941;
Pub. L. 101-301, Sec. 2(a)(10), May 24, 1990, 104 Stat. 207;
Pub.
L. 103-413, title I, Sec. 104(1), Oct. 25, 1994, 108 Stat. 4268.)

-REFTEXT-

REFERENCES IN TEXT

Sections 450g and 450h of this title, referred to in text,
was in
the original "sections 103 and 104 of this Act", meaning
sections

103 and 104 of Pub. L. 93-638, the Indian Self-Determination
Act.

Section 103(a) and (b) and the first sentence of section 103
(c) of

Pub. L. 93-638 were repealed, and the remainder of section
103(c)

of Pub. L. 93-638 was redesignated as section 102(d) of Pub.
L. 93-

638 (section 450f(d) of this title), by Pub. L. 100-472,
title II,

Sec. 201(b)(1), Oct. 5, 1988, 102 Stat. 2289. Sections 104
and 105

of Pub. L. 93-638 were renumbered as sections 103 and 104,
respectively, of Pub. L. 93-638 by sections 202(a) and 203

(a) of

Pub. L. 100-472, and are classified to sections 450h and
450i,

respectively, of this title.

The Occupational Safety and Health Act of 1970, as
amended,

referred to in text, is Pub. L. 91-596, Dec. 29, 1970, 84
Stat.

1590, as amended, which is classified principally to chapter
15

(Sec. 651 et seq.) of Title 29, Labor. For complete
classification

of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

-MISC1-

AMENDMENTS

1994 - Pub. L. 103-413 inserted "or in the management of trust fund, trust lands or interests in such lands pursuant to such contract or grant agreement," after "pursuant to such contract or grant agreement," and ", in whole or in part," after "rescind such contract or grant agreement", substituted "action as prescribed by the Secretary to remedy the contract deficiency, except that the appropriate Secretary may, upon written notice to a tribal organization, and the tribe served by the tribal organization, immediately rescind a contract or grant, in whole or in part, and resume control or operation of a program, activity, function, or service, if the Secretary finds that (i) there is an immediate threat of imminent harm to the safety of any person, or imminent substantial and irreparable harm to trust funds, trust lands, or interests in such lands, and (ii) such threat arises from the failure of the contractor to fulfill the requirements of the contract. In such cases, the Secretary" for "action as prescribed by him: Provided, That the appropriate Secretary may, upon notice to a tribal organization, immediately rescind a contract or grant and resume control or operation of a program, activity, or service if he finds that there is an immediate threat to safety and, in such cases, he", struck out second period after "the tribal

organization may approve", and inserted before last sentence
"In
any hearing or appeal provided for under this section, the
Secretary shall have the burden of proof to establish, by
clearly
demonstrating the validity of the grounds for rescinding,
assuming,
or reassuming the contract that is the subject of the
hearing."
1990 - Pub. L. 101-301 substituted "providing notice and a
hearing" for "providing notice and hearing".
1988 - Pub. L. 100-581 inserted "on the record" after
"providing
notice and hearing".
Pub. L. 100-581 which directed amendment of this section
by
substituting "in such cases, he shall provide the tribal
organization with a hearing on the record within ten days or
such
later date as the tribal organization may approve." for "in
such
cases, he shall hold a hearing within ten days thereof" was
executed by substituting the new language for "in such
cases, he
shall hold a hearing on such action within ten days thereof"
to
reflect the probable intent of Congress.

-FOOTNOTE-

(!1) See References in Text note below.

-End-

-CITE-

25 USC Sec. 450m-1
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part A - Indian Self-Determination

-HEAD-

Sec. 450m-1. Contract disputes and claims

-STATUTE-

(a) Civil actions; concurrent jurisdiction; relief

The United States district courts shall have original jurisdiction over any civil action or claim against the appropriate

Secretary arising under this subchapter and, subject to the provisions of subsection (d) of this section and concurrent with

the United States Court of Claims, over any civil action or claim

against the Secretary for money damages arising under contracts

authorized by this subchapter. In an action brought under this

paragraph, the district courts may order appropriate relief including money damages, injunctive relief against any action by an

officer of the United States or any agency thereof contrary to this

subchapter or regulations promulgated thereunder, or mandamus to

compel an officer or employee of the United States, or any agency

thereof, to perform a duty provided under this subchapter or regulations promulgated hereunder (including immediate injunctive

relief to reverse a declination finding under section 450f (a)(2) of

this title or to compel the Secretary to award and fund an approved

self-determination contract).

(b) Revision of contracts

The Secretary shall not revise or amend a self-determination

contract with a tribal organization without the tribal organization's consent.

(c) Application of laws to administrative appeals

The Equal Access to Justice Act (Public (!) Law 96-481, Act of

October 1, (!) 1980; 92 (!) Stat. 2325, as amended), section 504

of title 5, and section 2412 of title 28 shall apply to

administrative appeals pending on or filed after October 5, 1988,
by tribal organizations regarding self-determination contracts.

(d) Application of Contract Disputes Act

The Contract Disputes Act (Public Law 95-563, Act of November 1, 1978; 92 Stat. 2383, as amended) [41 U.S.C. 601 et seq.] shall

apply to self-determination contracts, except that all administrative appeals relating to such contracts shall be heard by

the Interior Board of Contract Appeals established pursuant to

section 8 of such Act (41 U.S.C. 607).

(e) Application of subsection (d)

Subsection (d) of this section shall apply to any case pending or

commenced on or after March 17, 1986, before the Boards of Contract

Appeals of the Department of the Interior or the Department of

Health and Human Services except that in any such cases finally

disposed of before October 5, 1988, the thirty-day period referred

to in section 504(a)(2) of title 5 shall be deemed to commence on

October 5, 1988.

-SOURCE-

(Pub. L. 93-638, title I, Sec. 110, as added Pub. L. 100-472, title II, Sec. 206(a), Oct. 5, 1988, 102 Stat. 2294; amended Pub. L. 100-581, title II, Sec. 212, Nov. 1, 1988, 102 Stat. 2941; Pub. L. 101-301, Secs. 1(a)(2), 2(b), May 24, 1990, 104 Stat. 206, 207; Pub. L. 103-413, title I, Sec. 104(2), (3), Oct. 25, 1994, 108 Stat. 4268.)

-REFTEXT-

REFERENCES IN TEXT

The Equal Access to Justice Act, referred to in subsec. (c), is
Pub. L. 96-481, title II, Oct. 21, 1980, 94 Stat. 2325. For complete classification of this Act to the Code, see Short Title
note set out under section 504 of Title 5, Government Organization
and Employees, and Tables.

The Contract Disputes Act of 1978, referred to in subsec. (d), is
Pub. L. 95-563, Nov. 1, 1978, 92 Stat. 2383, as amended, which is
classified principally to chapter 9 (Sec. 601 et seq.) of Title 41,
Public Contracts. For complete classification of this Act to the
Code, see Short Title note set out under section 601 of Title 41
and Tables.

October 5, 1988, referred to in subsec. (e), was in the original
"the date of enactment of these amendments" and "the date of enactment of this subsection", meaning the date of enactment of the
Indian Self-Determination and Education Assistance Act Amendments
of 1988, Pub. L. 100-472, which enacted this section.

-MISC1-

PRIOR PROVISIONS

A prior section 110 of Pub. L. 93-638 was renumbered section 111
by Pub. L. 100-472 and is classified to section 450n of this title.

AMENDMENTS

1994 - Subsec. (a). Pub. L. 103-413, Sec. 104(2), inserted before
period at end "(including immediate injunctive relief to reverse a
declination finding under section 450f(a)(2) of this title or to
compel the Secretary to award and fund an approved self-determination contract)".

Subsec. (d). Pub. L. 103-413, Sec. 104(3), inserted before

period

at end ", except that all administrative appeals relating to such

contracts shall be heard by the Interior Board of Contract Appeals

established pursuant to section 8 of such Act (41 U.S.C. 607)".

1990 - Subsec. (a). Pub. L. 101-301, Sec. 1(a)(2), made technical

correction to directory language of Pub. L. 100-581, Sec. 212(a).

See 1988 Amendment note below.

Subsec. (b). Pub. L. 101-301, Sec. 2(b), amended subsec. (b)

generally. Prior to amendment, subsec. (b) read as follows: "Unless

otherwise agreed to by the resolution of tribal organization, the

Secretary shall not revise or amend a self-determination contract

with such tribal organization."

Subsec. (c). Pub. L. 101-301, Sec. 1(a)(2), made technical correction to directory language of Pub. L. 100-581, Sec. 212(c).

See 1988 Amendment note below.

1988 - Subsec. (a). Pub. L. 100-581, Sec. 212(a), as amended by

Pub. L. 101-301, Sec. 1(a)(2), substituted "over any civil action"

for "over civil action" after "Court of Claims,".

Subsec. (b). Pub. L. 100-581, Sec. 212(b), substituted "of tribal

organization" for "of an Indian tribe" and "such tribal organization" for "such tribe".

Subsec. (c). Pub. L. 100-581, Sec. 212(c), as amended by Pub. L.

101-301, Sec. 1(a)(2), amended subsec. (c) generally. Prior to

amendment, subsec. (c) read as follows: "The Equal Access to Justice Act (Public Law 96-481, Act of October 1 [21], 1980;

94

Stat. 2325, as amended) shall apply to administrative appeals by

tribal organizations regarding self-determination contracts."

-FOOTNOTE-

(!1) So in original. Probably should be "Public", "21", and "94",
respectively.

-End-

-CITE-

25 USC Sec. 450n
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part A - Indian Self-Determination

-HEAD-

Sec. 450n. Sovereign immunity and trusteeship rights
unaffected

-STATUTE-

Nothing in this subchapter shall be construed as -
(1) affecting, modifying, diminishing, or otherwise
impairing
the sovereign immunity from suit enjoyed by an Indian
tribe; or
(2) authorizing or requiring the termination of any
existing
trust responsibility of the United States with respect to
the
Indian people.

-SOURCE-

(Pub. L. 93-638, title I, Sec. 111, formerly Sec. 110, Jan.
4,
1975, 88 Stat. 2213; renumbered Sec. 111, Pub. L. 100-472,
title
II, Sec. 206(b), Oct. 5, 1988, 102 Stat. 2295.)

-End-

-CITE-

25 USC Part B - Contracts With States
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part B - Contracts With States

-HEAD-

PART B - CONTRACTS WITH STATES

-COD-

CODIFICATION

This part, consisting of sections 451 to 457 of this title, which was previously set out as part of former subchapter III of this chapter, was not enacted as part of the Indian Self-Determination and Education Assistance Act which comprises this subchapter.

-End-

-CITE-

25 USC Sec. 451
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part B - Contracts With States

-HEAD-

Sec. 451. Donations for Indians; use of gifts; annual report to Congress

-STATUTE-

The Secretary of the Interior may accept donations of funds or other property for the advancement of the Indian race, and he may use the donated property in accordance with the terms of the donation in furtherance of any program authorized by other provision of law for the benefit of Indians. An annual report shall be made to the Congress on donations received and allocations made from such donations. This report shall include administrative costs and other pertinent data.

-SOURCE-

(Feb. 14, 1931, ch. 171, 46 Stat. 1106; Pub. L. 90-333, June 8, 1968, 82 Stat. 171.)

-COD-

CODIFICATION

Section was not enacted as part of the Johnson-O'Malley Act which comprises this part, nor as part of the Indian Self-Determination and Education Assistance Act which comprises this subchapter.

-MISC1-

AMENDMENTS

1968 - Pub. L. 90-333 expanded area of permissible uses to which Secretary may put donated property by substituting provisions allowing inclusion of programs otherwise authorized by law intended to benefit Indians for provisions limiting permissible uses to programs otherwise authorized by law only if it could be shown that property would benefit a particular Indian institution or individual, and inserted provisions for an annual report to Congress on donations received and allocations made from such

donations.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in this section relating to making an annual report to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 113 of House Document No. 103-7.

-End-

-CITE-

25 USC Sec. 452
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE
Part B - Contracts With States

-HEAD-

Sec. 452. Contracts for education, medical attention, relief and social welfare of Indians

-STATUTE-

The Secretary of the Interior is authorized, in his discretion, to enter into a contract or contracts with any State or Territory, or political subdivision thereof, or with any State university, college, or school, or with any appropriate State or private corporation, agency, or institution, for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory, through

the agencies of the State or Territory or of the corporations and organizations hereinbefore named, and to expend under such contract or contracts, moneys appropriated by Congress for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory.

-SOURCE-

(Apr. 16, 1934, ch. 147, Sec. 1, 48 Stat. 596; June 4, 1936, ch. 490, Sec. 1, 49 Stat. 1458.)

-MISC1-

AMENDMENTS

1936 - Act June 4, 1936, substituted "with any State or Territory, or political subdivision thereof, or with any State university, college, or school, or with any appropriate State or private corporation, agency, or institution", "through the agencies of the State or Territory or of the corporations and organizations hereinbefore named,", and "such State or Territory" for "any State or Territory having legal authority so to do,", "through the qualified agencies of such State or Territory,", and "such State", respectively.

SHORT TITLE

Act April 16, 1934, ch. 147, 48 Stat. 596, which enacted sections 452 to 457 of this title, is popularly known as the "Johnson-O'Malley Act".

DISTRIBUTION OF PUBLIC SCHOOL ASSISTANCE

Pub. L. 100-446, title I, Sept. 27, 1988, 102 Stat. 1795, provided that: "notwithstanding any other provision of law, the

amounts available for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.),

shall be distributed on the basis of the formula recommended by the

Assistant Secretary of Indian Affairs in a letter to the Committees

on Appropriations dated June 27, 1988, except that for the fiscal

year ending September 30, 1989, the minimum weight factor shall be

1.1 rather than 1.3 and for the fiscal year ending September 30,

1990, the minimum weight factor shall be 1.2 rather than 1.3".

Similar provisions were contained in the following prior appropriation act:

Pub. L. 100-202, Sec. 101(g) [title I], Dec. 22, 1987, 101 Stat.

1329-213, 1329-228.

LIMITATION ON CONTRACT AUTHORITY

Pub. L. 99-190, Sec. 101(d) [title I], Dec. 19, 1985, 99 Stat.

1224, 1235, provided that: "notwithstanding any law or regulation,

in allocating funds for aid to public schools under the Act of

April 16, 1934, as amended [sections 452 to 457 of this title], the

Secretary shall enter into contracts only for the provision of

supplementary educational services for Indian children".

-End-

-CITE-

25 USC Sec. 453
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS

SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE

Part B - Contracts With States

-HEAD-

Sec. 453. Use of Government property by States and
Territories

-STATUTE-

The Secretary of the Interior, in making any contract
authorized
by sections 452 to 457 of this title, may permit such
contracting
party to utilize, for the purposes of said sections,
existing
school buildings, hospitals, and other facilities, and all
equipment therein or appertaining thereto, including
livestock and
other personal property owned by the Government, under such
terms
and conditions as may be agreed upon for their use and
maintenance.

-SOURCE-

(Apr. 16, 1934, ch. 147, Sec. 2, 48 Stat. 596; June 4, 1936,
ch.
490, Sec. 2, 49 Stat. 1459.)

-MISC1-

AMENDMENTS

1936 - Act June 4, 1936, substituted ", may permit such
contracting party" for "with any State or Territory, may
permit
such State or Territory".

-End-

-CITE-

25 USC Sec. 454
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS

CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE

Part B - Contracts With States

-HEAD-

Sec. 454. Rules and regulations; minimum standards of service

-STATUTE-

The Secretary of the Interior is authorized to perform any and

all acts and to make such rules and regulations, including minimum

standards of service, as may be necessary and proper for the purpose of carrying the provisions of sections 452 to 457 of this

title into effect: Provided, That such minimum standards of service

are not less than the highest maintained by the States or Territories within which said contract or contracts, as herein

provided, are to be effective.

-SOURCE-

(Apr. 16, 1934, ch. 147, Sec. 3, 48 Stat. 596; June 4, 1936, ch.

490, Sec. 3, 49 Stat. 1459.)

