

the Johnson-O'Malley Act, which is classified generally to section 5342 et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

#### CODIFICATION

Section was formerly classified to section 450e of this title prior to editorial reclassification and renumbering as this section.

In subsec. (a), “sections 3141–3144, 3146, and 3147 of title 40” substituted for “the Davis-Bacon Act of March 3, 1931 (46 Stat. 1494), as amended” and “section 3145 of title 40” substituted for “section 2 of the Act of June 13, 1934 (48 Stat. 948, 40 U.S.C. 276c)” 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

1994—Subsec. (a). Pub. L. 103–413, §102(3), substituted “or subcontractors (excluding tribes and tribal organizations)” for “of subcontractors”.

Subsec. (c). Pub. L. 103–413, §102(4), added subsec. (c).

### § 5308. Grant and cooperative agreements

The provisions of this chapter shall not be subject to the requirements of chapter 63 of title 31: *Provided*, That a grant agreement or a cooperative agreement may be utilized in lieu of a contract under section 5321<sup>1</sup> of this title when mutually agreed to by the appropriate Secretary and the tribal organization involved.

(Pub. L. 93–638, §9, as added Pub. L. 98–250, §1, Apr. 3, 1984, 98 Stat. 118; amended Pub. L. 101–301, §2(a)(5), May 24, 1990, 104 Stat. 206.)

#### REFERENCES IN TEXT

This chapter, referred to in text, 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 chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

#### CODIFICATION

Section 5321 of this title, referred to in text, was in the original “sections 102 and 103 of this Act”, and was translated as meaning section 102 of Pub. L. 93–638 because section 103(a) and (b) and the first sentence of section 103(c) of Pub. L. 93–638 were repealed and the remainder of section 103 of Pub. L. 93–638 was redesignated as section 102(d) by Pub. L. 100–472, title II, §201(b)(1), Oct. 5, 1988, 102 Stat. 2289.

Section was formerly classified to section 450e–1 of this title prior to editorial reclassification and renumbering as this section.

#### AMENDMENTS

1990—Pub. L. 101–301 substituted “chapter 63 of title 31” for “the Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 95–224; 92 Stat. 3)”.

### § 5309. Use of excess funds

Beginning in fiscal year 1998 and thereafter, where the actual costs of construction projects under self-determination contracts, compacts, or grants, pursuant to Public Laws 93–638, 103–413, or 100–297, are less than the estimated costs thereof, use of the resulting excess funds shall be determined by the appropriate Secretary after consultation with the tribes.

<sup>1</sup> See Codification note below.

(Pub. L. 105–83, title III, §310, Nov. 14, 1997, 111 Stat. 1590.)

#### REFERENCES IN TEXT

Public Law 93–638, referred to in text, is 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 chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

Public Law 103–413, referred to in text, is Pub. L. 103–413, Oct. 25, 1994, 108 Stat. 4250, known as the Indian Self-Determination Act Amendments of 1994, which is classified principally to subchapter IV (§5361 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 5301 of this title and Tables.

Public Law 100–297, referred to in text, is Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 130, known as the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988. For complete classification of this Act to the Code, see Short Title of 1988 Amendments note set out under section 6301 of Title 20, Education, and Tables.

#### CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1998, and not as part of the Indian Self-Determination and Education Assistance Act which comprises this chapter.

Section was formerly classified to section 450e–2 of this title prior to editorial reclassification and renumbering as this section.

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 104–208, div. A, title I, §101(d) [title III, §310], Sept. 30, 1996, 110 Stat. 3009–181, 3009–221.

Pub. L. 104–134, title I, §101(c) [title III, §310], Apr. 26, 1996, 110 Stat. 1321–156, 1321–197; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.

### § 5310. Investment of advance payments; restrictions

Advance payments made by the Department of the Interior to Indian tribes, tribal organizations, and tribal consortia pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)<sup>1</sup> or the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et seq.) may on and after December 8, 2004, be invested by the Indian tribe, tribal organization, or consortium before such funds are expended for the purposes of the grant, compact, or annual funding agreement so long as such funds are—

(1) invested by the Indian tribe, tribal organization, or consortium 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

(2) deposited only into accounts that are insured by an 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.

<sup>1</sup> See References in Text note below.