

(13) Section 111 [25 U.S.C. 5332] (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. 5301 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. 5301 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. 5301 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 assistance 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 con-

tract 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. 5301 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, which is classified principally to chapter 46 (§ 5301 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.

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 direction and control of the Director of the Office of Indian Education Programs. Required reports shall be submitted to education personnel under the direction and control of the Director of such Office.

(Pub. L. 100-297, title V, § 5209, as added Pub. L. 107-110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2077.)

PRIOR PROVISIONS

A prior section 2508, Pub. L. 100-297, title V, § 5209, Apr. 28, 1988, 102 Stat. 394; Pub. L. 100-427, § 14, Sept. 9, 1988, 102 Stat. 1609; Pub. L. 101-301, § 5(b), May 24, 1990, 104 Stat. 207; Pub. L. 103-382, title III, § 382(d), (e), Oct. 20, 1994, 108 Stat. 4017, 4018, related to application with respect to Indian Self-Determination and Education

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

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

Assistance Act, prior to repeal by Pub. L. 107-110, title X, §1043, Jan. 8, 2002, 115 Stat. 2063. See section 2507 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.

### § 2509. Regulations

The Secretary is authorized to issue regulations relating to the discharge of duties specifically assigned to the Secretary in this chapter. For all other matters relating to the details of planning, developing, implementing, and evaluating grants under this chapter, the Secretary shall not issue regulations.

(Pub. L. 100-297, title V, §5210, as added Pub. L. 107-110, title X, §1043, Jan. 8, 2002, 115 Stat. 2077.)

#### PRIOR PROVISIONS

A prior section 2509, Pub. L. 100-297, title V, §5210, Apr. 28, 1988, 102 Stat. 394, related to role of Director, prior to repeal by Pub. L. 107-110, title X, §1043, Jan. 8, 2002, 115 Stat. 2063. See section 2508 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.

### § 2510. The tribally controlled grant school endowment program

#### (a) In general

##### (1) Establishment

Each school receiving a grant under this chapter may establish, at a federally insured financial institution, a trust fund for the purposes of this section.

##### (2) Deposits and use

The school may provide—

(A) for deposit into the trust fund, only funds from non-Federal sources, except that the interest on funds received from grants provided under this chapter may be used for that purpose;

(B) for deposit into the trust fund, any earnings on funds deposited in the fund; and

(C) for the sole use of the school any non-cash, in-kind contributions of real or personal property, which may at any time be used, sold, or otherwise disposed of.

#### (b) Interest

Interest from the fund established under subsection (a) may periodically be withdrawn and used, at the discretion of the school, to defray any expenses associated with the operation of the school consistent with the purposes of this Act.<sup>1</sup>

(Pub. L. 100-297, title V, §5211, as added Pub. L. 107-110, title X, §1043, Jan. 8, 2002, 115 Stat. 2078.)

#### REFERENCES IN TEXT

This Act, referred to in subsec. (b), is Pub. L. 100-297 and probably should be “this part”, meaning part B of

title V of Pub. L. 100-297, known as the Tribally Controlled Schools Act of 1988, which is classified generally to this chapter. For complete classification of part B to the Code, see Short Title note set out under section 2501 of this title and Tables.

#### PRIOR PROVISIONS

A prior section 2510, Pub. L. 100-297, title V, §5211, Apr. 28, 1988, 102 Stat. 394, related to regulations, prior to repeal by Pub. L. 107-110, title X, §1043, Jan. 8, 2002, 115 Stat. 2063. See section 2509 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.

### § 2511. Definitions

In this chapter:

#### (1) Bureau

The term “Bureau” means the Bureau of Indian Affairs of the Department of the Interior.

#### (2) Eligible Indian student

The term “eligible Indian student” has the meaning given such term in section 2007(f) of this title.

#### (3) Indian

The term “Indian” means a member of an Indian tribe, and includes individuals who are eligible for membership in a tribe, and the child or grandchild of such an individual.

#### (4) Indian tribe

The term “Indian tribe” means any Indian tribe, band, nation, or other organized group or community, including an Alaska Native Village Corporation or Regional Corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.]), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

#### (5) Local educational agency

The term “local educational agency” means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State or such combination of school districts or counties as are recognized in a State as an administrative agency for the State’s public elementary schools or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

#### (6) Secretary

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

#### (7) Tribal governing body

The term “tribal governing body” means, with respect to any school that receives assistance under this Act,<sup>1</sup> the recognized governing body of the Indian tribe involved.

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

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