-MISC1-

AMENDMENTS

1936 - Act June 4, 1936, substituted "within which" for "with which".

-End-

-CITE-

25 USC Sec. 455
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS

CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE

Part B - Contracts With States

-HEAD-

Sec. 455. Contracts for education in public schools;
submission of
 education plan by contractor as prerequisite; criteria for
 approval of plan by Secretary of the Interior;
participation by
 non-Indian students

-STATUTE-

The Secretary of the Interior shall not enter into any
contract
 for the education of Indians unless the prospective
contractor has
 submitted to, and has had approved by the Secretary of the
 Interior, an education plan, which plan, in the
determination of
 the Secretary, contains educational objectives which
adequately
 address the educational needs of the Indian students who are
to be
 beneficiaries of the contract and assures that the contract
is
 capable of meeting such objectives: Provided, That where
students
 other than Indian students participate in such programs,
money
 expended under such contract shall be prorated to cover the
participation of only the Indian students.

-SOURCE-

(Apr. 16, 1934, ch. 147, Sec. 4, as added Pub. L. 93-638,
title II,
Sec. 202, Jan. 4, 1975, 88 Stat. 2213.)

-MISC1-

PRIOR PROVISIONS

A prior section 4 of act Apr. 16, 1934, ch. 147, 48 Stat.
596;
June 4, 1936, ch. 490, 49 Stat. 1458, directed Secretary of
the

Interior to report to Congress any contracts made under provisions of sections 452 to 454 of this title, prior to repeal by Pub. L. 86-533, Sec. 1(15), June 29, 1960, 74 Stat. 248.

-End-

-CITE-

25 USC Sec. 456
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE
Part B - Contracts With States

-HEAD-

Sec. 456. Local committee of Indian parents in school districts having school boards composed of non-Indian majority

-STATUTE-

(a) Election; functions
Whenever a school district affected by a contract or contracts for the education of Indians pursuant to sections 452 to 457 of this title has a local school board not composed of a majority of Indians, the parents of the Indian children enrolled in the school or schools affected by such contract or contracts shall elect a local committee from among their number. Such committee shall fully participate in the development of, and shall have the authority to approve or disapprove programs to be conducted under such contract or contracts, and shall carry out such other duties, and be so

structured, as the Secretary of the Interior shall by regulation provide: Provided, however, That, whenever a local Indian committee or committees established pursuant to section 7424(c)(4) of title 20 or an Indian advisory school board or boards established pursuant to sections 452 to 457 of this title prior to January 4, 1975, exists in such school district, such committee or board may, in the discretion of the affected tribal governing body or bodies, be utilized for the purposes of this section.

(b) Revocation of contracts

The Secretary of the Interior may, in his discretion, revoke any contract if the contractor fails to permit a local committee to perform its duties pursuant to subsection (a) of this section.

-SOURCE-

(Apr. 16, 1934, ch. 147, Sec. 5, as added Pub. L. 93-638, title II, Sec. 202, Jan. 4, 1975, 88 Stat. 2213; amended Pub. L. 103-382, title III, Sec. 393(d), Oct. 20, 1994, 108 Stat. 4027; Pub. L. 107-110, title VII, Sec. 702(e), Jan. 8, 2002, 115 Stat. 1947.)

-MISC1-

PRIOR PROVISIONS

A prior section 5 of act Apr. 16, 1934, ch. 147, 48 Stat. 596, excluded Oklahoma from the application of contract provisions, and was omitted by act June 4, 1936, ch. 490, 49 Stat. 1458.

AMENDMENTS

2002 - Subsec. (a). Pub. L. 107-110 substituted reference to section 7424(c)(4) of title 20 for reference to section 7814 (c)(4) of title 20.

1994 - Subsec. (a). Pub. L. 103-382 substituted reference to section 7814(c)(4) of title 20 for reference to section 241dd(b)(2)(B)(ii) of title 20.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107-110, set out as an Effective Date note under section 6301 of Title 20, Education.

-End-

-CITE-

25 USC Sec. 457
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE
Part B - Contracts With States

-HEAD-

Sec. 457. Reimbursement to school districts for educating non-resident students

-STATUTE-

Any school district educating Indian students who are members of recognized Indian tribes, who do not normally reside in the State in which such school district is located, and who are residing in Federal boarding facilities for the purposes of attending public schools within such district may, in the discretion of the Secretary of the Interior, be reimbursed by him for the full per capita costs of educating such Indian students.

-SOURCE-

(Apr. 16, 1934, ch. 147, Sec. 6, as added Pub. L. 93-638,
title II,
Sec. 202, Jan. 4, 1975, 88 Stat. 2214.)

-MISC1-

INDIAN EDUCATIONAL REPORT; SUBMISSION TO CONGRESSIONAL
COMMITTEES;

TIME OF SUBMISSION; SCOPE AND CONTENT OF REPORT

Section 203 of Pub. L. 93-638 provided for a report to be
prepared and submitted not later than Oct. 1, 1975, by the
Secretary of the Interior to the Committees on Interior and
Insular

Affairs of the United States Senate and the House of
Representatives after conferring with persons competent in
the

field of Indian education and consulting with the Secretary
of

Health, Education, and Welfare. The report was to include
analysis

of the act of Apr. 16, 1934, and a specific program to meet
the

special educational needs of Indian children who attend
public
schools.

-End-

-CITE-

25 USC Part C - Indian Education Assistance
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part C - Indian Education Assistance

-HEAD-

PART C - INDIAN EDUCATION ASSISTANCE

-End-

-CITE-

25 USC Sec. 458
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part C - Indian Education Assistance

-HEAD-

Sec. 458. School construction, acquisition, or renovation
contracts

-STATUTE-

(a) Authorization; prerequisites
The Secretary is authorized to enter into a contract or
contracts
with any State education agency or school district for the
purpose
of assisting such agency or district in the acquisition of
sites
for, or the construction, acquisition, or renovation of
facilities
(including all necessary equipment) in school districts on
or
adjacent to or in close proximity to any Indian reservation
or
other lands held in trust by the United States for Indians,
if such
facilities are necessary for the education of Indians
residing on
any such reservation or lands.

(b) Eligibility requirements for assistance in federally-
affected
areas; applicability to projects in determining maximum
amount,
allocation, of funds, etc.
The Secretary may expend not less than 75 per centum of
such
funds as are authorized and appropriated pursuant to this
section

on those projects which meet the eligibility requirements under subsections (a) and (b) of section 644 (!1) of title 20. Such funds shall be allocated on the basis of existing funding priorities, if any, established by the Secretary of Education under subsections (a) and (b) of section 644 (!1) of title 20. The Secretary of Education is directed to submit to the Secretary, at the beginning of each fiscal year, commencing with the first full fiscal year after January 4, 1975, a list of those projects eligible for funding under subsections (a) and (b) of section 644 (!1) of title 20.

(c) Eligibility of private schools to receive funds; maximum amount

The Secretary may expend not more than 25 per centum of such funds as may be authorized and appropriated pursuant to this section on any school eligible to receive funds under section 458d of this title.

(d) Duties of State education agencies pursuant to contracts
Any contract entered into by the Secretary pursuant to this section shall contain provisions requiring the relevant State educational agency to -

(1) provide Indian students attending any such facilities constructed, acquired, or renovated, in whole or in part, from funds made available pursuant to this section with standards of education not less than those provided non-Indian students in the

school district in which the facilities are situated; and

(2) meet, with respect to such facilities, the requirements of the State and local building codes, and other building standards

set by the State educational agency or school district for other public school facilities under its jurisdiction or control or by the local government in the jurisdiction within which the facilities are situated.

(e) Advisory consultations by Secretary with affected entities and governing bodies prior to contracts; applicability
The Secretary shall consult with the entity designated pursuant to section 456 of this title, and with the governing body of any Indian tribe or tribes the educational opportunity for the members of which will be significantly affected by any contract entered into pursuant to this section. Such consultation shall be advisory only, but shall occur prior to the entering into of any such contract. The foregoing provisions of this subsection shall not be applicable where the application for a contract pursuant to this section is submitted by an elected school board of which a majority of its members are Indians.

(f) Evaluation and report to Congress of effectiveness of construction, etc., programs; scope and content of report
Within ninety days following the expiration of the three year

period following January 4, 1975, the Secretary shall evaluate the effectiveness of the program pursuant to this section and transmit

a report of such evaluation to the Congress. Such report shall

include -

(1) an analysis of construction costs and the impact on such costs of the provisions of subsection (f) of this section and the

Act of March 3, 1921 (46 Stat. 1491), as amended; (!1)

(2) a description of the working relationship between the

Department of the Interior and the Department of Education

including any memorandum of understanding in connection with the

acquisition of data pursuant to subsection (b) of this section;

(3) projections of the Secretary of future construction needs

of the public schools serving Indian children residing on or

adjacent to Indian reservations;

(4) a description of the working relationship of the Department

of the Interior with local or State educational agencies in

connection with the contracting for construction, acquisition, or

renovation of school facilities pursuant to this section; and

(5) the recommendations of the Secretary with respect to the

transfer of the responsibility for administering subsections (a)

and (b) of section 644 (!1) of title 20 from the Department of

Education to the Department of the Interior.

(g) Authorization of appropriations

For the purpose of carrying out the provisions of this section,

there is authorized to be appropriated the sum of \$35,000,000 for

the fiscal year ending June 30, 1974; \$35,000,000 for each of the

four succeeding fiscal years; and thereafter, such sums as may be

necessary, all of such sums to remain available until expended.

-SOURCE-

(Pub. L. 93-638, title II, Sec. 204, Jan. 4, 1975, 88 Stat. 2214;

Pub. L. 96-88, title III, Sec. 301, title V, Sec. 507, Oct. 17,

1979, 93 Stat. 677, 692.)

-REFTEXT-

REFERENCES IN TEXT

Section 644 of title 20, referred to in subsecs. (b) and

(f)(5),

was repealed by Pub. L. 103-382, title III, Sec. 331(a),
Oct. 20,
1994, 108 Stat. 3965.

Act of March 3, 1921, referred to in subsec. (f)(1),
probably

means the act of Mar. 3, 1931, ch. 411, 46 Stat. 1494, as
amended,

known as the Davis-Bacon Act, which was classified generally
to

sections 276a to 276a-5 of former Title 40, Public
Buildings,

Property, and Works, and was repealed and reenacted as
sections

3141-3144, 3146, and 3147 of Title 40, Public Buildings,
Property,

and Works, by Pub. L. 107-217, Secs. 1, 6(b), Aug. 21, 2002,
116

Stat. 1062, 1304.

-TRANS-

TRANSFER OF FUNCTIONS

"Secretary of Education" substituted for "United States
Commissioner of Education" in subsec. (b), and "Department
of

Education" substituted for "Department of Health, Education,
and

Welfare" in subsec. (f)(2), (5), pursuant to sections 301
and 507

of Pub. L. 96-88, which is classified to sections 3441 and
3507 of

Title 20, Education, and which transferred functions and
offices

(relating to education) of Commissioner of Education and
Department

of Health, Education, and Welfare to Secretary and
Department of

Education.

-FOOTNOTE-

(!1) See References in Text note below.

-End-

-CITE-

25 USC Sec. 458a
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part C - Indian Education Assistance

-HEAD-

Sec. 458a. General education contract and grant provisions
and
requirements; school district quality and standards of
excellence

-STATUTE-

No funds from any grant or contract pursuant to this part
shall
be made available to any school district unless the
Secretary is
satisfied that the quality and standard of education,
including
facilities and auxiliary services, for Indian students
enrolled in
the schools of such district are at least equal to that
provided
all other students from resources, other than resources
provided in
this part, available to the local school district.

-SOURCE-

(Pub. L. 93-638, title II, Sec. 205, Jan. 4, 1975, 88 Stat.
2216.)

-REFTEXT-

REFERENCES IN TEXT

This part, referred to in text, was in the original "this
title",
meaning title II of Pub. L. 93-638, known as the Indian
Education
Assistance Act, which is classified principally to this part
(Sec.

458 et seq.). For complete classification of title II to the Code,
see Short Title note set out under section 450 of this title and
Tables.

-End-

-CITE-

25 USC Sec. 458b
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part C - Indian Education Assistance

-HEAD-

Sec. 458b. Availability of funds to agencies, institutions,
and
organizations

-STATUTE-

No funds from any contract or grant pursuant to this part shall
be made available by any Federal agency directly to other than
public agencies and Indian tribes, institutions, and organizations:
Provided, That school districts, State education agencies, and
Indian tribes, institutions, and organizations assisted by this
part may use funds provided herein to contract for necessary services with any appropriate individual, organization, or corporation.

-SOURCE-

(Pub. L. 93-638, title II, Sec. 206, Jan. 4, 1975, 88 Stat. 2216.)

-End-

-CITE-

25 USC Sec. 458c
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part C - Indian Education Assistance

-HEAD-

Sec. 458c. Rules and regulations

-STATUTE-

(a) Prerequisites for promulgation
(1) Within six months from January 4, 1975, the Secretary shall, to the extent practicable, consult with national and regional Indian organizations with experiences in Indian education to consider and formulate appropriate rules and regulations to implement the provisions of this part.
(2) Within seven months from January 4, 1975, the Secretary shall present the proposed rules and regulations to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives.
(3) Within eight months from January 4, 1975, the Secretary shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.
(4) Within ten months from January 4, 1975, the Secretary shall promulgate rules and regulations to implement the provisions of this part.
(b) Revision and amendment
The Secretary is authorized to revise and amend any rules or

regulations promulgated pursuant to subsection (a) of this section:

Provided, That prior to any revision or amendment to such rules or regulations the Secretary shall, to the extent practicable, consult with appropriate national and regional Indian organizations, and shall publish any proposed revisions in the Federal Register not less than sixty days prior to the effective date of such rules and regulations in order to provide adequate notice to, and receive comments from, other interested parties.

-SOURCE-

(Pub. L. 93-638, title II, Sec. 207, Jan. 4, 1975, 88 Stat. 2216.)

-CHANGE-

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4, Ninety-fifth Congress (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977. Section 105 of Senate Resolution No. 4 established a temporary Select Committee on Indian Affairs having jurisdiction over matters relating to Indian affairs (such matters previously having been within the jurisdiction of the Committee on Interior and Insular Affairs). Senate Resolution No. 127, June 6, 1984, Ninety-eighth Congress, established the Select Committee on Indian Affairs as a permanent committee of the Senate,

and section 25 of Senate Resolution No. 71, Feb. 25, 1993,
One
Hundred Third Congress, redesignated the Select Committee on
Indian
Affairs as the Committee on Indian Affairs.

Committee on Interior and Insular Affairs of the House of
Representatives changed to Committee on Natural Resources of
the
House of Representatives on Jan. 5, 1993, by House
Resolution No.

5, One Hundred Third Congress.

-End-

-CITE-

25 USC Sec. 458d
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part C - Indian Education Assistance

-HEAD-

Sec. 458d. Eligibility for funds of tribe or tribal
organization
controlling or managing private schools

-STATUTE-

The Secretary is authorized and directed to provide funds,
pursuant to this subchapter; the the (!1) Act of April 16,
1934 (48
Stat. 596), as amended [25 U.S.C. 452 et seq.]; or any other
authority granted to him to any tribe or tribal organization
which
controls and manages any previously private school.

-SOURCE-

(Pub. L. 93-638, title II, Sec. 208, Jan. 4, 1975, 88 Stat.
2216;
Pub. L. 97-375, title I, Sec. 108(d), Dec. 21, 1982, 96

Stat.
1820.)

-REFTEXT-

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this Act", meaning Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, known as the Indian Self-Determination and Education Assistance Act, which is classified principally to this subchapter (Sec. 450 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

Act of April 16, 1934, referred to in text, is act Apr. 16, 1934, ch. 147, 48 Stat. 596, as amended, popularly known as the Johnson-O'Malley Act, which is classified generally to section 452 et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 452 of this title and Tables.

