

pay in full the total of such amounts under the second sentence of such subsection, each grantee shall report to the Secretary any unused portion of received funds ninety days prior to the grant expiration date. The amounts so reported by any grant recipient shall be made available for reallocation to eligible grantees on a basis proportionate to the amount which is unfunded as a result of the ratable reduction, but no grant recipient shall receive, as a result of such reallocation, more than the amount provided for under section 1807(a) of this title.

(Pub. L. 95-471, title I, §111, formerly §110, Oct. 17, 1978, 92 Stat. 1328; renumbered §111 and amended Pub. L. 98-192, §§4(a)(1), (b)(3), 10, Dec. 1, 1983, 97 Stat. 1336, 1338; Pub. L. 101-477, §1(c), Oct. 30, 1990, 104 Stat. 1152; Pub. L. 105-244, title IX, §901(b)(6), (8), Oct. 7, 1998, 112 Stat. 1828.)

AMENDMENTS

1998—Subsec. (a)(2). Pub. L. 105-244 substituted “controlled colleges or universities” for “controlled community colleges” and “such colleges or universities” for “such colleges”.

1990—Subsec. (a)(1)(A). Pub. L. 101-477, §1(c)(1), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the Secretary shall first allocate to each such applicant which received funds under section 1807 of this title for the preceding fiscal year an amount equal to 95 per centum of the product of—

“(i) the per capita payment for the preceding fiscal year; and

“(ii) such applicant’s Indian student count for the current fiscal year;”.

Subsec. (a)(1)(B)(ii). Pub. L. 101-477, §1(c)(2), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “the applicant’s Indian student count for the current fiscal year;”.

1983—Subsec. (a). Pub. L. 98-192, §10, amended subsec. (a) generally, substituting provision establishing a formula to be used to determine funding between existing and newly eligible schools when funds appropriated are not sufficient to pay in full the total amount which approved applicants are eligible to receive under section 1807 of this title for provision that if funds were insufficient to pay in full the total amounts which approved grant applicants were eligible to receive, the available funds would be ratably decreased and if funds later became available or there were excess funds, such funds would be ratably increased.

Subsecs. (b), (c). Pub. L. 98-192, §10, added subsec. (b) and redesignated former subsec. (b) as (c).

Pub. L. 98-192, §4(b)(3), made a technical amendment to reference to section 1807 of this title to reflect renumbering of that section.

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.

§ 1812. Report on facilities

(a) Study on condition of currently existing facilities; submission of report; contents

The Secretary shall provide for the conduct of a study of facilities available for use by tribally controlled colleges or universities. Such study shall consider the condition of currently existing Bureau of Indian Affairs facilities which are vacant or underutilized and shall consider available alternatives for renovation, alteration, repair, and reconstruction of such facilities (in-

cluding renovation, alteration, repair, and reconstruction necessary to bring such facilities into compliance with local building codes). Such study shall also identify the need for new construction. A report on the results of such study shall be submitted to the Congress not later than eighteen months after September 30, 1986. Such report shall also include an identification of property—

(1) on which structurally sound buildings suitable for use as educational facilities are located, and

(2) which is available for use by tribally controlled colleges or universities under section 523 of title 40 and section 443a of this title.

(b) Renovation program

The Secretary, in consultation with the Bureau of Indian Affairs, shall initiate a program to conduct necessary renovations, alterations, repairs, and reconstruction identified pursuant to subsection (a) of this section.

(c) Determination and prioritization of construction and renovation needs

(1) The Secretary shall enter into a contract with an organization described in paragraph (2) to establish and provide on an annual basis criteria for the determination and prioritization in a consistent and equitable manner of the facilities construction and renovation needs of colleges or universities that receive funding under this chapter or the Navajo Community College Act [25 U.S.C. 640a et seq.].

(2) An organization described in this section is any organization that—

(A) is eligible to receive a contract under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.]; and

(B) has demonstrated expertise in areas and issues dealing with tribally controlled colleges or universities.

(3) The Secretary shall include the priority list established pursuant to this subsection in the budget submitted annually to the Congress.

(d) “Reconstruction” defined

For the purposes of this section, the term “reconstruction” has the meaning provided in the first sentence of subparagraph (B) of section 1132e-1(2)¹ of title 20.

(Pub. L. 95-471, title I, §112, formerly §111, Oct. 17, 1978, 92 Stat. 1328; renumbered §112 and amended Pub. L. 98-192, §§4(a)(1), 11, Dec. 1, 1983, 97 Stat. 1336, 1339; Pub. L. 99-428, §6(a), Sept. 30, 1986, 100 Stat. 983; Pub. L. 101-392, title III, §313, Sept. 25, 1990, 104 Stat. 805; Pub. L. 105-244, title IX, §901(b)(6), (13), Oct. 7, 1998, 112 Stat. 1828.)

