

grantee was entitled to receive during the preceding academic year; and

(B) the second payment, consisting of the remainder to which the grantee is entitled for the academic year, shall be made not later than December 1 of each year.

**(2) Excess funding**

In a case in which the amount provided to a grant recipient under paragraph (1)(A) is in excess of the amount that the recipient is entitled to receive for the academic year involved, the recipient shall return to the Secretary such excess amount not later than 30 days after the final determination that the school was overpaid pursuant to this section. The amount returned to the Secretary under this paragraph shall be distributed equally to all schools in the system.

**(3) Newly funded schools**

For any school for which no payment under this chapter was made from Bureau funds in the preceding academic year, full payment of the amount computed for the first academic year of eligibility under this chapter shall be made not later than December 1 of the academic year.

**(4) Late funding**

With regard to funds for grantees that become available for obligation on October 1 of the fiscal year for which such funds are appropriated, the Secretary shall make payments to grantees not later than December 1 of the fiscal year.

**(5) Applicability of certain title 31 provisions**

The provisions of chapter 39 of title 31 shall apply to the payments required to be made by paragraphs (1), (3), and (4).

**(6) Restrictions**

Paragraphs (1), (3), and (4) shall be subject to any restriction on amounts of payments under this chapter that are imposed by a continuing resolution or other Act appropriating the funds involved.

**(b) Investment of funds**

**(1) Treatment of interest and investment income**

Notwithstanding any other provision of law, any interest or investment income that accrues to any funds provided under this chapter after such funds are paid to the Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this chapter shall be the property of the Indian tribe or tribal organization and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law. Such interest income shall be spent on behalf of the school.

**(2) Permissible investments**

Funds provided under this chapter may be invested by the Indian tribe or tribal organization before such funds are expended for the purposes of this chapter so long as such funds are—

(A) invested by the Indian tribe or tribal organization 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

(B) deposited only into accounts that are insured by and<sup>1</sup> 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.

**(c) Recoveries**

For the purposes of underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived, funds received under this chapter shall not be taken into consideration.

(Pub. L. 100-297, title V, § 5207, as added Pub. L. 107-110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2074.)

PRIOR PROVISIONS

A prior section 2506, Pub. L. 100-297, title V, § 5207, Apr. 28, 1988, 102 Stat. 391; Pub. L. 100-427, § 12, Sept. 9, 1988, 102 Stat. 1608, related to duration of eligibility determination, prior to repeal by Pub. L. 107-110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2063. See section 2505 of this title.

EFFECTIVE DATE

Section 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 a note under section 6301 of Title 20, Education.

**§ 2507. Application with respect to Indian Self-Determination and Education Assistance Act**

**(a) Certain provisions to apply to grants**

The following provisions of the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] (and any subsequent revisions thereto or renumbering thereof), shall apply to grants provided under this chapter:

(1) Section 5(f) [25 U.S.C. 450c(f)] (relating to single agency audit).

(2) Section 6 [25 U.S.C. 450d] (relating to criminal activities; penalties).

(3) Section 7 [25 U.S.C. 450e] (relating to wage and labor standards).

(4) Section 104 [25 U.S.C. 450i] (relating to retention of Federal employee coverage).

(5) Section 105(f) [25 U.S.C. 450j(f)] (relating to Federal property).

(6) Section 105(k) [25 U.S.C. 450j(k)] (relating to access to Federal sources of supply).

(7) Section 105(l) [25 U.S.C. 450j(l)] (relating to lease of facility used for administration and delivery of services).

(8) Section 106(f) [25 U.S.C. 450j-1(f)] (relating to limitation on remedies relating to cost allowances).

(9) Section 106(j) [25 U.S.C. 450j-1(j)] (relating to use of funds for matching or cost participation requirements).

(10) Section 106(k) [25 U.S.C. 450j-1(k)] (relating to allowable uses of funds).

<sup>1</sup> So in original. Probably should be "insured by an".

(11) Section 108(c) [25 U.S.C. 450(c)] (Model Agreements provisions (1)(a)(5)<sup>1</sup> (relating to limitations of costs), (1)(a)(7)<sup>2</sup> (relating to records and monitoring), (1)(a)(8)<sup>3</sup> (relating to property), and (a)(1)(9)<sup>4</sup> (relating to availability of funds).<sup>5</sup>

(12) Section 109 [25 U.S.C. 450m] (relating to reassumption).

