

nominated by and be representatives of Indian tribes with funding agreements under this chapter.

(2) Requirements

The committee shall confer with, and accommodate participation by, representatives of Indian tribes, inter-tribal consortia, tribal organizations, and individual tribal members.

(c) Adaptation of procedures

The Secretary shall adapt the negotiated rule-making procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian tribes.

(d) Effect

The lack of promulgated regulations shall not limit the effect of this subchapter.

(e) Effect of circulars, policies, manuals, guidelines, and rules

Unless expressly agreed to by the participating Indian tribe in the compact or funding agreement, the participating Indian tribe shall not be subject to any agency circular, policy, manual, guidance, or rule adopted by the Indian Health Service, except for the eligibility provisions of section 5324(g) of this title and regulations promulgated under this section.

(Pub. L. 93-638, title V, §517, as added Pub. L. 106-260, §4, Aug. 18, 2000, 114 Stat. 730.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b)(1), 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 was formerly classified to section 458aaa-16 of this title prior to editorial reclassification and renumbering as this section.

§ 5398. Appeals

In any appeal (including civil actions) involving decisions made by the Secretary under this subchapter, the Secretary shall have the burden of proof of demonstrating by clear and convincing evidence—

- (1) the validity of the grounds for the decision made; and
- (2) that the decision is fully consistent with provisions and policies of this subchapter.

(Pub. L. 93-638, title V, §518, as added Pub. L. 106-260, §4, Aug. 18, 2000, 114 Stat. 730.)

CODIFICATION

Section was formerly classified to section 458aaa-17 of this title prior to editorial reclassification and renumbering as this section.

§ 5399. Authorization of appropriations

(a) In general

There are authorized to be appropriated such sums as may be necessary to carry out this subchapter.

(b) Availability of appropriations

Notwithstanding any other provision of this chapter, the provision of funds under this chap-

ter shall be subject to the availability of appropriations and the Secretary is not required to reduce funding for programs, projects, or activities serving a tribe in order to make funds available to another tribe or tribal organization under this chapter.

(Pub. L. 93-638, title V, §519, as added Pub. L. 106-260, §4, Aug. 18, 2000, 114 Stat. 731.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), 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 was formerly classified to section 458aaa-18 of this title prior to editorial reclassification and renumbering as this section.

SUBCHAPTER VI—INDIAN LAW
ENFORCEMENT FOUNDATION

§ 5411. Definitions

In this subchapter:

(1) Board

The term “Board” means the Board of Directors of the Foundation.

(2) Bureau

The term “Bureau” means the Office of Justice Services of the Bureau of Indian Affairs.

(3) Committee

The term “Committee” means the Committee for the Establishment of the Indian Law Enforcement Foundation established under section 5412(e)(1) of this title.

(4) Foundation

The term “Foundation” means the Indian Law Enforcement Foundation established under section 5412 of this title.

(5) Secretary

The term “Secretary” means the Secretary of the Interior.

(Pub. L. 93-638, title VII, §701, as added Pub. L. 111-211, title II, §231(c), July 29, 2010, 124 Stat. 2274.)

CODIFICATION

Section was formerly classified to section 458ccc of this title prior to editorial reclassification and renumbering as this section.

§ 5412. Indian Law Enforcement Foundation

(a) Establishment

(1) In general

As soon as practicable after July 29, 2010, the Secretary shall establish, under the laws of the District of Columbia and in accordance with this subchapter, a foundation, to be known as the “Indian Law Enforcement Foundation”.

(2) Funding determinations

No funds, gift, property, or other item of value (including any interest accrued on such an item) acquired by the Foundation shall—

(A) be taken into consideration for purposes of determining Federal appropriations relating to the provision of public safety or justice services to Indians; or

(B) otherwise limit, diminish, or affect the Federal responsibility for the provision of public safety or justice services to Indians.

(b) Nature of corporation

The Foundation—

(1) shall be a charitable and nonprofit federally chartered corporation; and

(2) shall not be an agency or instrumentality of the United States.

(c) Place of incorporation and domicile

The Foundation shall be incorporated and domiciled in the District of Columbia.

(d) Duties

The Foundation shall—

(1) encourage, accept, and administer, in accordance with the terms of each donation, private gifts of real and personal property, and any income from or interest in such gifts, for the benefit of, or in support of, public safety and justice services in American Indian and Alaska Native communities; and

(2) assist the Office of Justice Services of the Bureau of Indian Affairs and Indian tribal governments in funding and conducting activities and providing education to advance and support the provision of public safety and justice services in American Indian and Alaska Native communities.

(e) Committee for the Establishment of the Indian Law Enforcement Foundation

(1) In general

The Secretary shall establish a committee, to be known as the “Committee for the Establishment of the Indian Law Enforcement Foundation”, to assist the Secretary in establishing the Foundation.

(2) Duties

Not later than 180 days after July 29, 2010, the Committee shall—

(A) carry out such activities as are necessary to incorporate the Foundation under the laws of the District of Columbia, including acting as incorporators of the Foundation;

(B) ensure that the Foundation qualifies for and maintains the status required to carry out this section, until the date on which the Board is established;

(C) establish the constitution and initial bylaws of the Foundation;

(D) provide for the initial operation of the Foundation, including providing for temporary or interim quarters, equipment, and staff; and

(E) appoint the initial members of the Board in accordance with the constitution and initial bylaws of the Foundation.

(f) Board of Directors

(1) In general

The Board of Directors shall be the governing body of the Foundation.

(2) Powers

The Board may exercise, or provide for the exercise of, the powers of the Foundation.