-MISC1-

AMENDMENTS

1982 - Pub. L. 97-375 struck out provisions relating to annual reporting requirements of Secretary to Congressional committees respecting educational assistance program conducted pursuant to this section.

-FOOTNOTE-

(!1) So in original.

-End-

-CITE-

25 USC Sec. 458e
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part C - Indian Education Assistance

-HEAD-

Sec. 458e. Supplemental assistance to funds provided to
local
educational agencies

-STATUTE-

The assistance provided in this subchapter for the
education of
Indians in the public schools of any State is in addition
and
supplemental to assistance provided under title IX of the
Elementary and Secondary Education Act of 1965 [20 U.S.C.
7801 et
seq.].

-SOURCE-

(Pub. L. 93-638, title II, Sec. 209, Jan. 4, 1975, 88 Stat.
2217;
Pub. L. 103-382, title III, Sec. 393(c), Oct. 20, 1994, 108
Stat.
4027.)

-REFTEXT-

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965,
referred to
in text, is Pub. L. 89-10, Apr. 11, 1965, 79 Stat. 27, as
amended.
Title IX of the Act is classified generally to subchapter IX
(Sec.
7801 et seq.) of chapter 70 of Title 20, Education. For
complete

classification of this Act to the Code, see Short Title note
set
out under section 6301 of Title 20 and Tables.

-MISC1-

AMENDMENTS

1994 - Pub. L. 103-382 substituted "title IX of the
Elementary
and Secondary Education Act of 1965" for "title IV of the
Act of
June 23, 1972 (86 Stat. 235)".

-End-

-CITE-

25 USC Part D - Tribal Self-Governance - Department of
the Interior

01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part D - Tribal Self-Governance - Department of the Interior

-HEAD-

PART D - TRIBAL SELF-GOVERNANCE - DEPARTMENT OF THE
INTERIOR

-End-

-CITE-

25 USC Sec. 458aa
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part D - Tribal Self-Governance - Department of the Interior

-HEAD-

Sec. 458aa. Establishment

-STATUTE-

The Secretary of the Interior (hereinafter in this part referred

to as the "Secretary") shall establish and carry out a program

within the Department of the Interior to be known as Tribal Self-

Governance (hereinafter in this part referred to as "Self-Governance") in accordance with this part.

-SOURCE-

(Pub. L. 93-638, title IV, Sec. 401, as added Pub. L. 103-413, title II, Sec. 204, Oct. 25, 1994, 108 Stat. 4271.)

-MISC1-

SHORT TITLE

For short title of title II of Pub. L. 103-413, which enacted

this part, as the "Tribal Self-Governance Act of 1994", see section

201 of Pub. L. 103-413, set out as a Short Title of 1994 Amendment

note under section 450 of this title.

CONGRESSIONAL STATEMENT OF FINDINGS

Section 202 of Pub. L. 103-413 provided that: "Congress finds

that -

"(1) the tribal right of self-government flows from the inherent sovereignty of Indian tribes and nations;

"(2) the United States recognizes a special government-to-

government relationship with Indian tribes, including the right

of the tribes to self-governance, as reflected in the Constitution, treaties, Federal statutes, and the course

of

dealings of the United States with Indian tribes;

"(3) although progress has been made, the Federal bureaucracy,

with its centralized rules and regulations, has eroded tribal self-governance and dominates tribal affairs;

"(4) the Tribal Self-Governance Demonstration Project [established by title III of Pub. L. 93-638, formerly set out as a note under 25 U.S.C. 450f] was designed to improve and perpetuate the government-to-government relationship between Indian tribes and the United States and to strengthen tribal control over Federal funding and program management; and

"(5) Congress has reviewed the results of the Tribal Self-Governance Demonstration Project and finds that -

"(A) transferring control to tribal governments, upon tribal request, over funding and decisionmaking for Federal programs, services, functions, and activities, or portions thereof, is an effective way to implement the Federal policy of government-to-government relations with Indian tribes; and

"(B) transferring control to tribal governments, upon tribal request, over funding and decisionmaking for Federal programs, services, functions, and activities strengthens the Federal policy of Indian self-determination."

CONGRESSIONAL DECLARATION OF POLICY

Section 203 of title II of Pub. L. 103-413 provided that:

"It is the policy of this title [enacting this part] to permanently establish and implement tribal self-governance -

"(1) to enable the United States to maintain and improve its unique and continuing relationship with, and responsibility to, Indian tribes;

"(2) to permit each Indian tribe to choose the extent of the participation of such tribe in self-governance;

"(3) to coexist with the provisions of the Indian Self-

Determination Act [title I of Pub. L. 93-638, see Short
Title note set out under section 450 of this title] relating to
the provision of Indian services by designated Federal
agencies;

"(4) to ensure the continuation of the trust
responsibility of
the United States to Indian tribes and Indian individuals;

"(5) to permit an orderly transition from Federal
domination of
programs and services to provide Indian tribes with
meaningful
authority to plan, conduct, redesign, and administer
programs,
services, functions, and activities that meet the needs of
the
individual tribal communities; and

"(6) to provide for an orderly transition through a
planned and
measurable parallel reduction in the Federal bureaucracy."

-End-

-CITE-

25 USC Sec. 458bb
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part D - Tribal Self-Governance - Department of the Interior

-HEAD-

Sec. 458bb. Selection of participating Indian tribes

-STATUTE-

(a) Continuing participation
Each Indian tribe that is participating in the Tribal
Self-
Governance Demonstration Project at the Department of the
Interior

under title III (!) on October 25, 1994, shall thereafter participate in Self-Governance under this part and cease participation in the Tribal Self-Governance Demonstration Project

under title III (!) with respect to the Department of the Interior.

(b) Additional participants

(1) In addition to those Indian tribes participating in self-

governance under subsection (a) of this section, the Secretary,

acting through the Director of the Office of Self-Governance, may

select up to 50 new tribes per year from the applicant pool described in subsection (c) of this section to participate

in self-

governance.

(2) If each tribe requests, two or more otherwise eligible Indian

tribes may be treated as a single Indian tribe for the purpose of

participating in Self-Governance as a consortium.

(c) Applicant pool

The qualified applicant pool for Self-Governance shall consist of

each tribe that -

(1) successfully completes the planning phase described in

subsection (d) of this section;

(2) has requested participation in Self-Governance by resolution or other official action by the tribal governing body;

and

(3) has demonstrated, for the previous three fiscal years,

financial stability and financial management capability as evidenced by the tribe having no material audit exceptions

in the

required annual audit of the self-determination contracts of the

tribe.

(d) Planning phase

Each Indian tribe seeking to begin participation in Self-Governance shall complete a planning phase in accordance with this

subsection. The tribe shall be eligible for a grant to plan and negotiate participation in Self-Governance. The planning phase shall include -
(1) legal and budgetary research; and
(2) internal tribal government planning and organizational preparation.

-SOURCE-

(Pub. L. 93-638, title IV, Sec. 402, as added Pub. L. 103-413, title II, Sec. 204, Oct. 25, 1994, 108 Stat. 4272; amended Pub. L. 104-208, div. A, title I, Sec. 101(d) [title I, Sec. 117], Sept. 30, 1996, 110 Stat. 3009-181, 3009-201.)

-REFTEXT-

REFERENCES IN TEXT

Title III, referred to in subsec. (a), means title III of Pub. L. 93-638, as added by Pub. L. 100-472, title II, Sec. 209, Oct. 5, 1988, 102 Stat. 2296, and amended, which was set out as a note under section 450f of this title prior to repeal by Pub. L. 106-260, Sec. 10, Aug. 18, 2000, 114 Stat. 734.

-MISC1-

AMENDMENTS

1996 - Subsec. (b)(1). Pub. L. 104-208 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "In addition to those Indian tribes participating in Self-Governance under subsection (a) of this section, the Secretary, acting through the Director of the Office of Self-Governance, may select up to 20 new tribes per year from the applicant pool described in subsection (c) of this section to participate in Self-Governance."

-FOOTNOTE-

(!1) See References in Text note below.

-End-

-CITE-

25 USC Sec. 458cc
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part D - Tribal Self-Governance - Department of the Interior

-HEAD-

Sec. 458cc. Funding agreements

-STATUTE-

(a) Authorization

The Secretary shall negotiate and enter into an annual
written

funding agreement with the governing body of each
participating

tribal government in a manner consistent with the Federal
Government's laws and trust relationship to and
responsibility for
the Indian people.

(b) Contents

Each funding agreement shall -

(1) authorize the tribe to plan, conduct, consolidate,
and

administer programs, services, functions, and activities,
or

portions thereof, administered by the Department of the
Interior

through the Bureau of Indian Affairs, without regard to
the

agency or office of the Bureau of Indian Affairs within
which the

program, service, function, and activity, or portion
thereof, is

performed, including funding for agency, area, and central office

functions in accordance with subsection (g)(3) of this section,

and including any program, service, function, and activity, or

portion thereof, administered under the authority of -

(A) the Act of April 16, 1934 (25 U.S.C. 452 et seq.);

(B) section 13 of this title; and

(C) programs, services, functions, and activities or portions

thereof administered by the Secretary of the Interior that are

otherwise available to Indian tribes or Indians for which

appropriations are made to agencies other than the Department

of the Interior;

(2) subject to such terms as may be negotiated, authorize the

tribe to plan, conduct, consolidate, and administer programs,

services, functions, and activities, or portions thereof, administered by the Department of the Interior, other than through the Bureau of Indian Affairs, that are otherwise available to Indian tribes or Indians, as identified in section

458ee(c) of this title, except that nothing in this subsection

may be construed to provide any tribe with a preference with

respect to the opportunity of the tribe to administer programs,

services, functions, and activities, or portions thereof, unless

such preference is otherwise provided for by law;

(3) subject to the terms of the agreement, authorize the tribe

to redesign or consolidate programs, services, functions, and

activities, or portions thereof, and reallocate funds for such

programs, services, functions, and activities, or portions thereof, except that, with respect to the reallocation, consolidation, and redesign of programs described in

paragraph

(2), a joint agreement between the Secretary and the tribe shall

be required;

(4) prohibit the inclusion of funds provided -

(A) pursuant to the Tribally Controlled College or University

Assistance Act of 1978 (25 U.S.C. 1801 et seq.);

(B) for elementary and secondary schools under the formula

developed pursuant to section 2008 of this title; and

(C) the Flathead Agency Irrigation Division or the Flathead

Agency Power Division, except that nothing in this section

shall affect the contract authority of such divisions under

section 450f of this title;

(5) specify the services to be provided, the functions to be

performed, and the responsibilities of the tribe and the Secretary pursuant to the agreement;

(6) authorize the tribe and the Secretary to reallocate funds

or modify budget allocations within any year, and specify the

procedures to be used;

(7) allow for retrocession of programs or portions of programs

pursuant to section 450j(e) of this title;

(8) provide that, for the year for which, and to the extent to

which, funding is provided to a tribe under this section, the

tribe -

(A) shall not be entitled to contract with the Secretary for

such funds under section 450f of this title, except that such

tribe shall be eligible for new programs on the same basis as

other tribes; and

(B) shall be responsible for the administration of programs,

services, functions, and activities pursuant to

agreements

entered into under this section; and

(9) prohibit the Secretary from waiving, modifying, or diminishing in any way the trust responsibility of the United

States with respect to Indian tribes and individual Indians that

exists under treaties, Executive orders, and other laws.

(c) Additional activities

Each funding agreement negotiated pursuant to subsections (a) and

(b) of this section may, in accordance to such additional terms as

the parties deem appropriate, also include other programs, services, functions, and activities, or portions thereof, administered by the Secretary of the Interior which are of special

geographic, historical, or cultural significance to the participating Indian tribe requesting a compact.

(d) Provisions relating to Secretary

Funding agreements negotiated between the Secretary and an Indian

tribe shall include provisions -

(1) to monitor the performance of trust functions by the tribe

through the annual trust evaluation, and

(2) for the Secretary to reassume a program, service, function,

or activity, or portions thereof, if there is a finding of imminent jeopardy to a physical trust asset, natural resources,

or public health and safety.

(e) Construction projects

(1) Regarding construction programs or projects, the Secretary

and Indian tribes may negotiate for the inclusion of specific

provisions of the Office of Federal Procurement and Policy Act [41

U.S.C. 401 et seq.] and Federal acquisition regulations in any

funding agreement entered into under this subchapter. Absent a

negotiated agreement, such provisions and regulatory requirements

shall not apply.

(2) In all construction projects performed pursuant to this part,

the Secretary shall ensure that proper health and safety standards

are provided for in the funding agreements.

(f) Submission for review

Not later than 90 days before the proposed effective date of an

agreement entered into under this section, the Secretary shall

submit a copy of such agreement to -

(1) each Indian tribe that is served by the Agency that is

serving the tribe that is a party to the funding agreement;

(2) the Committee on Indian Affairs of the Senate; and

(3) the Subcommittee on Native American Affairs of the Committee on Natural Resources of the House of Representatives.

(g) Payment

(1) At the request of the governing body of the tribe and under

the terms of an agreement entered into under this section, the

Secretary shall provide funding to the tribe to carry out the agreement.

(2) The funding agreements authorized by this part and title III

of this Act shall provide for advance payments to the tribes in the

form of annual or semi-annual installments at the discretion of the tribes.

(3) Subject to paragraph (4) of this subsection and paragraphs

(1) through (3) of subsection (b) of this section, the Secretary

shall provide funds to the tribe under an agreement under this part

for programs, services, functions, and activities, or portions

thereof, in an amount equal to the amount that the tribe would have

been eligible to receive under contracts and grants under

this

subchapter, including amounts for direct program and contract support costs and, in addition, any funds that are specifically or functionally related to the provision by the Secretary of services and benefits to the tribe or its members, without regard to the organization level within the Department where such functions are carried out.

(4) Funds for trust services to individual Indians shall be available under an agreement entered into under this section only to the extent that the same services that would have been provided by the Secretary are provided to individual Indians by the tribe.

(h) Civil actions

(1) Except as provided in paragraph (2), for the purposes of section 450m-1 of this title, the term "contract" shall include agreements entered into under this part.

(2) For the period that an agreement entered into under this part is in effect, the provisions of section 81 of this title, section 476 of this title, and the Act of July 3, 1952 (25 U.S.C. 82a), shall not apply to attorney and other professional contracts by Indian tribal governments participating in Self-Governance under this part.

(i) Facilitation

(1) Except as otherwise provided by law, the Secretary shall interpret each Federal law and regulation in a manner that will facilitate -

(A) the inclusion of programs, services, functions, and activities in the agreements entered into under this section; and

(B) the implementation of agreements entered into under this section.

(2)(A) A tribe may submit a written request for a waiver to the Secretary identifying the regulation sought to be waived and the basis for the request.

(B) Not later than 60 days after receipt by the Secretary of a written request by a tribe to waive application of a Federal regulation for an agreement entered into under this section, the Secretary shall either approve or deny the requested waiver in writing to the tribe. A denial may be made only upon a specific finding by the Secretary that identified language in the regulation may not be waived because such waiver is prohibited by Federal law.

The Secretary's decision shall be final for the Department.

(j) Funds

All funds provided under funding agreements entered into pursuant to this subchapter, and all funds provided under contracts or grants made pursuant to this subchapter, shall be treated as non-Federal funds for purposes of meeting matching requirements under any other Federal law.

(k) Disclaimer

Nothing in this section is intended or shall be construed to expand or alter existing statutory authorities in the Secretary so as to authorize the Secretary to enter into any agreement under subsection (b)(2) of this section and section 458ee(c)(1) of this title with respect to functions that are inherently Federal or where the statute establishing the existing program does not authorize the type of participation sought by the tribe:

Provided,

however an Indian tribe or tribes need not be identified in the

authorizing statute in order for a program or element of a program

to be included in a compact under subsection (b)(2) of this section.

(1) Incorporate self-determination provisions

At the option of a participating tribe or tribes, any or all

provisions of part A of this subchapter shall be made part of an

agreement entered into under title III of this Act or this part.

