

**(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.

**(l) 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.

(Pub. L. 93-638, title IV, §403, as added Pub. L. 103-413, title II, §204, Oct. 25, 1994, 108 Stat. 4272; amended Pub. L. 104-109, §19, Feb. 12, 1996, 110 Stat. 766; Pub. L. 105-244, title IX, §901(d), Oct. 7, 1998, 112 Stat. 1828; Pub. L. 106-568, title VIII, §812(b), Dec. 27, 2000, 114 Stat. 2917; Pub. L. 110-315, title IX, §941(k)(2)(H), Aug. 14, 2008, 122 Stat. 3467.)

## 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, 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 Colleges and Universities Assistance Act of 1978, referred to in subsec. (b)(4)(A), is Pub. L. 95-471, Oct. 17, 1978, 92 Stat. 1325, which is classified principally to chapter 20 (§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.

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, known as the Indian Self-Determination and Education Assistance Act, which is classified principally to this subchapter. 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, §209, Oct. 5, 1988, 102 Stat. 2296, 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.

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. (l), 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 (§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.

## CODIFICATION

In subsec. (e)(1), "division B (except sections 1123, 2303, 2304, and 2313) of subtitle I of title 41" substituted for "the Office of Federal Procurement and Policy Act" on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

## AMENDMENTS

2008—Subsec. (b)(4)(A). Pub. L. 110-315 substituted "the Tribally Controlled Colleges and Universities Assistance Act of 1978" for "the Tribally Controlled College or University Assistance Act of 1978".

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. (l). Pub. L. 104-109 added subsec. (l).

## 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.

**§ 458dd. Budget request**

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.

(Pub. L. 93-638, title IV, §404, as added Pub. L. 103-413, title II, §204, Oct. 25, 1994, 108 Stat. 4275.)

**§ 458ee. Reports****(a) Requirement**

The Secretary shall submit to Congress a written report on January 1 of each year following