REFERENCES IN TEXT

The Navajo Community College Act, referred to in subsec. (c)(1), is Pub. L. 92-189, Dec. 15, 1971, 85 Stat. 646, as amended, which is classified to section 640a et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 640a of this title and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (c)(2)(A), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§450 et seq.) of

¹ See References in Text note below.

chapter 14 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

Section 1132e-1 of title 20, referred to in subsec. (d), was omitted in the general revision of subchapter VII (§1132a et seq.) of chapter 28 of Title 20, Education, by Pub. L. 99-498, title VII, §701, Oct. 17, 1986, 100 Stat. 1520. See section 1132i-1 of Title 20.

CODIFICATION

“Section 523 of title 40” substituted in subsec. (a)(2) for “section 202(a)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(a)(2))” on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-244, §901(b)(6), substituted “colleges or universities” for “community colleges” in introductory provisions and par. (2).

Subsec. (c)(1). Pub. L. 105-244, §901(b)(13), substituted “colleges or universities” for “colleges”.

Subsec. (c)(2)(B). Pub. L. 105-244, §901(b)(6), substituted “colleges or universities” for “community colleges”.

1990—Subsecs. (c), (d). Pub. L. 101-392 added subsec. (c) and redesignated former subsec. (c) as (d).

1986—Subsec. (a). Pub. L. 99-428, §6(a), substituted “Secretary” for “Administrator of General Services” and “September 30, 1986” for “December 1, 1983”.

Subsec. (b). Pub. L. 99-428, §6(a)(1), substituted “Secretary” for “Administrator of General Services”.

1983—Pub. L. 98-192 amended section generally, substituting provision requiring a study on the condition of currently existing facilities, submission of a report on the study, contents of the report, establishment of a renovation program, and defining term “reconstruction” for provision which required the Secretary of the Interior, not later than ninety days after Oct. 17, 1978, to prepare and submit a report to the Congress containing a survey of existing and planned physical facilities of tribally controlled community colleges.

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.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-392 effective July 1, 1991, see section 702(a) of Pub. L. 101-392, set out as an Effective Date note under section 3423a of Title 20, Education.

§ 1813. Construction of new facilities

(a) Grants

With respect to any tribally controlled college or university for which the report of the Secretary under section 1812(a) of this title identifies a need for new construction, the Secretary shall, subject to appropriations and on the basis of an application submitted in accordance with such requirements as the Secretary may prescribe by regulation, provide grants for such construction in accordance with this section.

(b) Eligibility requirements

In order to be eligible for a grant under this section, a tribally controlled college or university—

(1) must be a current recipient of grants under section 1805 or 1807 of this title, and

(2) must be accredited by a nationally recognized accrediting agency listed by the Sec-

retary of Education pursuant to the last sentence of section 1001 of title 20, except that such requirement may be waived if the Secretary determines that there is a reasonable expectation that such college or university will be fully accredited within eighteen months. In any case where such a waiver is granted, grants under this section shall be available only for planning and development of proposals for construction.

(c) Maximum amount of grant; waiver of restriction

(1) Except as provided in paragraph (2), grants for construction under this section shall not exceed 80 per centum of the cost of such construction, except that no tribally controlled college or university shall be required to expend more than \$400,000 in fulfillment of the remaining 20 per centum. For the purpose of providing its required portion of the cost of such construction, a tribally controlled college or university may use funds provided under section 13 of this title.

(2) The Secretary may waive, in whole or in part, the requirements of paragraph (1) in the case of any tribally controlled college or university which demonstrates that neither such college or university nor the tribal government with which it is affiliated have sufficient resources to comply with such requirements. The Secretary shall base a decision on whether to grant such a waiver solely on the basis of the following factors: (A) tribal population; (B) potential student population; (C) the rate of unemployment among tribal members; (D) tribal financial resources; and (E) other factors alleged by the college or university to have a bearing on the availability of resources for compliance with the requirements of paragraph (1) and which may include the educational attainment of tribal members.

(d) Failure to use facility in approved manner; title to vest in United States; settlement

If, within twenty years after completion of construction of a facility which has been constructed in whole or in part with a grant made available under this section—

(1) the facility ceases to be used by the applicant in a public or nonprofit capacity as an academic facility, unless the Secretary determines that there is good cause for releasing the institution from this obligation, and

(2) the tribe with which the applicant is affiliated fails to use the facility for a public purpose approved by the tribal government in furtherance of the general welfare of the community served by the tribal government,

title to the facility shall vest in the United States and the applicant (or such tribe if such tribe is the successor in title to the facility) shall be entitled to recover from the United States an amount which bears the same ratio to the present value of the facility as the amount of the applicant's contribution (excluding any funds provided under section 13 of this title) bore to the original cost of the facility. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is located.