The Secretary is obligated to include such provisions at the option

of the participating tribe or tribes. If such provision is incorporated it shall have the same force and effect as if set out

in full in title III or this part.

-SOURCE-

(Pub. L. 93-638, title IV, Sec. 403, as added Pub. L. 103-413, title II, Sec. 204, Oct. 25, 1994, 108 Stat. 4272; amended Pub. L. 104-109, Sec. 19, Feb. 12, 1996, 110 Stat. 766; Pub. L. 105-244, title IX, Sec. 901(d), Oct. 7, 1998, 112 Stat. 1828; Pub. L. 106-568, title VIII, Sec. 812(b), Dec. 27, 2000, 114 Stat. 2917.)

-REFTEXT-

REFERENCES IN TEXT

Act of April 16, 1934, referred to in subsec. (b)(1)(A), is act

Apr. 16, 1934, ch. 147, 48 Stat. 596, as amended, popularly known

as the Johnson-O'Malley Act, which is classified generally to

section 452 et seq. of this title. For complete classification of

this Act to the Code, see Short Title note set out under section

452 of this title and Tables.

The Tribally Controlled College or University Assistance Act of 1978, referred to in subsec. (b)(4)(A), is Pub. L. 95-471, Oct. 17, 1978, 92 Stat. 1325, as amended, which is classified principally to chapter 20 (Sec. 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

The Office of Federal Procurement Policy Act, referred to in subsec. (e)(1), is Pub. L. 93-400, Aug. 30, 1974, 88 Stat. 796, as amended, which is classified principally to chapter 7 (Sec. 401 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 401 of Title 41 and Tables.

This subchapter, referred to in subsecs. (e)(1), (g)(3), and (j), was in the original "this Act", meaning Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, known as the Indian Self-Determination and Education Assistance Act, which is classified principally to this subchapter (Sec. 450 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

Title III of this Act, referred to in subsecs. (g)(2) and (l), is title III of Pub. L. 93-638, as added by Pub. L. 100-472, title II, Sec. 209, Oct. 5, 1988, 102 Stat. 2296, and amended, which was set out as a note under section 450f of this title prior to repeal by Pub. L. 106-260, Sec. 10, Aug. 18, 2000, 114 Stat. 734.

The Act of July 3, 1952, referred to in subsec. (h)(2), is act July 3, 1952, ch. 549, 66 Stat. 323, which enacted section 82a of

this title and provisions set out as a note under section 82a of this title.

Part A of this subchapter, referred to in subsec. (1), was in the

original "title I of this Act", meaning title I of Pub. L. 93-638,

known as the Indian Self-Determination Act, which is classified

principally to part A (Sec. 450f et seq.) of this subchapter. For

complete classification of title I to the Code, see Short Title

note set out under section 450 of this title and Tables.

-MISC1-

AMENDMENTS

2000 - Subsec. (h)(2). Pub. L. 106-568 struck out "and" before

"section 476 of this title" and substituted "and the Act of July 3,

1952 (25 U.S.C. 82a), shall not apply" for "shall not apply".

1998 - Subsec. (b)(4)(A). Pub. L. 105-244 substituted "Tribally

Controlled College or University Assistance Act of 1978" for "Tribally Controlled Community College Assistance Act of 1978".

1996 - Subsec. (1). Pub. L. 104-109 added subsec. (1).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as

otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-

244, set out as a note under section 1001 of Title 20, Education.

-End-

-CITE-

25 USC Sec. 458dd
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE

Part D - Tribal Self-Governance - Department of the Interior

-HEAD-

Sec. 458dd. Budget request

-STATUTE-

The Secretary shall identify, in the annual budget request of the

President to the Congress under section 1105 of title 31 any funds

proposed to be included in agreements authorized under this part.

-SOURCE-

(Pub. L. 93-638, title IV, Sec. 404, as added Pub. L. 103-413,
title II, Sec. 204, Oct. 25, 1994, 108 Stat. 4275.)

-End-

-CITE-

25 USC Sec. 458ee
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE

Part D - Tribal Self-Governance - Department of the Interior

-HEAD-

Sec. 458ee. Reports

-STATUTE-

(a) Requirement

The Secretary shall submit to Congress a written report on January 1 of each year following October 25, 1994, regarding

the

administration of this part.

(b) Contents

The report shall -

(1) identify the relative costs and benefits of Self-Governance;

(2) identify, with particularity, all funds that are specifically or functionally related to the provision by the Secretary of services and benefits to Self-Governance tribes and

their members;

(3) identify the funds transferred to each Self-Governance tribe and the corresponding reduction in the Federal bureaucracy;

(4) include the separate views of the tribes; and

(5) include the funding formula for individual tribal shares of

Central Office funds, together with the comments of affected

Indian tribes, developed under subsection (d) of this section.

(c) Report on non-BIA programs

(1) In order to optimize opportunities for including non-Bureau

of Indian Affairs programs, services, functions, and activities, or

portions thereof, in agreements with tribes participating in Self-

Governance under this part, the Secretary shall -

(A) review all programs, services, functions, and activities,

or portions thereof, administered by the Department of the Interior, other than through the Bureau of Indian Affairs, without regard to the agency or office concerned; and

(B) not later than 90 days after October 25, 1994, provide to

the appropriate committees of Congress a listing of all such

programs, services, functions, and activities, or portions thereof, that the Secretary determines, with the concurrence of

tribes participating in Self-Governance under this part, are

eligible for inclusion in such agreements at the request

of a
participating Indian tribe.

(2) The Secretary shall establish programmatic targets,
after
consultation with tribes participating in Self-Governance
under
this part, to encourage bureaus of the Department to assure
that a
significant portion of such programs, services, functions,
and
activities are actually included in the agreements
negotiated under
section 458cc of this title.

(3) The listing and targets under paragraphs (1) and (2)
shall be
published in the Federal Register and be made available to
any
Indian tribe participating in Self-Governance under this
part. The
list shall be published before January 1, 1995, and annually
thereafter by January 1 preceding the fiscal year in which
the
targets are to be met.

(4) Thereafter, the Secretary shall annually review and
publish
in the Federal Register, after consultation with tribes
participating in Self-Governance under this part, a revised
listing
and programmatic targets.

(d) Report on Central Office funds
Within 90 days after October 25, 1994, the Secretary
shall, in
consultation with Indian tribes, develop a funding formula
to
determine the individual tribal share of funds controlled by
the
Central Office of the Bureau of Indian Affairs for inclusion
in the
Self-Governance compacts. The Secretary shall include such
formula
in the annual report submitted to the Congress under
subsection (b)
of this section, together with the views of the affected
Indian
tribes.

-SOURCE-

(Pub. L. 93-638, title IV, Sec. 405, as added Pub. L.
103-413,
title II, Sec. 204, Oct. 25, 1994, 108 Stat. 4276.)

-End-

-CITE-

25 USC Sec. 458ff
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part D - Tribal Self-Governance - Department of the Interior

-HEAD-

Sec. 458ff. Disclaimers

-STATUTE-

(a) Other services, contracts, and funds
Nothing in this part shall be construed to limit or reduce
in any
way the services, contracts, or funds that any other Indian
tribe
or tribal organization is eligible to receive under section
450f of
this title or any other applicable Federal law.

(b) Federal trust responsibilities
Nothing in this subchapter shall be construed to diminish
the
Federal trust responsibility to Indian tribes, individual
Indians,
or Indians with trust allotments.

(c) Application of other sections of subchapter
All provisions of sections 450c(d), 450d, 450f(c), 450i,
450j(f),
450m-1, and 450n of this title shall apply to agreements
provided
under this part.

-SOURCE-

(Pub. L. 93-638, title IV, Sec. 406, as added Pub. L. 103-413, title II, Sec. 204, Oct. 25, 1994, 108 Stat. 4277; amended Pub. L. 105-277, div. A, Sec. 101(e) [title I, Sec. 133], Oct. 21, 1998, 112 Stat. 2681-231, 2681-264.)

-MISC1-

AMENDMENTS

1998 - Subsec. (c). Pub. L. 105-277 inserted "450c(d)," after "sections".

-End-

-CITE-

25 USC Sec. 458gg
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE
Part D - Tribal Self-Governance - Department of the Interior

-HEAD-

Sec. 458gg. Regulations

-STATUTE-

(a) In general
Not later than 90 days after October 25, 1994, at the request of a majority of the Indian tribes with agreements under this part, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5 to negotiate and promulgate such regulations as are necessary to carry out this part.
(b) Committee

A negotiated rulemaking committee established pursuant to section

565 of title 5 to carry out this section shall have as its members

only Federal and tribal government representatives, a majority of

whom shall be representatives of Indian tribes with agreements

under this part.

(c) Adaptation of procedures

The Secretary shall adapt the negotiated rulemaking procedures to

the unique context of Self-Governance and the government-to-government relationship between the United States and the Indian

tribes.

(d) Effect

The lack of promulgated regulations shall not limit the effect of

this part.

-SOURCE-

(Pub. L. 93-638, title IV, Sec. 407, as added Pub. L. 103-413, title II, Sec. 204, Oct. 25, 1994, 108 Stat. 4277.)

-End-

-CITE-

25 USC Sec. 458hh
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE
Part D - Tribal Self-Governance - Department of the Interior

-HEAD-

Sec. 458hh. Authorization of appropriations

-STATUTE-

There are authorized to be appropriated such sums as may

be

necessary to carry out this part.

-SOURCE-

(Pub. L. 93-638, title IV, Sec. 408, as added Pub. L. 103-413, title II, Sec. 204, Oct. 25, 1994, 108 Stat. 4278.)

-End-

-CITE-

25 USC Part E - Tribal Self-Governance - Indian Health Service

01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE
Part E - Tribal Self-Governance - Indian Health Service

-HEAD-

PART E - TRIBAL SELF-GOVERNANCE - INDIAN HEALTH SERVICE

-COD-

CODIFICATION

This part is comprised of title V of Pub. L. 93-638, as added by

Pub. L. 106-260, Sec. 4, Aug. 18, 2000, 114 Stat. 712.

Another

title V of Pub. L. 93-638 was added by Pub. L. 106-568, title XIII,

Sec. 1302, Dec. 27, 2000, 114 Stat. 2936, and is classified to part

F (Sec. 458bbb et seq.) of this subchapter.

-End-

-CITE-

25 USC Sec. 458aaa

01/08/2008

-EXPCITE-

TITLE 25 - INDIANS

CHAPTER 14 - MISCELLANEOUS

SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE

Part E - Tribal Self-Governance - Indian Health Service

-HEAD-

Sec. 458aaa. Definitions

-STATUTE-

(a) In general

In this part:

(1) Construction project

The term "construction project" -

(A) means an organized noncontinuous undertaking to
complete

a specific set of predetermined objectives for the
planning,

environmental determination, design, construction,
repair,

improvement, or expansion of buildings or facilities, as
described in a construction project agreement; and

(B) does not include construction program
administration and

activities described in paragraphs (1) through (3) of
section

450b(m) of this title, that may otherwise be included in
a

funding agreement under this part.

(2) Construction project agreement

The term "construction project agreement" means a
negotiated

agreement between the Secretary and an Indian tribe, that
at a

minimum -

(A) establishes project phase start and completion
dates;

(B) defines a specific scope of work and standards by
which

it will be accomplished;

(C) identifies the responsibilities of the Indian
tribe and

the Secretary;

(D) addresses environmental considerations;

(E) identifies the owner and operations and maintenance entity of the proposed work;

(F) provides a budget;

(G) provides a payment process; and

(H) establishes the duration of the agreement based on the time necessary to complete the specified scope of work, which may be 1 or more years.

(3) Gross mismanagement

The term "gross mismanagement" means a significant, clear, and convincing violation of a compact, funding agreement, or regulatory, or statutory requirements applicable to Federal funds transferred to an Indian tribe by a compact or funding agreement that results in a significant reduction of funds available for the programs, services, functions, or activities (or portions thereof) assumed by an Indian tribe.

(4) Inherent Federal functions

The term "inherent Federal functions" means those Federal functions which cannot legally be delegated to Indian tribes.

(5) Inter-tribal consortium

The term "inter-tribal consortium" means a coalition of two (!1) more separate Indian tribes that join together for the purpose of participating in self-governance, including tribal organizations.

(6) Secretary

The term "Secretary" means the Secretary of Health and Human Services.

(7) Self-governance

The term "self-governance" means the program of self-governance established under section 458aaa-1 of this title.

(8) Tribal share

The term "tribal share" means an Indian tribe's portion of all funds and resources that support secretarial programs, services, functions, and activities (or portions thereof) that are not required by the Secretary for performance of inherent Federal functions.

(b) Indian tribe

In any case in which an Indian tribe has authorized another Indian tribe, an inter-tribal consortium, or a tribal organization to plan for or carry out programs, services, functions, or activities (or portions thereof) on its behalf under this part, the authorized Indian tribe, inter-tribal consortium, or tribal organization shall have the rights and responsibilities of the authorizing Indian tribe (except as otherwise provided in the authorizing resolution or in this part). In such event, the term "Indian tribe" as used in this part shall include such other authorized Indian tribe, inter-tribal consortium, or tribal organization.

-SOURCE-

(Pub. L. 93-638, title V, Sec. 501, as added Pub. L. 106-260, Sec. 4, Aug. 18, 2000, 114 Stat. 712.)

-COD-

CODIFICATION

Another section 501 of Pub. L. 93-638, as added by Pub. L. 106-568, title XIII, Sec. 1302, Dec. 27, 2000, 114 Stat. 2936, is classified to section 458bbb of this title.

-MISC1-

EFFECTIVE DATE

Pub. L. 106-260, Sec. 13, Aug. 18, 2000, 114 Stat. 734, provided

that: "Except as otherwise provided, the provisions of this Act [enacting this part, amending sections 450f, 450j, and 450j-1 of this title, enacting provisions set out as notes under this section and sections 450 and 450f of this title, and repealing provisions set out as a note under section 450f of this title] shall take effect on the date of the enactment of this Act [Aug. 18, 2000]."

FINDINGS

Pub. L. 106-260, Sec. 2, Aug. 18, 2000, 114 Stat. 711, provided

that: "Congress finds that -

"(1) the tribal right of self-government flows from the inherent sovereignty of Indian tribes and nations;

"(2) the United States recognizes a special government-to-government relationship with Indian tribes, including the right of the Indian tribes to self-governance, as reflected in the Constitution, treaties, Federal statutes, and the course of dealings of the United States with Indian tribes;

"(3) although progress has been made, the Federal bureaucracy, with its centralized rules and regulations, has eroded tribal self-governance and dominates tribal affairs;

"(4) the Tribal Self-Governance Demonstration Project, established under title III of the Indian Self-Determination and

Education Assistance Act ([Pub. L. 93-638, former] 25 U.S.C. 450f

note) was designed to improve and perpetuate the government-to-

government relationship between Indian tribes and the United

States and to strengthen tribal control over Federal funding and

program management;

"(5) although the Federal Government has made

considerable

strides in improving Indian health care, it has failed to fully

meet its trust responsibilities and to satisfy its obligations to

the Indian tribes under treaties and other laws; and

"(6) Congress has reviewed the results of the Tribal Self-

Governance Demonstration Project and finds that transferring

full control and funding to tribal governments, upon tribal

request, over decision making for Federal programs, services,

functions, and activities (or portions thereof) -

"(A) is an appropriate and effective means of implementing

the Federal policy of government-to-government relations with

Indian tribes; and

"(B) strengthens the Federal policy of Indian self-determination."

