

these individuals and making decisions on these programs reflecting their determinations of the tribal and human needs;

(4) the contracting process under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 5301 et seq.] has provided a mechanism for the majority of the tribes to assume control over this program from the Bureau of Indian Affairs;

(5) however, inherent limitations in the contracting philosophy and mechanism, coupled with cumbersome administrative procedures developed by the Bureau of Indian Affairs have effectively limited the efficiency and effectiveness of these programs;

(6) the provision of these services in the most effective and efficient form possible is necessary for tribes, the country, and the individuals to be served; and

(7) these services are part of the Federal Government's continuing trust responsibility to provide education services to American Indian and Alaska Natives.

(Pub. L. 102-325, title XIII, §1312, July 23, 1992, 106 Stat. 798.)

#### REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in par. (4), 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.

### § 3303. Program authority

#### (a) In general

The Secretary shall, from the amounts appropriated for the purpose of supporting higher education grants for Indian students under the authority of section 13 of this title, make grants to Indian tribes in accordance with the requirements of this subchapter to permit those tribes to provide financial assistance to individual Indian students for the cost of attendance at institutions of higher education.

#### (b) Limitation on Secretary's authority

The Secretary shall not place any restrictions on the use of funds provided to an Indian tribe under this subchapter that is not expressly authorized by this subchapter.

#### (c) Effect on Federal responsibilities

The provisions of this subchapter shall not affect any trust responsibilities of the Federal Government.

#### (d) No termination for administrative convenience

Grants provided under this subchapter may not be terminated, modified, suspended, or reduced only for the convenience of the administering agency.

(Pub. L. 102-325, title XIII, §1313, July 23, 1992, 106 Stat. 798.)

### § 3304. Qualification for grants to tribes

#### (a) Contracting tribes

Any Indian tribe that obtains funds for educational purposes similar to those authorized in

this subchapter pursuant to contract under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 5301 et seq.] may qualify for a grant under this subchapter by submitting to the Secretary a notice of intent to administer a student assistance program under section 3303 of this title. Such notice shall be effective for the fiscal year following the fiscal year in which it is submitted, except that if such notice is submitted during the last 90 days of a fiscal year such notice shall be effective the second fiscal year following the fiscal year in which it is submitted, unless the Secretary waives this limitation.

#### (b) Noncontracting tribes

Any Indian tribe that is not eligible to qualify for a grant under this subchapter by filing a notice under subsection (a) may qualify for such a grant by filing an application for such a grant. Such application shall be submitted under guidelines for programs under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 5301 et seq.], as in effect on January 1, 1991, and shall be reviewed under the standards, practices, and procedures applicable to applications to contract under such Act as in effect on the date the application is received, except that—

(1) if the tribe is not notified that its application has been disapproved within 180 days after it is filed with the Secretary, the application shall be deemed to be approved;

(2) if the application is disapproved, the Secretary shall provide technical assistance to the tribe for purposes of correcting deficiencies in the application;

(3) the Secretary shall designate an office or official to receive such applications, and shall toll the 180-day period described in paragraph (1) from the date of receipt by such office or official; and

(4) applications shall be approved for the fiscal year following the fiscal year in which submitted, unless the Secretary waives the limitation of this paragraph.

#### (c) Termination of grants

##### (1) Continuing eligibility presumed

An Indian tribe which has qualified under subsection (a) or (b) for a grant under this subchapter for any fiscal year shall continue to be eligible for such a grant for each succeeding fiscal year unless the Secretary revokes such eligibility for a cause described in paragraph (2).

##### (2) Causes for loss of eligibility

The Secretary may revoke the eligibility of an Indian tribe for a grant under this subchapter if such tribe—

(A) fails to submit to the Bureau an annual financial statement that reports revenues and expenditures determined by use of an accounting system, established by the tribe, that complies with generally accepted accounting principles;

(B) fails to submit to the Bureau an annual program description, stating the number of students served, and containing such information concerning such students, their educational programs and progress, and the fi-

financial assistance distributed to such students as the Secretary may require by regulation;

(C) fails to submit to the Secretary a biennial financial audit conducted in accordance with chapter 75 of title 31; or

(D) fails, in an evaluation of its financial assistance program conducted by an impartial third party entity, to comply with standards under this subchapter relating to (i) eligible students, programs, or institutions of higher education, (ii) satisfactory progress, or (iii) allowable administrative costs; as determined under contracts applicable to programs to provide financial assistance to individual Indian students for the cost of attendance at institutions of higher education administered by Indian tribes under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 5301 et seq.] and in effect on January 20, 1991.

### (3) Procedures for revocation of eligibility

The Secretary shall not revoke the eligibility of an Indian tribe for a grant under this subchapter except—

(A) after notice in writing to the tribe of the cause and opportunity to the tribe to correct;

(B) providing technical assistance to the tribe in making such corrections; and

(C) after hearing and appeals conducted under the same rules and regulations that apply to similar termination actions under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 5301 et seq.].

(Pub. L. 102-325, title XIII, §1314, July 23, 1992, 106 Stat. 799.)

#### 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.

### § 3305. Allocation of grant funds

#### (a) Allocation of funds

##### (1) In general

The Secretary shall continue to determine the amount of program funds to be received by each grantee under this subchapter by the same method used for determining such distribution in fiscal year 1991 for tribally-administered and Bureau-administered programs of grants to individual Indians to defray post-secondary expenses.

##### (2) Administrative costs

In addition to the amount determined under paragraph (1), a grantee which has exercised the option given in section 3304(a) of this title to administer the program under a grant shall receive an amount for administrative costs determined pursuant to the method used by the grantee during the preceding contract period. All other grantees shall receive an amount for administrative costs determined pursuant to the regulations governing such determinations under the Indian Self Determination and Edu-

cation Assistance Act [25 U.S.C. 5301 et seq.], as in effect at the time of application to grants being made.

### (3) Single grant; separate accounts

Each grantee shall receive only one grant during any fiscal year, which shall include both of the amounts under paragraphs (1) and (2). Each grantee shall maintain this grant in a separate account.

#### (b) Use of funds

Funds provided by grants under this subchapter shall be used—

(1) to make grants to individual Indian students to meet, on the basis of need, any educational expense of attendance in a post-secondary education program (as determined under the contracts applying to the post-secondary education program administered by tribes under the Indian Self Determination and Education Assistance Act (Public Law 93-638) [25 U.S.C. 5301 et seq.]), to the extent that such expense is not met from other sources or cannot be defrayed through the action of any State, Federal, or municipal Act, except that nothing in this subsection shall be interpreted as requiring any priority in consideration of resources; and

(2) costs of administering the program under this subchapter, except that no more may be spent on administration of such program than is generated by the method for administrative cost computation specified in subsection (a)(2).

(Pub. L. 102-325, title XIII, §1315, July 23, 1992, 106 Stat. 800.)

#### REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsecs. (a)(2) and (b)(1), 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.

### § 3306. Limitations on use of funds

#### (a) Use for religious purposes

None of the funds made available under this subchapter may be used for study at any school or department of divinity or for any religious worship or sectarian activity.

#### (b) Interest on funds

No interest or other income on any funds made available under this subchapter shall be used for any purpose other than those for which such funds may be used.

#### (c) Payments

##### (1) In general

Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this subchapter in two payments—

(A) one payment to be made no later than October 1 of each fiscal year in an amount equal to one-half the amount paid during the preceding fiscal year to the grantee or a contractor that has elected to have the provisions of this subchapter apply, and

(B) the second payment consisting of the remainder to which the grantee or contrac-