(3) Selection

(A) In general

Subject to subparagraph (B), the number of members of the Board, the manner of selection of the members (including the filling of vacancies), and the terms of office of the members shall be as provided in the constitution and bylaws of the Foundation.

(B) Requirements

(i) Number of members

The Board shall be composed of not less than 7 members.

(ii) Initial voting members

The initial voting members of the Board—

(I) shall be appointed by the Committee not later than 180 days after the date on which the Foundation is established; and

(II) shall serve for staggered terms.

(iii) Qualification

The members of the Board shall be United States citizens with knowledge or experience regarding public safety and justice in Indian and Alaska Native communities.

(C) Compensation

A member of the Board shall not receive compensation for service as a member, but shall be reimbursed for actual and necessary travel and subsistence expenses incurred in the performance of the duties of the Foundation.

(g) Officers

(1) In general

The officers of the Foundation shall be—

(A) a Secretary, elected from among the members of the Board; and

(B) any other officers provided for in the constitution and bylaws of the Foundation.

(2) Chief operating officer

(A) Secretary

Subject to subparagraph (B), the Secretary of the Foundation may serve, at the direction of the Board, as the chief operating officer of the Foundation.

(B) Appointment

The Board may appoint a chief operating officer in lieu of the Secretary of the Foundation under subparagraph (A), who shall serve at the direction of the Board.

(3) Election

The manner of election, term of office, and duties of the officers of the Foundation shall be as provided in the constitution and bylaws of the Foundation.

(h) Powers

The Foundation—

(1) shall adopt a constitution and bylaws for the management of the property of the Foundation and the regulation of the affairs of the Foundation;

(2) may adopt and alter a corporate seal;

- (3) may enter into contracts;
- (4) may acquire (through gift or otherwise), own, lease, encumber, and transfer real or personal property as necessary or convenient to carry out the purposes of the Foundation;
- (5) may sue and be sued; and
- (6) may perform any other act necessary and proper to carry out the purposes of the Foundation.

(i) Principal office

(1) In general

The principal office of the Foundation shall be located in the District of Columbia.

(2) Activities; offices

The activities of the Foundation may be conducted, and offices may be maintained, throughout the United States in accordance with the constitution and bylaws of the Foundation.

(j) Service of process

The Foundation shall comply with the law on service of process of each State in which the Foundation is incorporated and of each State in which the Foundation carries on activities.

(k) Liability of officers, employees, and agents

(1) In general

The Foundation shall be liable for the acts of the officers, employees, and agents of the Foundation acting within the scope of the authority of the officers, employees, and agents.

(2) Personal liability

A member of the Board shall be personally liable only for gross negligence in the performance of the duties of the member.

(l) Restrictions

(1) Limitation on spending

Beginning with the fiscal year following the first full fiscal year during which the Foundation is in operation, the administrative costs of the Foundation shall not exceed the percentage described in paragraph (2) of the sum of—

- (A) the amounts transferred to the Foundation under subsection (n) during the preceding fiscal year; and
- (B) donations received from private sources during the preceding fiscal year.

(2) Percentages

The percentages referred to in paragraph (1) are—

- (A) for the first 2 fiscal years described in that paragraph, 25 percent;
- (B) for the following fiscal year, 20 percent; and
- (C) for each fiscal year thereafter, 15 percent.

(3) Appointment and hiring

The appointment of officers and employees of the Foundation shall be subject to the availability of funds.

(4) Status

A member of the Board or officer, employee, or agent of the Foundation shall not by reason of association with the Foundation be consid-

ered to be an officer, employee, or agent of the United States.

(m) Audits

The Foundation shall comply with section 10101 of title 36 as if the Foundation were a corporation under part B of subtitle II of that title.

(n) Funding

For each of fiscal years 2011 through 2015, out of any unobligated amounts available to the Secretary, the Secretary may use to carry out this section not more than \$500,000.

(Pub. L. 93-638, title VII, § 702, as added Pub. L. 111-211, title II, § 231(c), July 29, 2010, 124 Stat. 2274.)

CODIFICATION

Section was formerly classified to section 458ccc-1 of this title prior to editorial reclassification and renumbering as this section.

§ 5413. Administrative services and support

(a) Provision of support by Secretary

Subject to subsection (b), during the 5-year period beginning on the date on which the Foundation is established, the Secretary—

- (1) may provide personnel, facilities, and other administrative support services to the Foundation;
- (2) may provide funds for initial operating costs and to reimburse the travel expenses of the members of the Board; and
- (3) shall require and accept reimbursements from the Foundation for—
 - (A) services provided under paragraph (1); and
 - (B) funds provided under paragraph (2).

(b) Reimbursement

Reimbursements accepted under subsection (a)(3)—

- (1) shall be deposited in the Treasury of the United States to the credit of the applicable appropriations account; and
- (2) shall be chargeable for the cost of providing services described in subsection (a)(1) and travel expenses described in subsection (a)(2).

(c) Continuation of certain services

The Secretary may continue to provide facilities and necessary support services to the Foundation after the termination of the 5-year period specified in subsection (a) if the facilities and services are—

- (1) available; and
- (2) provided on reimbursable cost basis.

(Pub. L. 93-638, title VII, § 703, as added Pub. L. 111-211, title II, § 231(c), July 29, 2010, 124 Stat. 2277.)

CODIFICATION

Section was formerly classified to section 458ccc-2 of this title prior to editorial reclassification and renumbering as this section.

SUBCHAPTER VII—NATIONAL FUND FOR EXCELLENCE IN AMERICAN INDIAN EDUCATION

CODIFICATION

Subchapter is comprised of title VIII, formerly title V, of Pub. L. 93-638, which was formerly classified to