DECLARATION OF POLICY

Pub. L. 106-260, Sec. 3, Aug. 18, 2000, 114 Stat. 712, provided

that: "It is the policy of Congress -

"(1) to permanently establish and implement tribal self-governance within the Department of Health and Human Services;

"(2) to call for full cooperation from the Department of Health

and Human Services and its constituent agencies in the implementation of tribal self-governance -

"(A) to enable the United States to maintain and improve its

unique and continuing relationship with, and responsibility to,

Indian tribes;

"(B) to permit each Indian tribe to choose the extent of its

participation in self-governance in accordance with the provisions of the Indian Self-Determination and

Education

Assistance Act [25 U.S.C. 450 et seq.] relating to the provision of Federal services to Indian tribes;

"(C) to ensure the continuation of the trust responsibility

of the United States to Indian tribes and Indian individuals;

"(D) to affirm and enable the United States to fulfill its

obligations to the Indian tribes under treaties and other laws;

"(E) to strengthen the government-to-government relationship

between the United States and Indian tribes through direct and

meaningful consultation with all tribes;

"(F) to permit an orderly transition from Federal domination

of programs and services to provide Indian tribes with meaningful authority, control, funding, and discretion to plan,

conduct, redesign, and administer programs, services, functions, and activities (or portions thereof) that meet the

needs of the individual tribal communities;

"(G) to provide for a measurable parallel reduction in the

Federal bureaucracy as programs, services, functions, and

activities (or portion thereof) are assumed by Indian tribes;

"(H) to encourage the Secretary to identify all programs,

services, functions, and activities (or portions thereof) of

the Department of Health and Human Services that may be managed

by an Indian tribe under this Act [see Short Title of 2000

Amendments note set out under section 450 of this title] and to

assist Indian tribes in assuming responsibility for such programs, services, functions, and activities (or portions

thereof); and

"(I) to provide Indian tribes with the earliest opportunity

to administer programs, services, functions, and activities (or

portions thereof) from throughout the Department of Health and Human Services."

-FOOTNOTE-

(!1) So in original. Probably should be followed by "or".

-End-

-CITE-

25 USC Sec. 458aaa-1
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE
Part E - Tribal Self-Governance - Indian Health Service

-HEAD-

Sec. 458aaa-1. Establishment

-STATUTE-

The Secretary shall establish and carry out a program within the Indian Health Service of the Department of Health and Human Services to be known as the "Tribal Self-Governance Program" in accordance with this part.

-SOURCE-

(Pub. L. 93-638, title V, Sec. 502, as added Pub. L. 106-260, Sec. 4, Aug. 18, 2000, 114 Stat. 714.)

-COD-

CODIFICATION
Another section 502 of Pub. L. 93-638, as added by Pub. L. 106-568, title XIII, Sec. 1302, Dec. 27, 2000, 114 Stat. 2938, is classified to section 458bbb-1 of this title.

-End-

-CITE-

25 USC Sec. 458aaa-2
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part E - Tribal Self-Governance - Indian Health Service

-HEAD-

Sec. 458aaa-2. Selection of participating Indian tribes

-STATUTE-

(a) Continuing participation

Each Indian tribe that is participating in the Tribal
Self-
Governance Demonstration Project under title III (!1) on
August
18, 2000, may elect to participate in self-governance under
this
part under existing authority as reflected in tribal
resolution.

(b) Additional participants

(1) In general

In addition to those Indian tribes participating in
self-
governance under subsection (a) of this section, each year
an
additional 50 Indian tribes that meet the eligibility
criteria
specified in subsection (c) of this section shall be
entitled to
participate in self-governance.

(2) Treatment of certain Indian tribes

(A) In general

An Indian tribe that has withdrawn from participation
in an
inter-tribal consortium or tribal organization, in whole

or in

part, shall be entitled to participate in self-governance

provided the Indian tribe meets the eligibility criteria specified in subsection (c) of this section.

(B) Effect of withdrawal

If an Indian tribe has withdrawn from participation in an

inter-tribal consortium or tribal organization, that Indian

tribe shall be entitled to its tribal share of funds supporting

those programs, services, functions, and activities (or portions thereof) that the Indian tribe will be carrying out

under the compact and funding agreement of the Indian tribe.

(C) Participation in self-governance

In no event shall the withdrawal of an Indian tribe from an

inter-tribal consortium or tribal organization affect the

eligibility of the inter-tribal consortium or tribal organization to participate in self-governance.

(c) Applicant pool

(1) In general

The qualified applicant pool for self-governance shall consist

of each Indian tribe that -

(A) successfully completes the planning phase described in

subsection (d) of this section;

(B) has requested participation in self-governance by resolution or other official action by the governing

body of each Indian tribe to be served; and

(C) has demonstrated, for 3 fiscal years, financial stability

and financial management capability.

(2) Criteria for determining financial stability and financial

management capacity

For purposes of this subsection, evidence that, during the 3-

year period referred to in paragraph (1)(C), an Indian tribe had

no uncorrected significant and material audit exceptions
in the

required annual audit of the Indian tribe's self-
determination

contracts or self-governance funding agreements with any
Federal

agency shall be conclusive evidence of the required
stability and
capability.

(d) Planning phase

Each Indian tribe seeking participation in self-governance
shall

complete a planning phase. The planning phase shall be
conducted to

the satisfaction of the Indian tribe and shall include -

(1) legal and budgetary research; and

(2) internal tribal government planning and
organizational

preparation relating to the administration of health care
programs.

(e) Grants

Subject to the availability of appropriations, any Indian
tribe

meeting the requirements of paragraph (1)(B) and (C) of
subsection

(c) of this section shall be eligible for grants -

(1) to plan for participation in self-governance; and

(2) to negotiate the terms of participation by the
Indian tribe

or tribal organization in self-governance, as set forth in
a

compact and a funding agreement.

(f) Receipt of grant not required

Receipt of a grant under subsection (e) of this section
shall not

be a requirement of participation in self-governance.

-SOURCE-

(Pub. L. 93-638, title V, Sec. 503, as added Pub. L.
106-260, Sec.

4, Aug. 18, 2000, 114 Stat. 714.)

-REFTEXT-

REFERENCES IN TEXT

Title III, referred to in subsec. (a), means title III of
Pub. L.

93-638, as added by Pub. L. 100-472, title II, Sec. 209,
Oct. 5,
1988, 102 Stat. 2296, and amended, which was set out as a
note
under section 450f of this title prior to repeal by Pub. L.
106-
260, Sec. 10, Aug. 18, 2000, 114 Stat. 734.

-COD-

CODIFICATION

Another section 503 of Pub. L. 93-638, as added by Pub. L.
106-
568, title XIII, Sec. 1302, Dec. 27, 2000, 114 Stat. 2938,
is
classified to section 458bbb-2 of this title.

-FOOTNOTE-

(!1) See References in Text note below.

-End-

-CITE-

25 USC Sec. 458aaa-3
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part E - Tribal Self-Governance - Indian Health Service

-HEAD-

Sec. 458aaa-3. Compacts

-STATUTE-

(a) Compact required
The Secretary shall negotiate and enter into a written
compact
with each Indian tribe participating in self-governance in a
manner
consistent with the Federal Government's trust
responsibility,

treaty obligations, and the government-to-government relationship

between Indian tribes and the United States.

(b) Contents

Each compact required under subsection (a) of this section shall

set forth the general terms of the government-to-government relationship between the Indian tribe and the Secretary, including

such terms as the parties intend shall control year after year.

Such compacts may only be amended by mutual agreement of the parties.

(c) Existing compacts

An Indian tribe participating in the Tribal Self-Governance

Demonstration Project under title III (!1) on August 18, 2000,

shall have the option at any time after August 18, 2000, to

-

(1) retain the Tribal Self-Governance Demonstration Project

compact of that Indian tribe (in whole or in part) to the extent

that the provisions of that funding agreement are not directly

contrary to any express provision of this part; or

(2) instead of retaining a compact or portion thereof under

paragraph (1), negotiate a new compact in a manner consistent

with the requirements of this part.

(d) Term and effective date

The effective date of a compact shall be the date of the approval

and execution by the Indian tribe or another date agreed upon by

the parties, and shall remain in effect for so long as permitted by

Federal law or until terminated by mutual written agreement, retrocession, or reassumption.

-SOURCE-

(Pub. L. 93-638, title V, Sec. 504, as added Pub. L. 106-260, Sec.

4, Aug. 18, 2000, 114 Stat. 715.)

-REFTEXT-

REFERENCES IN TEXT

Title III, referred to in subsec. (c), means title III of Pub. L.

93-638, as added by Pub. L. 100-472, title II, Sec. 209, Oct. 5,

1988, 102 Stat. 2296, and amended, which was set out as a note

under section 450f of this title prior to repeal by Pub. L. 106-

260, Sec. 10, Aug. 18, 2000, 114 Stat. 734.

-FOOTNOTE-

(!1) See References in Text note below.

-End-

-CITE-

25 USC Sec. 458aaa-4
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part E - Tribal Self-Governance - Indian Health Service

-HEAD-

Sec. 458aaa-4. Funding agreements

-STATUTE-

(a) Funding agreement required

The Secretary shall negotiate and enter into a written funding

agreement with each Indian tribe participating in self-governance

in a manner consistent with the Federal Government's trust responsibility, treaty obligations, and the government-to-government relationship between Indian tribes and the United States.

(b) Contents

(1) In general

Each funding agreement required under subsection (a) of this section shall, as determined by the Indian tribe, authorize the Indian tribe to plan, conduct, consolidate, administer, and receive full tribal share funding, including tribal shares of discretionary Indian Health Service competitive grants (excluding congressionally earmarked competitive grants), for all programs, services, functions, and activities (or portions thereof), that are carried out for the benefit of Indians because of their status as Indians without regard to the agency or office of the Indian Health Service within which the program, service, function, or activity (or portion thereof) is performed.

(2) Inclusion of certain programs, services, functions, and activities

Such programs, services, functions, or activities (or portions thereof) include all programs, services, functions, activities (or portions thereof), including grants (which may be added to a funding agreement after an award of such grants), with respect to which Indian tribes or Indians are primary or significant beneficiaries, administered by the Department of Health and Human Services through the Indian Health Service and all local, field, service unit, area, regional, and central headquarters or national office functions so administered under the authority of -

(A) section 13 of this title;

(B) the Act of April 16, 1934 (48 Stat. 596; chapter 147; 25 U.S.C. 452 et seq.);

(C) the Act of August 5, 1954 (68 Stat. 674; chapter 658) [42 U.S.C. 2001 et seq.];
(D) the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.);
(E) the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2401 et seq.);
(F) any other Act of Congress authorizing any agency of the Department of Health and Human Services to administer, carry out, or provide financial assistance to such a program, service, function or activity (or portions thereof) described in this section that is carried out for the benefit of Indians because of their status as Indians; or
(G) any other Act of Congress authorizing such a program, service, function, or activity (or portions thereof) carried out for the benefit of Indians under which appropriations are made available to any agency other than an agency within the Department of Health and Human Services, in any case in which the Secretary administers that program, service, function, or activity (or portion thereof).

(c) Inclusion in compact or funding agreement

It shall not be a requirement that an Indian tribe or Indians be identified in the authorizing statute for a program or element of a program to be eligible for inclusion in a compact or funding agreement under this part.

(d) Funding agreement terms

Each funding agreement under this part shall set forth -

(1) terms that generally identify the programs, services, functions, and activities (or portions thereof) to be performed or administered; and

- (2) for the items identified in paragraph (1) -
 - (A) the general budget category assigned;
 - (B) the funds to be provided, including those funds to

be

provided on a recurring basis;

- (C) the time and method of transfer of the funds;
- (D) the responsibilities of the Secretary; and
- (E) any other provision with respect to which the

Indian

tribe and the Secretary agree.

(e) Subsequent funding agreements

Absent notification from an Indian tribe that is withdrawing or

retroceding the operation of one or more programs, services, functions, or activities (or portions thereof) identified in

a

funding agreement, or unless otherwise agreed to by the

parties,

each funding agreement shall remain in full force and effect

until

a subsequent funding agreement is executed, and the terms of the

subsequent funding agreement shall be retroactive to the end of the

term of the preceding funding agreement.

(f) Existing funding agreements

Each Indian tribe participating in the Tribal Self-Governance

Demonstration Project established under title III (!1) on August

18, 2000, shall have the option at any time thereafter to -

(1) retain the Tribal Self-Governance Demonstration Project

funding agreement of that Indian tribe (in whole or in part) to

the extent that the provisions of that funding agreement are not

directly contrary to any express provision of this part;

or

(2) instead of retaining a funding agreement or portion thereof

under paragraph (1), negotiate a new funding agreement in a

manner consistent with the requirements of this part.

(g) Stable base funding

At the option of an Indian tribe, a funding agreement may provide for a stable base budget specifying the recurring funds (including, for purposes of this provision, funds available under section 450j-1(a) of this title) to be transferred to such Indian tribe, for such period as may be specified in the funding agreement, subject to annual adjustment only to reflect changes in congressional appropriations by sub-sub activity excluding earmarks.

-SOURCE-

(Pub. L. 93-638, title V, Sec. 505, as added Pub. L. 106-260, Sec. 4, Aug. 18, 2000, 114 Stat. 716.)

-REFTEXT-

REFERENCES IN TEXT

Act of April 16, 1934, referred to in subsec. (b)(2)(B), is act Apr. 16, 1934, ch. 147, 48 Stat. 596, as amended, popularly known as the Johnson-O'Malley Act, which is classified generally to section 452 et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 452 of this title and Tables.

Act of August 5, 1954, referred to in subsec. (b)(2)(C), is act Aug. 5, 1954, ch. 658, 68 Stat. 674, as amended, which is classified generally to subchapter I (Sec. 2001 et seq.) of chapter 22 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Tables.

The Indian Health Care Improvement Act, referred to in subsec. (b)(2)(D), is Pub. L. 94-437, Sept. 30, 1976, 90 Stat. 1400, as amended, which is classified principally to chapter 18 (Sec. 1601 et seq.) of this title. For complete classification of this

Act to
the Code, see Short Title note set out under section 1601 of
this
title and Tables.

The Indian Alcohol and Substance Abuse Prevention and
Treatment
Act of 1986, referred to in subsec. (b)(2)(E), is subtitle C
of
title IV of Pub. L. 99-570, Oct. 27, 1986, 100 Stat.
3207-137, as
amended, which is classified generally to chapter 26 (Sec.
2401 et
seq.) of this title. For complete classification of subtitle
C to
the Code, see Short Title note set out under section 2401 of
this
title and Tables.

Title III, referred to in subsec. (f), means title III of
Pub. L.
93-638, as added by Pub. L. 100-472, title II, Sec. 209,
Oct. 5,
1988, 102 Stat. 2296, and amended, which was set out as a
note
under section 450f of this title prior to repeal by Pub. L.
106-
260, Sec. 10, Aug. 18, 2000, 114 Stat. 734.

-FOOTNOTE-

(!1) See References in Text note below.

-End-

-CITE-

25 USC Sec. 458aaa-5
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part E - Tribal Self-Governance - Indian Health Service

-HEAD-

Sec. 458aaa-5. General provisions

-STATUTE-

(a) Applicability

The provisions of this section shall apply to compacts and funding agreements negotiated under this part and an Indian tribe

may, at its option, include provisions that reflect such requirements in a compact or funding agreement.

(b) Conflicts of interest

Indian tribes participating in self-governance under this part

shall ensure that internal measures are in place to address conflicts of interest in the administration of self-governance

programs, services, functions, or activities (or portions thereof).

(c) Audits

(1) Single Agency Audit Act

The provisions of chapter 75 of title 31 requiring a single

agency audit report shall apply to funding agreements under this part.

(2) Cost principles

An Indian tribe shall apply cost principles under the applicable Office of Management and Budget circular, except as

modified by section 450j-1 of this title (!) other provisions of

law, or by any exemptions to applicable Office of Management and

Budget circulars subsequently granted by the Office of Management

and Budget. No other audit or accounting standards shall be

required by the Secretary. Any claim by the Federal Government

against the Indian tribe relating to funds received under a

funding agreement based on any audit under this subsection shall

be subject to the provisions of section 450j-1(f) of this title.

(d) Records

(1) In general

Unless an Indian tribe specifies otherwise in the compact or funding agreement, records of the Indian tribe shall not be considered Federal records for purposes of chapter 5 of title 5.

(2) Recordkeeping system

The Indian tribe shall maintain a recordkeeping system, and, after 30 days advance notice, provide the Secretary with reasonable access to such records to enable the Department of Health and Human Services to meet its minimum legal recordkeeping system requirements under sections 3101 through 3106 of title 44.

