

- (i) the entity has entered into a participation agreement under such plans; and
- (ii) the entity is qualified to receive payments under such plan; and

(B) if the entity will provide under the grant or contract any such health services through a contract with an organization—

- (i) the organization has entered into a participation agreement under such plan; and
- (ii) the organization is qualified to receive payments under such plan; and

(5) agrees to submit to the Secretary and to Papa Ola Lokahi an annual report that describes the utilization and costs of health services provided under the grant or contract (including the average cost of health services per user) and that provides such other information as the Secretary determines to be appropriate.

**(d) Contract evaluation**

(1) If, as a result of evaluations conducted by the Secretary, the Secretary determines that an entity has not complied with or satisfactorily performed a contract entered into under section 11705 of this title, the Secretary shall, prior to renewing such contract, attempt to resolve the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract with such entity and is authorized to enter into a contract under section 11705 of this title with another entity referred to in section 11705(b) of this title that provides services to the same population of Native Hawaiians which is served by the entity whose contract is not renewed by reason of this subsection.

(2) In determining whether to renew a contract entered into with an entity under this chapter, the Secretary shall consider the results of the evaluation under this section.

(3) All contracts entered into by the Secretary under this chapter shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and may be exempted from the provisions of sections 3131 and 3133 of title 40.

(4) Payments made under any contract entered into under this chapter may be made in advance, by means of reimbursement, or in installments and shall be made on such conditions as the Secretary deems necessary to carry out the purposes of this chapter.

**(e) Limitation on use of funds for administrative expenses**

Except for grants and contracts under section 11706 of this title, the Secretary may not grant to, or enter into a contract with, an entity under this chapter unless the entity agrees that the entity will not expend more than 10 percent of amounts received pursuant to this chapter for the purpose of administering the grant or contract.

**(f) Report**

(1) For each fiscal year during which an entity receives or expends funds pursuant to a grant or contract under this chapter, such entity shall submit to the Secretary and to Papa Ola Lokahi a quarterly report on—

- (A) activities conducted by the entity under the grant or contract;
- (B) the amounts and purposes for which Federal funds were expended; and
- (C) such other information as the Secretary may request.

(2) The reports and records of any entity which concern any grant or contract under this chapter shall be subject to audit by the Secretary, the Inspector General of the Department of Health and Human Services, and the Comptroller General of the United States.

**(g) Annual private audit**

The Secretary shall allow as a cost of any grant made or contract entered into under this chapter the cost of an annual private audit conducted by a certified public accountant.

(Pub. L. 100-579, § 8, Oct. 31, 1988, 102 Stat. 2921; Pub. L. 100-690, title II, § 2308, Nov. 18, 1988, 102 Stat. 4228; Pub. L. 102-396, title IX, § 9168, Oct. 6, 1992, 106 Stat. 1948.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(4), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (§1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

CODIFICATION

In subsec. (d)(3), “sections 3131 and 3133 of title 40” substituted for “the Act of August 24, 1935 (40 U.S.C. 270a et seq.)” 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.

The 1992 amendment is based on section 1 of S. 2681, One Hundred Second Congress, as passed by the Senate on Aug. 7, 1992, and enacted into law by section 9168 of Pub. L. 102-396. Section 9168, which referred to S. 2681, as passed by the Senate on “September 12, 1992”, has been treated as referring to S. 2681, as passed by the Senate on Aug. 7, 1992, to reflect the probable intent of Congress.

Pub. L. 100-579 and Pub. L. 100-690 enacted substantially identical sections. The text of this section is based on section 8 of Pub. L. 100-579, as subsequently amended.

AMENDMENTS

1992—Pub. L. 102-396 amended section generally. Prior to amendment, section defined terms for purposes of this chapter.

**§ 11708. Assignment of personnel**

**(a) In general**

The Secretary is authorized to enter into an agreement with any entity under which the Secretary is authorized to assign personnel of the Department of Health and Human Services with expertise identified by such entity to such entity on detail for the purposes of providing comprehensive health promotion and disease prevention services to Native Hawaiians.

**(b) Applicable Federal personnel provisions**

Any assignment of personnel made by the Secretary under any agreement entered into under

the authority of subsection (a) of this section shall be treated as an assignment of Federal personnel to a local government that is made in accordance with subchapter VI of chapter 33 of title 5.

(Pub. L. 100-579, §9, Oct. 31, 1988, 102 Stat. 2923; Pub. L. 100-690, title II, §2309, Nov. 18, 1988, 102 Stat. 4229; Pub. L. 102-396, title IX, §9168, Oct. 6, 1992, 106 Stat. 1948.)

