

**§ 2002. Transfer of hospitals and facilities to State or private institutions; conditions and restrictions; failure to meet requirements**

Whenever the health needs of the Indians can be better met thereby, the Secretary of Health and Human Services is authorized in his discretion to enter into contracts with any State, Territory, or political subdivision thereof, or any private nonprofit corporation, agency or institution providing for the transfer by the United States Public Health Service of Indian hospitals or health facilities, including initial operating equipment and supplies.

It shall be a condition of such transfer that all facilities transferred shall be available to meet the health needs of the Indians and that such health needs shall be given priority over those of the non-Indian population. No hospital or health facility that has been constructed or maintained for a specific tribe of Indians, or for a specific group of tribes, shall be transferred by the Secretary of Health and Human Services to a non-Indian entity or organization under this subchapter unless such action has been approved by the governing body of the tribe, or by the governing bodies of a majority of the tribes, for which such hospital or health facility has been constructed or maintained: *Provided*, That if, following such transfer by the United States Public Health Service, the Secretary of Health and Human Services finds the hospital or health facility transferred under this section is not thereafter serving the need of the Indians, the Secretary of Health and Human Services shall notify those charged with management thereof, setting forth needed improvements, and in the event such improvements are not made within a time to be specified, shall immediately assume management and operation of such hospital or health facility.

(Aug. 5, 1954, ch. 658, § 2, 68 Stat. 674; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

**EFFECTIVE DATE**

Section effective July 1, 1959, see section 6 of act Aug. 5, 1954, set out as a note under section 2001 of this title.

**TRANSFER OF FUNCTIONS**

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

**§ 2003. Regulations**

The Secretary of Health and Human Services is also authorized to make such other regulations as he deems desirable to carry out the provisions of this subchapter.

(Aug. 5, 1954, ch. 658, § 3, 68 Stat. 674; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

**CHANGE OF NAME**

“Secretary of Health and Human Services” substituted in text for “Secretary of Health, Education,

and Welfare” pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

**EFFECTIVE DATE**

Section effective July 1, 1959, see section 6 of act Aug. 5, 1954, set out as a note under section 2001 of this title.

**§ 2004. Transfer of personnel, property, records, monies**

The personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available), which the Director of the Office of Management and Budget shall determine to relate primarily to the functions transferred to the Public Health Service of the Department of Health and Human Services hereunder, are transferred for use in the administration of the functions so transferred. Any of the personnel transferred pursuant to this subchapter which the transferee agency shall find to be in excess of the personnel necessary for the administration of the functions transferred to such agency shall be retransferred under existing law to other positions in the Government or separated from the service.

(Aug. 5, 1954, ch. 658, § 4, 68 Stat. 674; 1970 Reorg. Plan No. 2, § 102, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

**EFFECTIVE DATE**

Section effective July 1, 1959, see section 6 of act Aug. 5, 1954, set out as a note under section 2001 of this title.

**TRANSFER OF FUNCTIONS**

Functions vested by law (including reorganization plan) in Bureau of the Budget or Director of Bureau of the Budget transferred to President of the United States by section 101 of Reorg. Plan No. 2 of 1970, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to Title 5, Government Organization and Employees. Section 102 of Reorg. Plan No. 2 of 1970, redesignated Bureau of the Budget as Office of Management and Budget.

Functions of Public Health Service, Surgeon General of Public Health Service, and all other officers and employees of Public Health Service, and functions of all agencies of or in Public Health Service transferred to Secretary of Health, Education, and Welfare by Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, set out as a note under section 202 of this title. Secretary and Department of Health, Education, and Welfare redesignated Secretary and Department of Health and Human Services by section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

**§ 2004a. Sanitation facilities**

**(a) Powers of Surgeon General**

In carrying out his functions under this subchapter with respect to the provision of sanitation facilities and services, the Surgeon General is authorized—

(1) to construct, improve, extend, or otherwise provide and maintain, by contract or otherwise, essential sanitation facilities, including domestic and community water supplies and facilities, drainage facilities, and sewage- and waste-disposal facilities, together with necessary appurtenances and fixtures, for Indian homes, communities, and lands;

(2) to acquire lands, or rights or interests therein, including sites, rights-of-way, and easements, and to acquire rights to the use of water, by purchase, lease, gift, exchange, or otherwise, when necessary for the purposes of this section, except that no lands or rights or interests therein may be acquired from an Indian tribe, band, group, community, or individual other than by gift or for nominal consideration, if the facility for which such lands or rights or interests therein are acquired is for the exclusive benefit of such tribe, band, group, community, or individual, respectively;