(e) Redesign and consolidation

An Indian tribe may redesign or consolidate programs, services, functions, and activities (or portions thereof) included in a funding agreement under section 458aaa-4 of this title and reallocate or redirect funds for such programs, services, functions, and activities (or portions thereof) in any manner which the Indian tribe deems to be in the best interest of the health and welfare of the Indian community being served, only if the redesign or consolidation does not have the effect of denying eligibility for services to population groups otherwise eligible to be served under applicable Federal law.

(f) Retrocession

An Indian tribe may retrocede, fully or partially, to the Secretary programs, services, functions, or activities (or portions thereof) included in the compact or funding agreement. Unless the Indian tribe rescinds the request for retrocession, such retrocession will become effective within the timeframe specified by the parties in the compact or funding agreement. In the

absence

of such a specification, such retrocession shall become effective

on -

(1) the earlier of -

(A) 1 year after the date of submission of such request; or

(B) the date on which the funding agreement expires; or

(2) such date as may be mutually agreed upon by the Secretary

and the Indian tribe.

(g) Withdrawal

(1) Process

(A) In general

An Indian tribe may fully or partially withdraw from a participating inter-tribal consortium or tribal organization

its share of any program, function, service, or activity (or portions thereof) included in a compact or funding agreement.

(B) Effective date

The withdrawal referred to in subparagraph (A) shall become

effective within the timeframe specified in the resolution

which authorizes transfer to the participating tribal organization or inter-tribal consortium. In the absence of a

specific timeframe set forth in the resolution, such withdrawal

shall become effective on -

(i) the earlier of -

(I) 1 year after the date of submission of such request;

or

(II) the date on which the funding agreement expires; or

(ii) such date as may be mutually agreed upon by the Secretary, the withdrawing Indian tribe, and the participating tribal organization or inter-tribal consortium

that has signed the compact or funding agreement on

behalf of
the withdrawing Indian tribe, inter-tribal consortium,
or
tribal organization.

(2) Distribution of funds

When an Indian tribe or tribal organization eligible to
enter

into a self-determination contract under part A of this
subchapter or a compact or funding agreement under this
part

fully or partially withdraws from a participating inter-
tribal
consortium or tribal organization -

(A) the withdrawing Indian tribe or tribal
organization shall

be entitled to its tribal share of funds supporting
those

programs, services, functions, or activities (or
portions

thereof) that the Indian tribe will be carrying out
under its

own self-determination contract or compact and funding
agreement (calculated on the same basis as the funds
were

initially allocated in the funding agreement of the
inter-
tribal consortium or tribal organization); and

(B) the funds referred to in subparagraph (A) shall be
transferred from the funding agreement of the inter-
tribal

consortium or tribal organization, on the condition that
the

provisions of sections 450f and 450j(i) of this title,
as

appropriate, shall apply to that withdrawing Indian
tribe.

(3) Regaining mature contract status

If an Indian tribe elects to operate all or some
programs,

services, functions, or activities (or portions thereof)
carried

out under a compact or funding agreement under this part
through

a self-determination contract under part A of this
subchapter, at

the option of the Indian tribe, the resulting self-

determination

contract shall be a mature self-determination contract.

(h) Nonduplication

For the period for which, and to the extent to which,
funding is

provided under this part or under the compact or funding
agreement,

the Indian tribe shall not be entitled to contract with the
Secretary for such funds under section 450f of this title,
except

that such Indian tribe shall be eligible for new programs on
the
same basis as other Indian tribes.

-SOURCE-

(Pub. L. 93-638, title V, Sec. 506, as added Pub. L.
106-260, Sec.
4, Aug. 18, 2000, 114 Stat. 717.)

-FOOTNOTE-

(!1) So in original.

-End-

-CITE-

25 USC Sec. 458aaa-6
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part E - Tribal Self-Governance - Indian Health Service

-HEAD-

Sec. 458aaa-6. Provisions relating to the Secretary

-STATUTE-

(a) Mandatory provisions

(1) Health status reports

Compacts or funding agreements negotiated between the
Secretary

and an Indian tribe shall include a provision that requires the

Indian tribe to report on health status and service delivery -

(A) to the extent such data is not otherwise available to the

Secretary and specific funds for this purpose are provided by

the Secretary under the funding agreement; and

(B) if such reporting shall impose minimal burdens on the

participating Indian tribe and such requirements are promulgated under section 458aaa-16 of this title.

(2) Reassumption

(A) In general

Compacts or funding agreements negotiated between the Secretary and an Indian tribe shall include a provision authorizing the Secretary to reassume operation of a program,

service, function, or activity (or portions thereof) and associated funding if there is a specific finding relative to

that program, service, function, or activity (or portion thereof) of -

(i) imminent endangerment of the public health caused by an

act or omission of the Indian tribe, and the imminent endangerment arises out of a failure to carry out the

compact

or funding agreement; or

(ii) gross mismanagement with respect to funds transferred

to a tribe by a compact or funding agreement, as determined

by the Secretary in consultation with the Inspector General,

as appropriate.

(B) Prohibition

The Secretary shall not reassume operation of a program,

service, function, or activity (or portions thereof) unless -

(i) the Secretary has first provided written notice and a

hearing on the record to the Indian tribe; and

(ii) the Indian tribe has not taken corrective

action to

remedy the imminent endangerment to public health or gross mismanagement.

(C) Exception

(i) In general

Notwithstanding subparagraph (B), the Secretary may, upon

written notification to the Indian tribe, immediately reassume operation of a program, service, function, or activity (or portion thereof) if -

(I) the Secretary makes a finding of imminent substantial

and irreparable endangerment of the public health caused by

an act or omission of the Indian tribe; and

(II) the endangerment arises out of a failure to carry

out the compact or funding agreement.

(ii) Reassumption

If the Secretary reassumes operation of a program, service,

function, or activity (or portion thereof) under this subparagraph, the Secretary shall provide the Indian

tribe

with a hearing on the record not later than 10 days

after

such reassumption.

(D) Hearings

In any hearing or appeal involving a decision to reassume

operation of a program, service, function, or activity

(or

portion thereof), the Secretary shall have the burden of

proof

of demonstrating by clear and convincing evidence the

validity

of the grounds for the reassumption.

(b) Final offer

In the event the Secretary and a participating Indian tribe are

unable to agree, in whole or in part, on the terms of a compact or

funding agreement (including funding levels), the Indian tribe may

submit a final offer to the Secretary. Not more than 45 days

after

such submission, or within a longer time agreed upon by the Indian

tribe, the Secretary shall review and make a determination with

respect to such offer. In the absence of a timely rejection of the

offer, in whole or in part, made in compliance with subsection (c)

of this section, the offer shall be deemed agreed to by the Secretary.

(c) Rejection of final offers

(1) In general

If the Secretary rejects an offer made under subsection (b) of

this section (or one or more provisions or funding levels in such

offer), the Secretary shall provide -

(A) a timely written notification to the Indian tribe that

contains a specific finding that clearly demonstrates, or that

is supported by a controlling legal authority, that -

(i) the amount of funds proposed in the final offer exceeds

the applicable funding level to which the Indian tribe is

entitled under this part;

(ii) the program, function, service, or activity (or portion thereof) that is the subject of the final offer is an

inherent Federal function that cannot legally be delegated to

an Indian tribe;

(iii) the Indian tribe cannot carry out the program, function, service, or activity (or portion thereof) in a

manner that would not result in significant danger or risk to

the public health; or

(iv) the Indian tribe is not eligible to participate in

self-governance under section 458aaa-2 of this title;

(B) technical assistance to overcome the objections stated in

the notification required by subparagraph (A);
the (C) the Indian tribe with a hearing on the record with
right to engage in full discovery relevant to any issue
raised in the matter and the opportunity for appeal on the
objections raised, except that the Indian tribe may, in lieu of
filing such appeal, directly proceed to initiate an action in a
this Federal district court pursuant to section 450m-1(a) of
title; and

(D) the Indian tribe with the option of entering into
the severable portions of a final proposed compact or
funding agreement, or provision thereof, (including a lesser
funding amount, if any), that the Secretary did not reject,
subject to any additional alterations necessary to conform the
compact or funding agreement to the severed provisions.

(2) Effect of exercising certain option

If an Indian tribe exercises the option specified in
paragraph (1)(D), that Indian tribe shall retain the right to appeal
the

Secretary's rejection under this section, and
subparagraphs (A),

(B), and (C) of that paragraph shall only apply to that
portion of the proposed final compact, funding agreement, or
provision thereof that was rejected by the Secretary.

(d) Burden of proof

With respect to any hearing or appeal or civil action
conducted pursuant to this section, the Secretary shall have the
burden of demonstrating by clear and convincing evidence the validity
of the grounds for rejecting the offer (or a provision thereof)
made under subsection (b) of this section.

(e) Good faith

In the negotiation of compacts and funding agreements the Secretary shall at all times negotiate in good faith to maximize implementation of the self-governance policy. The Secretary shall carry out this part in a manner that maximizes the policy of tribal self-governance, in a manner consistent with the purposes specified in section 3 of the Tribal Self-Governance Amendments of 2000.

(f) Savings

To the extent that programs, functions, services, or activities (or portions thereof) carried out by Indian tribes under this part reduce the administrative or other responsibilities of the Secretary with respect to the operation of Indian programs and result in savings that have not otherwise been included in the amount of tribal shares and other funds determined under section 458aaa-7(c) of this title, the Secretary shall make such savings available to the Indian tribes, inter-tribal consortia, or tribal organizations for the provision of additional services to program beneficiaries in a manner equitable to directly served, contracted, and compacted programs.

(g) Trust responsibility

The Secretary is prohibited from waiving, modifying, or diminishing in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians that exists under treaties, Executive orders, other laws, or court decisions.

(h) Decisionmaker

A decision that constitutes final agency action and relates to an appeal within the Department of Health and Human Services

conducted

under subsection (c) of this section shall be made either -
(1) by an official of the Department who holds a
position at a
higher organizational level within the Department than the
level
of the departmental agency in which the decision that is
the
subject of the appeal was made; or
(2) by an administrative judge.

-SOURCE-

(Pub. L. 93-638, title V, Sec. 507, as added Pub. L.
106-260, Sec.
4, Aug. 18, 2000, 114 Stat. 719.)

-REFTEXT-

REFERENCES IN TEXT

Section 3 of the Tribal Self-Governance Amendments of
2000,
referred to in subsec. (e), is section 3 of Pub. L. 106-260,
which
is set out as a note under section 458aaa of this title.

-End-

-CITE-

25 USC Sec. 458aaa-7
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part E - Tribal Self-Governance - Indian Health Service

-HEAD-

Sec. 458aaa-7. Transfer of funds

-STATUTE-

(a) In general
Pursuant to the terms of any compact or funding agreement
entered

into under this part, the Secretary shall transfer to the Indian tribe all funds provided for in the funding agreement, pursuant to subsection (c) of this section, and provide funding for periods covered by joint resolution adopted by Congress making continuing appropriations, to the extent permitted by such resolutions. In any instance where a funding agreement requires an annual transfer of funding to be made at the beginning of a fiscal year, or requires semiannual or other periodic transfers of funding to be made commencing at the beginning of a fiscal year, the first such transfer shall be made not later than 10 days after the apportionment of such funds by the Office of Management and Budget to the Department, unless the funding agreement provides otherwise.

(b) Multiyear funding

The Secretary is authorized to employ, upon tribal request, multiyear funding agreements. References in this part to funding agreements shall include such multiyear funding agreements.

(c) Amount of funding

The Secretary shall provide funds under a funding agreement under this part in an amount equal to the amount that the Indian tribe would have been entitled to receive under self-determination contracts under this subchapter, including amounts for direct program costs specified under section 450j-1(a)(1) of this title and amounts for contract support costs specified under section 450j-1(a) (2), (3), (5), and (6) of this title, including any funds that are specifically or functionally related to the provision by the Secretary of services and benefits to the Indian tribe or its members, all without regard to the organizational level

within the

Department where such functions are carried out.

(d) Prohibitions

(1) In general

Except as provided in paragraph (2), the Secretary is expressly

prohibited from -

its (A) failing or refusing to transfer to an Indian tribe

or full share of any central, headquarters, regional, area,

subchapter, service unit office or other funds due under this

except as required by Federal law;

over a (B) withholding portions of such funds for transfer

period of years; and

(C) reducing the amount of funds required under this subchapter -

(i) to make funding available for self-governance monitoring or administration by the Secretary;

(ii) in subsequent years, except pursuant to -

previous (I) a reduction in appropriations from the

included in a fiscal year for the program or function to be

compact or funding agreement;

(II) a congressional directive in legislation or accompanying report;

(III) a tribal authorization;

subject (IV) a change in the amount of pass-through funds

to the terms of the funding agreement; or

for (V) completion of a project, activity, or program

which such funds were provided;

Federal pay (iii) to pay for Federal functions, including

data costs, Federal employee retirement benefits, automated

processing, technical assistance, and monitoring of activities under this subchapter; or

by (iv) to pay for costs of Federal personnel displaced

self-determination contracts under this subchapter or

self-

governance;

(2) Exception

The funds described in paragraph (1)(C) may be increased by the

Secretary if necessary to carry out this subchapter or as provided in section 450j(c)(2) of this title.

(e) Other resources

In the event an Indian tribe elects to carry out a compact or

funding agreement with the use of Federal personnel, Federal supplies (including supplies available from Federal warehouse

facilities), Federal supply sources (including lodging, airline

transportation, and other means of transportation including the use

of interagency motor pool vehicles) or other Federal resources

(including supplies, services, and resources available to the

Secretary under any procurement contracts in which the Department

is eligible to participate), the Secretary shall acquire and transfer such personnel, supplies, or resources to the

Indian tribe.

(f) Reimbursement to Indian Health Service

With respect to functions transferred by the Indian Health Service to an Indian tribe, the Indian Health Service shall provide

goods and services to the Indian tribe, on a reimbursable basis,

including payment in advance with subsequent adjustment. The reimbursements received from those goods and services, along

with the funds received from the Indian tribe pursuant to this

part, may be credited to the same or subsequent appropriation account

which provided the funding, such amounts to remain available until expended.

(g) Prompt Payment Act

Chapter 39 of title 31 shall apply to the transfer of funds due

under a compact or funding agreement authorized under this

part.

(h) Interest or other income on transfers

An Indian tribe is entitled to retain interest earned on any funds paid under a compact or funding agreement to carry out governmental or health purposes and such interest shall not diminish the amount of funds the Indian tribe is authorized to receive under its funding agreement in the year the interest is earned or in any subsequent fiscal year. Funds transferred under this part shall be managed using the prudent investment standard.

(i) Carryover of funds

All funds paid to an Indian tribe in accordance with a compact or funding agreement shall remain available until expended. In the event that an Indian tribe elects to carry over funding from 1 year to the next, such carryover shall not diminish the amount of funds the Indian tribe is authorized to receive under its funding agreement in that or any subsequent fiscal year.

(j) Program income

All Medicare, Medicaid, or other program income earned by an Indian tribe shall be treated as supplemental funding to that negotiated in the funding agreement. The Indian tribe may retain all such income and expend such funds in the current year or in future years except to the extent that the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) provides otherwise for Medicare and Medicaid receipts. Such funds shall not result in any offset or reduction in the amount of funds the Indian tribe is authorized to receive under its funding agreement in the year the program income is received or for any subsequent fiscal year.

(k) Limitation of costs

An Indian tribe shall not be obligated to continue performance that requires an expenditure of funds in excess of the amount of funds transferred under a compact or funding agreement. If at any time the Indian tribe has reason to believe that the total amount provided for a specific activity in the compact or funding agreement is insufficient the Indian tribe shall provide reasonable notice of such insufficiency to the Secretary. If the Secretary does not increase the amount of funds transferred under the funding agreement, the Indian tribe may suspend performance of the activity until such time as additional funds are transferred.