(13) Section 111 [25 U.S.C. 450n] (relating to sovereign immunity and trusteeship rights unaffected).

**(b) Election for grant in lieu of contract**

**(1) In general**

Contractors for activities to which this chapter applies who have entered into a contract under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] that is in effect on January 8, 2002, may, by giving notice to the Secretary, elect to have the provisions of this chapter apply to such activity in lieu of such contract.

**(2) Effective date of election**

Any election made under paragraph (1) shall take effect on the first day of July immediately following the date of such election.

**(3) Exception**

In any case in which the first day of July immediately following the date of an election under paragraph (1) is less than 60 days after such election, such election shall not take effect until the first day of July of<sup>6</sup> year following the year in which the election is made.

**(c) No duplication**

No funds may be provided under any contract entered into under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.] to pay any expenses incurred in providing any program or services if a grant has been made under this chapter to pay such expenses.

**(d) Transfers and carryovers**

**(1) Buildings, equipment, supplies, materials**

A tribe or tribal organization assuming the operation of—

(A) a Bureau school with assistance under this chapter shall be entitled to the transfer or use of buildings, equipment, supplies, and materials to the same extent as if it were contracting under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.]; or

(B) a contract school with assistance under this chapter shall be entitled to the transfer or use of buildings, equipment, supplies, and materials that were used in the operation of the contract school to the same extent as if it were contracting under the Indian Self-Determination and Education Assistance Act.

**(2) Funds**

Any tribe or tribal organization which assumes operation of a Bureau school with as-

sistance under this chapter and any tribe or tribal organization which elects to operate a school with assistance under this chapter rather than<sup>7</sup> to continue as a contract school shall be entitled to any funds which would carryover from the previous fiscal year as if such school were operated as a contract school.

**(3) Funding for school improvement**

Any tribe or tribal organization that assumes operation of a Bureau school or a contract school with assistance under this chapter shall be eligible for funding for the improvement, alteration, replacement, and repair of facilities to the same extent as a Bureau school.

**(e) Exceptions, problems, and disputes**

Any exception or problem cited in an audit conducted pursuant to section 2505(b)(1) of this title, any dispute regarding a grant authorized to be made pursuant to this chapter or any amendment to such grant, and any dispute involving an administrative cost grant under section 2008 of this title shall be administered under the provisions governing such exceptions, problems, or disputes in the case of contracts under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 450 et seq.]. The Equal Access to Justice Act shall apply to administrative appeals filed after September 8, 1988, by grantees regarding a grant under this chapter, including an administrative cost grant.

(Pub. L. 100-297, title V, § 5208, as added Pub. L. 107-110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2076.)

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 subchapter II (§ 450 et seq.) of 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.

The Equal Access to Justice Act, referred to in subsec. (e), is title II of Pub. L. 96-481, Oct. 21, 1980, 94 Stat. 2325, as amended. 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.

PRIOR PROVISIONS

A prior section 2507, Pub. L. 100-297, title V, § 5208, Apr. 28, 1988, 102 Stat. 393; Pub. L. 100-427, § 13, Sept. 9, 1988, 102 Stat. 1609; Pub. L. 103-382, title III, § 382(c), Oct. 20, 1994, 108 Stat. 4017, related to payment of grants and investment of funds, prior to repeal by Pub. L. 107-110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2063. See section 2506 of this title.

EFFECTIVE DATE

Section 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 a note under section 6301 of Title 20, Education.

**§ 2508. Role of the Director**

Applications for grants under this chapter, and all application modifications, shall be reviewed and approved by personnel under the di-

<sup>1</sup> So in original. Probably should be "1(b)(5)".

<sup>2</sup> So in original. Probably should be "1(b)(7)".

<sup>3</sup> So in original. Probably should be "1(b)(8)".

<sup>4</sup> So in original. Probably should be "1(b)(9)".

<sup>5</sup> So in original. There probably should be a second closing parenthesis.

<sup>6</sup> So in original. Probably should be followed by "the".

<sup>7</sup> So in original. Probably should be "than".