

ment, 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.

(Pub. L. 93-638, title V, § 512, as added Pub. L. 106-260, § 4, Aug. 18, 2000, 114 Stat. 726.)

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, § 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, § 10, Aug. 18, 2000, 114 Stat. 734.

**§ 458aaa-12. Budget request**

**(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.

(Pub. L. 93-638, title V, § 513, as added Pub. L. 106-260, § 4, Aug. 18, 2000, 114 Stat. 727.)

**§ 458aaa-13. Reports**

**(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.

(Pub. L. 93-638, title V, § 514, as added Pub. L. 106-260, § 4, Aug. 18, 2000, 114 Stat. 728.)

#### **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.

### **§ 458aaa-14. Disclaimers**

#### **(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.

(Pub. L. 93-638, title V, § 515, as added Pub. L. 106-260, § 4, Aug. 18, 2000, 114 Stat. 729.)

### **§ 458aaa-15. Application of other sections of this subchapter**

#### **(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.

(Pub. L. 93-638, title V, § 516, as added Pub. L. 106-260, § 4, Aug. 18, 2000, 114 Stat. 729.)

#### **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.

### **§ 458aaa-16. Regulations**

#### **(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