-SOURCE-

(Pub. L. 93-638, title V, Sec. 508, as added Pub. L. 106-260, Sec. 4, Aug. 18, 2000, 114 Stat. 722.)

-REFTEXT-

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (c) and (d), was in the original "this Act", meaning Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, known as the Indian Self-Determination and Education Assistance Act, which is classified principally to this subchapter (Sec. 450 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

The Indian Health Care Improvement Act, referred to in subsec. (j), is Pub. L. 94-437, Sept. 30, 1976, 90 Stat. 1400, as amended, which is classified principally to chapter 18 (Sec. 1601 et seq.) of this title. For complete classification of this Act to

the Code,
see Short Title note set out under section 1601 of this
title and
Tables.

-End-

-CITE-

25 USC Sec. 458aaa-8
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part E - Tribal Self-Governance - Indian Health Service

-HEAD-

Sec. 458aaa-8. Construction projects

-STATUTE-

(a) In general
Indian tribes participating in tribal self-governance may
carry
out construction projects under this part if they elect to
assume
all Federal responsibilities under the National
Environmental
Policy Act of 1969 (42 U.S.C. 4321 et seq.), the National
Historic
Preservation Act (16 U.S.C. 470 et seq.), and related
provisions of
law that would apply if the Secretary were to undertake a
construction project, by adopting a resolution -
(1) designating a certifying officer to represent the
Indian
tribe and to assume the status of a responsible Federal
official
under such laws; and
(2) accepting the jurisdiction of the Federal court for
the
purpose of enforcement of the responsibilities of the
responsible

Federal official under such environmental laws.

(b) Negotiations

Construction project proposals shall be negotiated pursuant to the statutory process in section 450j(m) of this title and resulting construction project agreements shall be incorporated into funding agreements as addenda.

(c) Codes and standards

The Indian tribe and the Secretary shall agree upon and specify appropriate building codes and architectural and engineering standards (including health and safety) which shall be in conformity with nationally recognized standards for comparable projects.

(d) Responsibility for completion

The Indian tribe shall assume responsibility for the successful completion of the construction project in accordance with the negotiated construction project agreement.

(e) Funding

Funding for construction projects carried out under this part

shall be included in funding agreements as annual advance payments, with semiannual payments at the option of the Indian tribe.

Annual advance and semiannual payment amounts shall be determined based on mutually agreeable project schedules reflecting work to be accomplished within the advance payment period, work accomplished and funds expended in previous payment periods, and the total prior payments. The Secretary shall include associated project contingency funds with each advance payment installment. The Indian tribe shall be responsible for the management of the contingency funds included in funding agreements.

(f) Approval

The Secretary shall have at least one opportunity to approve project planning and design documents prepared by the Indian

tribe

in advance of construction of the facilities specified in the scope of work for each negotiated construction project agreement or amendment thereof which results in a significant change in the original scope of work. The Indian tribe shall provide the Secretary with project progress and financial reports not less than semiannually. The Secretary may conduct onsite project oversight visits semiannually or on an alternate schedule agreed to by the Secretary and the Indian tribe.

(g) Wages

All laborers and mechanics employed by contractors and subcontractors (excluding tribes and tribal organizations) in the construction, alteration, or repair, including painting or decorating of a building or other facilities in connection with construction projects funded by the United States under this subchapter shall be paid wages at not less than those prevailing wages on similar construction in the locality as determined by the Secretary of Labor in accordance with sections 3141-3144, 3146, and 3147 of title 40. With respect to construction alteration, or repair work to which sections 3141-3144, 3146, and 3147 of title 40 are applicable under this section, the Secretary of Labor shall have the authority and functions set forth in the Reorganization Plan numbered 14, of 1950, and section 3145 of title 40.

(h) Application of other laws

Unless otherwise agreed to by the Indian tribe, no provision of the Office of Federal Procurement Policy Act [41 U.S.C. 401 et seq.], the Federal Acquisition Regulations issued pursuant thereto, or any other law or regulation pertaining to Federal

procurement

(including Executive orders) shall apply to any construction project conducted under this part.

-SOURCE-

(Pub. L. 93-638, title V, Sec. 509, as added Pub. L. 106-260, Sec. 4, Aug. 18, 2000, 114 Stat. 724.)

-REFTEXT-

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (a), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (Sec. 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The National Historic Preservation Act, referred to in subsec.

(a), is Pub. L. 89-665, Oct. 15, 1966, 80 Stat. 915, as amended, which is classified generally to subchapter II (Sec. 470 et seq.) of chapter 1A of Title 16, Conservation. For complete classification of this Act to the Code, see section 470(a) of Title 16 and Tables.

Reorganization Plan numbered 14, of 1950, referred to in subsec.

(g), is set out in the Appendix to Title 5, Government Organization and Employees.

The Office of Federal Procurement Policy Act, referred to in subsec. (h), is Pub. L. 93-400, Aug. 30, 1974, 88 Stat. 796, as amended, which is classified principally to chapter 7 (Sec. 401 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under

section

401 of Title 41 and Tables.

-COD-

CODIFICATION

In subsec. (g), "sections 3141-3144, 3146, and 3147 of title 40"

substituted for "the Davis-Bacon Act of March 3, 1931 (46 Stat.

1494)", "sections 3141-3144, 3146, and 3147 of title 40 are" substituted for "the Act of March 3, 1931, is", and "section 3145

of title 40" substituted for "section 2 of the Act of June 13, 1934

(48 Stat. 948)" on authority of Pub. L. 107-217, Sec. 5(c), Aug.

21, 2002, 116 Stat. 1303, the first section of which enacted Title

40, Public Buildings, Property, and Works.

-End-

-CITE-

25 USC Sec. 458aaa-9
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE
Part E - Tribal Self-Governance - Indian Health Service

-HEAD-

Sec. 458aaa-9. Federal procurement laws and regulations

-STATUTE-

Regarding construction programs or projects, the Secretary and

Indian tribes may negotiate for the inclusion of specific provisions of the Office of Federal Procurement and Policy Act (41

U.S.C. 401 et seq.) and Federal acquisition regulations in any

funding agreement entered into under this part. Absent a negotiated agreement, such provisions and regulatory requirements shall not apply.

-SOURCE-

(Pub. L. 93-638, title V, Sec. 510, as added Pub. L. 106-260, Sec. 4, Aug. 18, 2000, 114 Stat. 726.)

-REFTEXT-

REFERENCES IN TEXT

The Office of Federal Procurement and Policy Act, referred to in text, probably means the Office of Federal Procurement Policy Act, Pub. L. 93-400, Aug. 30, 1974, 88 Stat. 796, as amended, which is classified principally to chapter 7 (Sec. 401 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 401 of Title 41 and Tables.

-End-

-CITE-

25 USC Sec. 458aaa-10
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE
Part E - Tribal Self-Governance - Indian Health Service

-HEAD-

Sec. 458aaa-10. Civil actions

-STATUTE-

(a) Contract defined

For the purposes of section 450m-1 of this title, the term "contract" shall include compacts and funding agreements entered into under this part.

(b) Applicability of certain laws

Section 81 of this title and section 476 of this title, shall not apply to attorney and other professional contracts entered into by Indian tribes participating in self-governance under this part.

(c) References

All references in this subchapter to section 501 of this title are hereby deemed to include section 82a of this title.

-SOURCE-

(Pub. L. 93-638, title V, Sec. 511, as added Pub. L. 106-260, Sec. 4, Aug. 18, 2000, 114 Stat. 726.)

-End-

-CITE-

25 USC Sec. 458aaa-11
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE
Part E - Tribal Self-Governance - Indian Health Service

-HEAD-

Sec. 458aaa-11. Facilitation

-STATUTE-

(a) Secretarial interpretation

Except as otherwise provided by law, the Secretary shall interpret all Federal laws, Executive orders, and regulations in a manner that will facilitate -

(1) the inclusion of programs, services, functions, and activities (or portions thereof) and funds associated therewith,

in the agreements entered into under this section;

(2) the implementation of compacts and funding agreements

entered into under this part; and

(3) the achievement of tribal health goals and objectives.

(b) Regulation waiver

(1) In general

An Indian tribe may submit a written request to waive application of a regulation promulgated under section 458aaa-16

of this title or the authorities specified in section 458aaa-4(b)

of this title for a compact or funding agreement entered into

with the Indian Health Service under this part, to the Secretary

identifying the applicable Federal regulation sought to be waived

and the basis for the request.

(2) Approval

Not later than 90 days after receipt by the Secretary of a

written request by an Indian tribe to waive application of a

regulation for a compact or funding agreement entered into under

this part, the Secretary shall either approve or deny the requested waiver in writing. A denial may be made only

upon a specific finding by the Secretary that identified language in the

regulation may not be waived because such waiver is prohibited by

Federal law. A failure to approve or deny a waiver request not

later than 90 days after receipt shall be deemed an approval of

such request. The Secretary's decision shall be final for the

Department.

(c) Access to Federal property

In connection with any compact or funding agreement

executed

pursuant to this part or an agreement negotiated under the Tribal

Self-Governance Demonstration Project established under title

III, (!1) as in effect before August 18, 2000, upon the request of

an Indian tribe, the Secretary -

(1) shall permit an Indian tribe to use existing school buildings, hospitals, and other facilities and all equipment

therein or appertaining thereto and other personal property owned

by the Government within the Secretary's jurisdiction under such

terms and conditions as may be agreed upon by the Secretary and

the Indian tribe for their use and maintenance;

(2) may donate to an Indian tribe title to any personal or real

property found to be excess to the needs of any agency of the

Department, or the General Services Administration, except that -

(A) subject to the provisions of subparagraph (B), title to

property and equipment furnished by the Federal Government for

use in the performance of the compact or funding agreement or

purchased with funds under any compact or funding agreement

shall, unless otherwise requested by the Indian tribe, vest in

the appropriate Indian tribe;

(B) if property described in subparagraph (A) has a value in

excess of \$5,000 at the time of retrocession, withdrawal, or

reassumption, at the option of the Secretary upon the retrocession, withdrawal, or reassumption, title to such property and equipment shall revert to the Department of

Health

and Human Services; and

(C) all property referred to in subparagraph (A) shall remain eligible for replacement, maintenance, and improvement on the same basis as if title to such property were vested in the United States; and

(3) shall acquire excess or surplus Government personal or real property for donation to an Indian tribe if the Secretary determines the property is appropriate for use by the Indian tribe for any purpose for which a compact or funding agreement is authorized under this part.

(d) Matching or cost-participation requirement
All funds provided under compacts, funding agreements, or grants made pursuant to this subchapter, shall be treated as non-Federal funds for purposes of meeting matching or cost participation requirements under any other Federal or non-Federal program.

(e) State facilitation
States are hereby authorized and encouraged to enact legislation, and to enter into agreements with Indian tribes to facilitate and supplement the initiatives, programs, and policies authorized by this part and other Federal laws benefiting Indians and Indian tribes.

(f) Rules of construction
Each provision of this part and each provision of a compact or funding agreement shall be liberally construed for the benefit of the Indian tribe participating in self-governance and any ambiguity shall be resolved in favor of the Indian tribe.

-SOURCE-

(Pub. L. 93-638, title V, Sec. 512, as added Pub. L. 106-260, Sec. 4, Aug. 18, 2000, 114 Stat. 726.)

-REFTEXT-

REFERENCES IN TEXT

Title III, referred to in subsec. (c), means title III of Pub. L.

93-638, as added by Pub. L. 100-472, title II, Sec. 209, Oct. 5,

1988, 102 Stat. 2296, and amended, which was set out as a note

under section 450f of this title prior to repeal by Pub. L. 106-

260, Sec. 10, Aug. 18, 2000, 114 Stat. 734.

-FOOTNOTE-

(!1) See References in Text note below.

-End-

-CITE-

25 USC Sec. 458aaa-12
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part E - Tribal Self-Governance - Indian Health Service

-HEAD-

Sec. 458aaa-12. Budget request

-STATUTE-

(a) Requirement of annual budget request

(1) In general

The President shall identify in the annual budget request

submitted to Congress under section 1105 of title 31 all funds

necessary to fully fund all funding agreements authorized under

this part, including funds specifically identified to fund tribal

base budgets. All funds so appropriated shall be apportioned to the Indian Health Service. Such funds shall be provided to the Office of Tribal Self-Governance which shall be responsible for distribution of all funds provided under section 458aaa-4 of this title.

(2) Rule of construction

Nothing in this subsection shall be construed to authorize the Indian Health Service to reduce the amount of funds that a self-governance tribe is otherwise entitled to receive under its funding agreement or other applicable law, whether or not such funds are apportioned to the Office of Tribal Self-Governance under this section.

(b) Present funding; shortfalls

In such budget request, the President shall identify the level of need presently funded and any shortfall in funding (including direct program and contract support costs) for each Indian tribe, either directly by the Secretary of Health and Human Services, under self-determination contracts, or under compacts and funding agreements authorized under this part.

-SOURCE-

(Pub. L. 93-638, title V, Sec. 513, as added Pub. L. 106-260, Sec. 4, Aug. 18, 2000, 114 Stat. 727.)

-End-

-CITE-

25 USC Sec. 458aaa-13
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS

CHAPTER 14 - MISCELLANEOUS

SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE

Part E - Tribal Self-Governance - Indian Health Service

-HEAD-

Sec. 458aaa-13. Reports

-STATUTE-

(a) Annual report

(1) In general

Not later than January 1 of each year after August 18,
2000,

the Secretary shall submit to the Committee on Indian
Affairs of

the Senate and the Committee on Resources of the House of
Representatives a written report regarding the
administration of

this part.

(2) Analysis

The report under paragraph (1) shall include a detailed
analysis of the level of need being presently funded or
unfunded

for each Indian tribe, either directly by the Secretary,
under

self-determination contracts under part A of this
subchapter, or

under compacts and funding agreements authorized under
this

subchapter. In compiling reports pursuant to this section,
the

Secretary may not impose any reporting requirements on
participating Indian tribes or tribal organizations, not
otherwise provided in this subchapter.

(b) Contents

The report under subsection (a) of this section shall -
(1) be compiled from information contained in funding
agreements, annual audit reports, and data of the
Secretary

regarding the disposition of Federal funds; and

(2) identify -

(A) the relative costs and benefits of self-
governance;

(B) with particularity, all funds that are specifically or functionally related to the provision by the Secretary of services and benefits to self-governance Indian tribes and their members;

(C) the funds transferred to each self-governance Indian tribe and the corresponding reduction in the Federal bureaucracy;

(D) the funding formula for individual tribal shares of all headquarters funds, together with the comments of affected

Indian tribes or tribal organizations, developed under subsection (c) of this section; and

(E) amounts expended in the preceding fiscal year to carry out inherent Federal functions, including an identification of those functions by type and location;

(3) contain a description of the method or methods (or any revisions thereof) used to determine the individual tribal share of funds controlled by all components of the Indian Health Service (including funds assessed by any other Federal agency) for inclusion in self-governance compacts or funding agreements;

(4) before being submitted to Congress, be distributed to the Indian tribes for comment (with a comment period of no less than 30 days, beginning on the date of distribution); and

(5) include the separate views and comments of the Indian tribes or tribal organizations.

(c) Report on fund distribution method

Not later than 180 days after August 18, 2000, the Secretary

shall, after consultation with Indian tribes, submit a written

report to the Committee on Resources of the House of

Representatives and the Committee on Indian Affairs of the Senate that describes the method or methods used to determine the individual tribal share of funds controlled by all components of the Indian Health Service (including funds assessed by any other Federal agency) for inclusion in self-governance compacts or funding agreements.

-SOURCE-

(Pub. L. 93-638, title V, Sec. 514, as added Pub. L. 106-260, Sec. 4, Aug. 18, 2000, 114 Stat. 728.)

-CHANGE-

CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

-End-

-CITE-

25 USC Sec. 458aaa-14
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE
Part E - Tribal Self-Governance - Indian Health Service

-HEAD-

Sec. 458aaa-14. Disclaimers

-STATUTE-

(a) No funding reduction
Nothing in this part shall be construed to limit or reduce in any way the funding for any program, project, or activity

serving an

Indian tribe under this or other applicable Federal law. Any Indian

tribe that alleges that a compact or funding agreement is in violation of this section may apply the provisions of section 450m-

1 of this title.