(3) to make such arrangements and agreements with appropriate public authorities and nonprofit organizations or agencies and with the Indians to be served by such sanitation facilities (and any other person so served) regarding contributions toward the construction, improvement, extension and provision thereof, and responsibilities for maintenance thereof, as in his judgment are equitable and will best assure the future maintenance of facilities in an effective and operating condition; and

(4) to transfer any facilities provided under this section, together with appurtenant interests in land, with or without a money consideration, and under such terms and conditions as in his judgment are appropriate, having regard to the contributions made and the maintenance responsibilities undertaken, and the special health needs of the Indians concerned, to any State or Territory or subdivision or public authority thereof, or to any Indian tribe, group, band, or community or, in the case of domestic appurtenances and fixtures, to any one or more of the occupants of the Indian home served thereby.

**(b) Transfer and reversion of lands**

The Secretary of the Interior is authorized to transfer to the Surgeon General for use in carrying out the purposes of this section such interest and rights in federally owned lands under the jurisdiction of the Department of the Interior, and in Indian-owned lands that either are held by the United States in trust for Indians or are subject to a restriction against alienation imposed by the United States, including appurtenances and improvements thereto, as may be requested by the Surgeon General. Any land or interest therein, including appurtenances and improvements to such land, so transferred shall be subject to disposition by the Surgeon General in accordance with paragraph (4) of subsection (a): *Provided*, That, in any case where a beneficial interest in such land is in any Indian, or Indian tribe, band, or group, the consent of such beneficial owner to any such transfer or disposition shall first be obtained: *Provided further*, That where deemed appropriate by the Secretary of the Interior provisions shall be made for a reversion of title to such land if it ceases to be used for the purpose for which it is transferred or disposed.

**(c) Project consultation and participation**

The Surgeon General shall consult with, and encourage the participation of, the Indians concerned, States and political subdivisions thereof, in carrying out the provisions of this section.

(Aug. 5, 1954, ch. 658, §7, as added Pub. L. 86-121, §1, July 31, 1959, 73 Stat. 267.)

TRANSFER OF FUNCTIONS

Office of Surgeon General abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610, and functions thereof transferred to Secretary of Health, Education, and Welfare by section 1 of Reorg. Plan No. 3 of 1966, set out as a note under section 202 of this title. Secretary of Health, Education, and Welfare redesignated Secretary of Health and Human Services by section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education. Office of Surgeon General reestablished within the Office of the Assistant Secretary for Health, see Notice of Department of Health and Human Services, Office of the Assistant Secretary for Health, Mar. 30, 1987, 52 F.R. 11754.

**§ 2004b. Implementation of education, hospital and health facility, etc., contracts and grants by Public Health Service personnel; request for detail of personnel**

In accordance with subsection (d) of section 215 of this title, upon the request of any Indian tribe, band, group, or community, commissioned officers of the Service may be assigned by the Secretary for the purpose of assisting such Indian tribe, group, band, or community in carrying out the provisions of contracts with, or grants to, tribal organizations pursuant to sections 5321 and 5322 of title 25.

(Aug. 5, 1954, ch. 658, §8, as added Pub. L. 93-638, title I, §104(b), formerly §105(b), Jan. 4, 1975, 88 Stat. 2208; renumbered §104(b) and amended Pub. L. 100-472, title II, §203(a), (c), Oct. 5, 1988, 102 Stat. 2290.)

AMENDMENTS

1988—Pub. L. 100-472, which directed amendment of this section by substituting reference to sections 5321 and 5322 of title 25 for reference to section 5321, former section 450g, “and” section 5322 of title 25, was executed by making the substitution for reference to section 5321, former section 450g, “or” section 5322 of title 25, to reflect the probable intent of Congress.

SUBCHAPTER II—CONSTRUCTION OF HEALTH FACILITIES AND COMMUNITY HOSPITALS

**§ 2005. Financial assistance by Surgeon General**

Whenever the Surgeon General of the Public Health Service, in carrying out his functions under subchapter I of this chapter with respect to the provision of health services to Indians in any particular area, determines, after consultation with such Indians, that the provision of financial assistance to one or more public or other nonprofit agencies or organizations for the construction of a community hospital constitutes a method of making needed hospital facilities available for such Indians which is more desirable and effective than direct Federal construction, he may provide such financial assistance from funds available for the construction of Indian health facilities for such Indians.

(Pub. L. 85-151, §1, Aug. 16, 1957, 71 Stat. 370.)

TRANSFER OF FUNCTIONS

Office of Surgeon General abolished by section 3 of Reorg. Plan No. 3 of 1966, eff. June 25, 1966, 31 F.R. 8855,