#### CODIFICATION

The 1992 amendment is based on section 1 of S. 2681, One Hundred Second Congress, as passed by the Senate on Aug. 7, 1992, and enacted into law by section 9168 of Pub. L. 102-396. Section 9168, which referred to S. 2681, as passed by the Senate on “September 12, 1992”, has been treated as referring to S. 2681, as passed by the Senate on Aug. 7, 1992, to reflect the probable intent of Congress.

Pub. L. 100-579 and Pub. L. 100-690 enacted substantially identical sections. The text of this section is based on section 9 of Pub. L. 100-579, as subsequently amended.

#### AMENDMENTS

1992—Pub. L. 102-396 amended section generally. Prior to amendment, section related to rule of construction.

### § 11709. Native Hawaiian health scholarships

#### (a) Eligibility

Subject to the availability of funds appropriated under the authority of subsection (c) of this section, the Secretary shall provide funds through a direct grant or a cooperative agreement to Papa Ola Lokahi for the purpose of providing scholarship assistance to students who—

- (1) meet the requirements of paragraphs (1), (3), and (4) of section 254l(b) of this title, and
- (2) are Native Hawaiians.

#### (b) Terms and conditions

(1) The scholarship assistance provided under subsection (a) of this section shall be provided under the same terms and subject to the same conditions, regulations, and rules that apply to scholarship assistance provided under section 254l of this title, provided that—

(A) the provision of scholarships in each type of health care profession training shall correspond to the need for each type of health care professional identified in the Native Hawaiian comprehensive health care master plan implemented under section 11703 of this title to serve the Native Hawaiian health care systems, as identified by Papa Ola Lokahi;

(B) the primary health services covered under the scholarship assistance program under this section shall be the services included under the definition of that term under section 11711(8) of this title;

(C) to the maximum extent practicable, the Secretary shall select scholarship recipients from a list of eligible applicants submitted by the Papa Ola Lokahi;

(D) the obligated service requirement for each scholarship recipient shall be fulfilled through the full-time clinical or nonclinical practice of the health profession of the scholarship recipient, in an order of priority that would provide for practice—

- (i) first, in any one of the five Native Hawaiian health care systems; and

(ii) second, in—

(I) a health professional shortage area or medically underserved area located in the State of Hawaii; or

(II) a geographic area or facility that is—

(aa) located in the State of Hawaii; and

(bb) has a designation that is similar to a designation described in subclause (I) made by the Secretary, acting through the Public Health Service;

(E) the provision of counseling, retention and other support services shall not be limited to scholarship recipients, but shall also include recipients of other scholarship and financial aid programs enrolled in appropriate health professions training programs;<sup>1</sup>

(F) the obligated service of a scholarship recipient shall not be performed by the recipient through membership in the National Health Service Corps; and

(G) the requirements of sections 254d through 254k of this title, section 254m of this title, other than subsection (b)(5) of that section, and section 254n of this title applicable to scholarship assistance provided under section 254l of this title shall not apply to the scholarship assistance provided under subsection (a) of this section.

(2) The Native Hawaiian Health Scholarship program shall not be administered by or through the Indian Health Service.

#### (c) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 2019 for the purpose of funding the scholarship assistance provided under subsection (a) of this section.

(Pub. L. 100-579, §10, as added Pub. L. 102-396, title IX, §9168, Oct. 6, 1992, 106 Stat. 1948; amended Pub. L. 105-256, §12, Oct. 14, 1998, 112 Stat. 1899; Pub. L. 107-116, title V, §514(a), Jan. 10, 2002, 115 Stat. 2219; Pub. L. 111-148, title X, §10221(a), Mar. 23, 2010, 124 Stat. 935.)

#### CODIFICATION

Amendment by Pub. L. 111-148 is based on section 202(a) of title II of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Senate in Dec. 2009, which was enacted into law by section 10221(a) of Pub. L. 111-148.

Section enacted by section 1 of S. 2681, One Hundred Second Congress, as passed by the Senate on Aug. 7, 1992, which was enacted into law by section 9168 of Pub. L. 102-396. Section 9168, which referred to S. 2681, as passed by the Senate on “September 12, 1992”, has been treated as referring to S. 2681, as passed by the Senate on Aug. 7, 1992, to reflect the probable intent of Congress.

#### PRIOR PROVISIONS

A prior section 11709, Pub. L. 100-579, §11, Oct. 31, 1988, 102 Stat. 2923; Pub. L. 100-690, title II, §2311, Nov. 18, 1988, 102 Stat. 4229, which related to compliance with Budget Act, was amended generally by Pub. L. 102-396, title IX, §9168, Oct. 6, 1992, 106 Stat. 1948, and transferred to section 11710 of this title.

A prior section 10 of Pub. L. 100-579 repealed former section 1621d of Title 25, Indians.

<sup>1</sup> So in original. The comma probably should be a semicolon.