(b) Federal trust and treaty responsibilities

Nothing in this subchapter shall be construed to diminish in any

way the trust responsibility of the United States to Indian tribes

and individual Indians that exists under treaties, Executive orders, or other laws and court decisions.

(c) Obligations of the United States

The Indian Health Service under this subchapter shall neither

bill nor charge those Indians who may have the economic means to

pay for services, nor require any Indian tribe to do so.

-SOURCE-

(Pub. L. 93-638, title V, Sec. 515, as added Pub. L. 106-260, Sec. 4, Aug. 18, 2000, 114 Stat. 729.)

-End-

-CITE-

25 USC Sec. 458aaa-15
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE
Part E - Tribal Self-Governance - Indian Health Service

-HEAD-

Sec. 458aaa-15. Application of other sections of this subchapter

-STATUTE-

(a) Mandatory application

All provisions of sections 450c(b), 450d, 450e, 450f(c) and (d),

450i, 450j(k) and (l), 450j-1(a) through (k), and 450n of this

title and section 314 of Public Law 101-512 (coverage under chapter

171 of title 28, commonly known as the "Federal Tort Claims Act"),

to the extent not in conflict with this part, shall apply to compacts and funding agreements authorized by this part.

(b) Discretionary application

At the request of a participating Indian tribe, any other provision of part A of this subchapter, to the extent such provision is not in conflict with this part, shall be made a part

of a funding agreement or compact entered into under this part. The

Secretary is obligated to include such provision at the option of

the participating Indian tribe or tribes. If such provision is

incorporated it shall have the same force and effect as if it were

set out in full in this part. In the event an Indian tribe requests

such incorporation at the negotiation stage of a compact or funding

agreement, such incorporation shall be deemed effective immediately

and shall control the negotiation and resulting compact and funding

agreement.

-SOURCE-

(Pub. L. 93-638, title V, Sec. 516, as added Pub. L. 106-260, Sec.

4, Aug. 18, 2000, 114 Stat. 729.)

-REFTEXT-

REFERENCES IN TEXT

Section 314 of Pub. L. 101-512, referred to in subsec.

(a), is

section 314 of Pub. L. 101-512, as amended, which is set out as a

note under section 450f of this title.

-End-

-CITE-

25 USC Sec. 458aaa-16
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part E - Tribal Self-Governance - Indian Health Service

-HEAD-

Sec. 458aaa-16. Regulations

-STATUTE-

(a) In general

(1) Promulgation

Not later than 90 days after August 18, 2000, the
Secretary
shall initiate procedures under subchapter III of chapter
5 of
title 5 to negotiate and promulgate such regulations as
are
necessary to carry out this part.

(2) Publication of proposed regulations

Proposed regulations to implement this part shall be
published
in the Federal Register by the Secretary no later than 1
year
after August 18, 2000.

(3) Expiration of authority

The authority to promulgate regulations under paragraph
(1)
shall expire 21 months after August 18, 2000.

(b) Committee

(1) In general

A negotiated rulemaking committee established pursuant
to
section 565 of title 5 to carry out this section shall
have as
its members only Federal and tribal government

representatives, a

majority of whom shall be nominated by and be
representatives of

Indian tribes with funding agreements under this
subchapter.

(2) Requirements

The committee shall confer with, and accommodate
participation

by, representatives of Indian tribes, inter-tribal
consortia,

tribal organizations, and individual tribal members.

(c) Adaptation of procedures

The Secretary shall adapt the negotiated rulemaking
procedures to

the unique context of self-governance and the government-to-
government relationship between the United States and Indian
tribes.

(d) Effect

The lack of promulgated regulations shall not limit the
effect of

this part.

(e) Effect of circulars, policies, manuals, guidances, and
rules

Unless expressly agreed to by the participating Indian
tribe in

the compact or funding agreement, the participating Indian
tribe

shall not be subject to any agency circular, policy, manual,
guidance, or rule adopted by the Indian Health Service,
except for

the eligibility provisions of section 450j(g) of this title
and

regulations promulgated under this section.

-SOURCE-

(Pub. L. 93-638, title V, Sec. 517, as added Pub. L.
106-260, Sec.

4, Aug. 18, 2000, 114 Stat. 730.)

-End-

-CITE-

25 USC Sec. 458aaa-17
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part E - Tribal Self-Governance - Indian Health Service

-HEAD-

Sec. 458aaa-17. Appeals

-STATUTE-

In any appeal (including civil actions) involving
decisions made
by the Secretary under this part, the Secretary shall have
the
burden of proof of demonstrating by clear and convincing
evidence -

(1) the validity of the grounds for the decision made;
and

(2) that the decision is fully consistent with
provisions and
policies of this part.

-SOURCE-

(Pub. L. 93-638, title V, Sec. 518, as added Pub. L.
106-260, Sec.
4, Aug. 18, 2000, 114 Stat. 730.)

-End-

-CITE-

25 USC Sec. 458aaa-18
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part E - Tribal Self-Governance - Indian Health Service

-HEAD-

Sec. 458aaa-18. Authorization of appropriations

-STATUTE-

(a) In general

There are authorized to be appropriated such sums as may be necessary to carry out this part.

(b) Availability of appropriations

Notwithstanding any other provision of this subchapter, the provision of funds under this subchapter shall be subject to the availability of appropriations and the Secretary is not required to reduce funding for programs, projects, or activities serving a tribe in order to make funds available to another tribe or tribal organization under this subchapter.

-SOURCE-

(Pub. L. 93-638, title V, Sec. 519, as added Pub. L. 106-260, Sec. 4, Aug. 18, 2000, 114 Stat. 731.)

-End-

-CITE-

25 USC Part F - National Fund for Excellence in American Indian Education

01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE
Part F - National Fund for Excellence in American Indian Education

-HEAD-

PART F - NATIONAL FUND FOR EXCELLENCE IN AMERICAN INDIAN EDUCATION

-COD-

CODIFICATION

This part is comprised of title V of Pub. L. 93-638, as added by

Pub. L. 106-568, title XIII, Sec. 1302, Dec. 27, 2000, 114 Stat.

2936, as amended. Another title V of Pub. L. 93-638 was added by

Pub. L. 106-260, Sec. 4, Aug. 18, 2000, 114 Stat. 712, and is

classified to part E (Sec. 458aaa et seq.) of this subchapter.

-End-

-CITE-

25 USC Sec. 458bbb
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE
Part F - National Fund for Excellence in American Indian Education

-HEAD-

Sec. 458bbb. National Fund for Excellence in American Indian Education

-STATUTE-

(a) In general

As soon as practicable after December 27, 2000, the Secretary of the Interior shall establish, under the laws of the District of

Columbia and in accordance with this part, a foundation to be known

as the "National Fund for Excellence in American Indian Education"

(hereinafter referred to as the "Foundation").

(b) Perpetual existence

Except as otherwise provided, the Foundation shall have perpetual

existence.

(c) Nature of corporation

The Foundation shall be a charitable and nonprofit federally

chartered corporation and shall not be an agency or instrumentality of the United States.

(d) Place of incorporation and domicile

The Foundation shall be incorporated and domiciled in the District of Columbia.

(e) Purposes

The purposes of the Foundation shall be -

(1) to encourage, accept, and administer private gifts of real

and personal property or any income therefrom or other interest

therein for the benefit of, or in support of, the mission of the

Office of Indian Education Programs of the Bureau of Indian

Affairs (or its successor office);

(2) to undertake and conduct such other activities as will

further the educational opportunities of American Indians who

attend a Bureau funded school; and

(3) to participate with, and otherwise assist, Federal, State,

and tribal governments, agencies, entities, and individuals in

undertaking and conducting activities that will further the

educational opportunities of American Indians attending Bureau

funded schools.

(f) Board of Directors

(1) In general

The Board of Directors shall be the governing body of the

Foundation. The Board may exercise, or provide for the exercise

of, the powers of the Foundation.

(2) Selection

The number of members of the Board, the manner of their selection (including the filling of vacancies), and their terms

of office shall be as provided in the constitution and bylaws of the Foundation. However, the Board shall have at least 11 members, two of whom shall be the Secretary and the Assistant Secretary of the Interior for Indian Affairs, who shall serve as ex officio nonvoting members, and the initial voting members of the Board shall be appointed by the Secretary not later than 6 months after the date that the Foundation is established and shall have staggered terms (as determined by the Secretary).

(3) Qualification

The members of the Board shall be United States citizens who are knowledgeable or experienced in American Indian education and shall, to the extent practicable, represent diverse points of view relating to the education of American Indians.

(4) Compensation

Members of the Board shall not receive compensation for their services as members, but shall be reimbursed for actual and necessary travel and subsistence expenses incurred by them in the performance of the duties of the Foundation.

(g) Officers

(1) In general

The officers of the Foundation shall be a secretary, elected from among the members of the Board, and any other officers provided for in the constitution and bylaws of the Foundation.

(2) Secretary of Foundation

The secretary shall serve, at the direction of the Board, as its chief operating officer and shall be knowledgeable and experienced in matters relating to education in general and education of American Indians in particular.

(3) Election

The manner of election, term of office, and duties of the officers shall be as provided in the constitution and bylaws of the Foundation.

(h) Powers

The Foundation -

(1) shall adopt a constitution and bylaws for the management of its property and the regulation of its affairs, which may be amended;

(2) may adopt and alter a corporate seal;

(3) may make contracts, subject to the limitations of this subchapter;

(4) may acquire (through a gift or otherwise), own, lease, encumber, and transfer real or personal property as necessary or

convenient to carry out the purposes of the Foundation;

(5) may sue and be sued; and

(6) may perform any other act necessary and proper to carry out the purposes of the Foundation.

(i) Principal office

The principal office of the Foundation shall be in the District of Columbia. However, the activities of the Foundation may be

conducted, and offices may be maintained, throughout the United

States in accordance with the constitution and bylaws of the Foundation.

(j) Service of process

The Foundation shall comply with the law on service of process of

each State in which it is incorporated and of each State in which

the Foundation carries on activities.

(k) Liability of officers and agents

The Foundation shall be liable for the acts of its officers and

agents acting within the scope of their authority. Members of the

Board are personally liable only for gross negligence in the performance of their duties.

(1) Restrictions

(1) Limitation on spending

Beginning with the fiscal year following the first full fiscal year during which the Foundation is in operation, the administrative costs of the Foundation may not exceed 10 percent

of the sum of -

(A) the amounts transferred to the Foundation under subsection (m) of this section during the preceding fiscal

year; and

(B) donations received from private sources during the preceding fiscal year.

(2) Appointment and hiring

The appointment of officers and employees of the Foundation shall be subject to the availability of funds.

(3) Status

Members of the Board, and the officers, employees, and agents of the Foundation are not, by reason of their association with the Foundation, officers, employees, or agents of the United States.

(m) Transfer of donated funds

The Secretary may transfer to the Foundation funds held by the Department of the Interior under section 451 of this title, if the transfer or use of such funds is not prohibited by any term under which the funds were donated.

(n) Audits

The Foundation shall comply with the audit requirements set forth in section 10101 of title 36, as if it were a corporation in part B of subtitle II of that title.

-SOURCE-

(Pub. L. 93-638, title V, Sec. 501, as added Pub. L. 106-568, title

XIII, Sec. 1302, Dec. 27, 2000, 114 Stat. 2936; amended Pub. L. 108-267, Sec. 1(a),(b)(2), July 2, 2004, 118 Stat. 797.)

-REFTEXT-

REFERENCES IN TEXT

This subchapter, referred to in subsec. (h)(3), was in the original "this Act", meaning Pub. L. 93-638, Jan. 4, 1975, 88 Stat.

2203, as amended, known as the Indian Self-Determination and Education Assistance Act, which is classified principally to this

subchapter (Sec. 450 et seq.). For complete classification of this

Act to the Code, see Short Title note set out under section 450 of this title and Tables.

-COD-

CODIFICATION

Another section 501 of Pub. L. 93-638, as added by Pub. L. 106-

260, Sec. 4, Aug. 18, 2000, 114 Stat. 712, is classified to section 458aaa of this title.

-MISC1-

AMENDMENTS

2004 - Pub. L. 108-267, Sec. 1(b)(2), substituted "National Fund for Excellence in American Indian Education" for "American Indian Education Foundation" in section catchline.

Subsec. (a). Pub. L. 108-267, Sec. 1(a), substituted "a foundation to be known as the 'National Fund for Excellence in American Indian Education' (hereinafter referred to as the 'Foundation')" for "the American Indian Education Foundation".

-End-

-CITE-

25 USC Sec. 458bbb-1

01/08/2008

-EXPCITE-

TITLE 25 - INDIANS

CHAPTER 14 - MISCELLANEOUS

SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE

Part F - National Fund for Excellence in American Indian
Education

-HEAD-

Sec. 458bbb-1. Administrative services and support

-STATUTE-

(a) Provision of support by Secretary

Subject to subsection (b) of this section, during the 5-
year

period beginning on the date that the Foundation is
established,

the Secretary -

(1) may provide personnel, facilities, and other
administrative

support services to the Foundation;

(2) may provide funds to reimburse the travel expenses
of the

members of the Board under section 458bbb of this title;
and

(3) shall require and accept reimbursements from the
Foundation

for any -

(A) services provided under paragraph (1); and

(B) funds provided under paragraph (2).

(b) Reimbursement

Reimbursements accepted under subsection (a)(3) of this
section

shall be deposited in the Treasury to the credit of the
appropriations then current and chargeable for the cost of
providing services described in subsection (a)(1) of this
section

and the travel expenses described in subsection (a)(2) of
this

section.

(c) Continuation of certain services

Notwithstanding any other provision of this section, the
Secretary may continue to provide facilities and necessary
support

services to the Foundation after the termination of the 5-
year
period specified in subsection (a) of this section, on a
space
available, reimbursable cost basis.

-SOURCE-

(Pub. L. 93-638, title V, Sec. 502, as added Pub. L.
106-568, title
XIII, Sec. 1302, Dec. 27, 2000, 114 Stat. 2938.)

-COD-

CODIFICATION

Another section 502 of Pub. L. 93-638, as added by Pub. L.
106-
260, Sec. 4, Aug. 18, 2000, 114 Stat. 714, is classified to
section 458aaa-1 of this title.

-End-

-CITE-

25 USC Sec. 458bbb-2
01/08/2008

-EXPCITE-

TITLE 25 - INDIANS
CHAPTER 14 - MISCELLANEOUS
SUBCHAPTER II - INDIAN SELF-DETERMINATION AND EDUCATION
ASSISTANCE
Part F - National Fund for Excellence in American Indian
Education

-HEAD-

Sec. 458bbb-2. Definitions

-STATUTE-

For the purposes of this part -
(1) the term "Bureau funded school" has the meaning
given that
term in title XI of the Education Amendments of 1978 [25
U.S.C.
2000 et seq.];
(2) the term "Foundation" means the Foundation
established by

the Secretary pursuant to section 458bbb of this title;
and

(3) the term "Secretary" means the Secretary of the
Interior.

-SOURCE-

(Pub. L. 93-638, title V, Sec. 503, as added Pub. L.
106-568, title
XIII, Sec. 1302, Dec. 27, 2000, 114 Stat. 2938.)

-REFTEXT-

REFERENCES IN TEXT

The Education Amendments of 1978, referred to in par. (1),
is

Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2143, as amended.
Title XI

of the Act is classified principally to chapter 22 (Sec.
2000 et

seq.) of this title. For complete classification of this Act
to the

Code, see Short Title note set out under section 6301 of
Title 20,

Education, and Tables.

-COD-

CODIFICATION

Another section 503 of Pub. L. 93-638, as added by Pub. L.
106-

260, Sec. 4, Aug. 18, 2000, 114 Stat. 714, is classified to
section 458aaa-2 of this title.

-End-