

“(D) the category of risk and coverage involved, which may include—

- “(i) general liability;
- “(ii) automobile liability;
- “(iii) the liability of officials of the Indian tribe;
- “(iv) law enforcement liability;
- “(v) workers’ compensation; and
- “(vi) other types of liability contingencies.

“(3) ASSESSMENT OF COVERAGE BY CATEGORIES OF RISK.—For each Indian tribe, for each category of risk identified under paragraph (2), the Secretary, in conducting the study, shall determine whether insurance coverage or coverage under chapter 171 of title 28, United States Code, applies to that Indian tribe for that activity.

“(b) REPORT.—Not later than June 1, 1999, and annually thereafter, the Secretary shall submit a report to Congress that contains legislative recommendations that the Secretary determines to—

- “(1) be appropriate to improve the provision of insurance coverage to Indian tribes; or
- “(2) otherwise achieve the purpose of providing relief to persons who are injured as a result of an official action of a tribal government.

“SEC. 705. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to the Department of the Interior such sums as may be necessary to carry out this title.”

CLAIMS RESULTING FROM PERFORMANCE OF CONTRACT, GRANT AGREEMENT, OR COOPERATIVE AGREEMENT; CIVIL ACTION AGAINST TRIBE, TRIBAL ORGANIZATION, ETC., DEEMED ACTION AGAINST UNITED STATES; REIMBURSEMENT OF TREASURY FOR PAYMENT OF CLAIMS

Pub. L. 101–512, title III, §314, Nov. 5, 1990, 104 Stat. 1959, as amended by Pub. L. 103–138, title III, §308, Nov. 11, 1993, 107 Stat. 1416, provided that: “With respect to claims resulting from the performance of functions during fiscal year 1991 and thereafter, or claims asserted after September 30, 1990, but resulting from the performance of functions prior to fiscal year 1991, under a contract, grant agreement, or any other agreement or compact authorized by the Indian Self-Determination and Education Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450 et seq. [now 25 U.S.C. 5301 et seq.]) [Pub. L. 93–638, see Short Title note set out under section 5301 of this title and Tables] or by title V, part B, Tribally Controlled School Grants of the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988, as amended (102 Stat. 385; 25 U.S.C. 2501 et seq.), an Indian tribe, tribal organization or Indian contractor is deemed hereafter to be part of the Bureau of Indian Affairs in the Department of the Interior or the Indian Health Service in the Department of Health and Human Services while carrying out any such contract or agreement and its employees are deemed employees of the Bureau or Service while acting within the scope of their employment in carrying out the contract or agreement: *Provided*, That after September 30, 1990, any civil action or proceeding involving such claims brought hereafter against any tribe, tribal organization, Indian contractor or tribal employee covered by this provision shall be deemed to be an action against the United States and will be defended by the Attorney General and be afforded the full protection and coverage of the Federal Tort Claims Act [See Short Title note under section 2671 of Title 28, Judiciary and Judicial Procedure]: *Provided further*, That beginning with the fiscal year ending September 30, 1991, and thereafter, the appropriate Secretary shall request through annual appropriations funds sufficient to reimburse the Treasury for any claims paid in the prior fiscal year pursuant to the foregoing provisions: *Provided further*, That nothing in this section shall in any way affect the provisions of section 102(d) of the Indian Self-Determination and Education Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450 et seq. [now 25 U.S.C. 5301 et seq.]) [25 U.S.C. 5321(d)].”

REFERENCE TO FORMER SECTION 450g(c) IN PUBLIC LAW 100–446

Pub. L. 100–472, title II, §201(b)(2), Oct. 5, 1988, 102 Stat. 2289, provided that: “Any reference to section 103(c) [§103(c) of Pub. L. 93–638, former 25 U.S.C. 450g(c)] contained in an Act making appropriations for the Department of the Interior and Related Agencies for fiscal year 1989 [Pub. L. 100–446, see Tables for classification] shall be deemed to apply to section 102(d) of such Act [§102(d) of Pub. L. 93–638, former 25 U.S.C. 450f(d), now 25 U.S.C. 5321(d)] as amended by this Act.”

See Codification notes above.

§ 5322. Grants to tribal organizations or tribes

(a) Request by tribe for contract or grant by Secretary of the Interior for improving, etc., tribal governmental, contracting, and program planning activities

The Secretary of the Interior is authorized, upon the request of any Indian tribe (from funds appropriated for the benefit of Indians pursuant to section 13 of this title, and any Act subsequent thereto) to contract with or make a grant or grants to any tribal organization for—

(1) the strengthening or improvement of tribal government (including, but not limited to, the development, improvement, and administration of planning, financial management, or merit personnel systems; the improvement of tribally funded programs or activities; or the development, construction, improvement, maintenance, preservation, or operation of tribal facilities or resources);

(2) the planning, training, evaluation of other activities designed to improve the capacity of a tribal organization to enter into a contract or contracts pursuant to section 5321 of this title and the additional costs associated with the initial years of operation under such a contract or contracts; or

(3) the acquisition of land in connection with items (1) and (2) above: *Provided*, That in the case of land within Indian country (as defined in chapter 53 of title 18) or which adjoins on at least two sides lands held in trust by the United States for the tribe or for individual Indians, the Secretary of Interior may (upon request of the tribe) acquire such land in trust for the tribe.

(b) Grants by Secretary of Health and Human Services for development, maintenance, etc., of health facilities or services and improvement of contract capabilities implementing hospital and health facility functions

The Secretary of Health and Human Services may, in accordance with regulations adopted pursuant to section 5328 of this title, make grants to any Indian tribe or tribal organization for—

(1) the development, construction, operation, provision, or maintenance of adequate health facilities or services including the training of personnel for such work, from funds appropriated to the Indian Health Service for Indian health services or Indian health facilities; or

(2) planning, training, evaluation or other activities designed to improve the capacity of

¹ So in original. Probably should be followed by “the”.

a tribal organization to enter into a contract or contracts pursuant to section 103 of this Act.²

(c) Use as matching shares for other similar Federal grant programs

The provisions of any other Act notwithstanding, any funds made available to a tribal organization under grants pursuant to this section may be used as matching shares for any other Federal grant programs which contribute to the purposes for which grants under this section are made.

(d) Technical assistance

The Secretary is directed, upon the request of any tribal organization and subject to the availability of appropriations, to provide technical assistance on a nonreimbursable basis to such tribal organization—

(1) to develop any new self-determination contract authorized pursuant to this chapter;

(2) to provide for the assumption by such tribal organization of any program, or portion thereof, provided for in section 5321(a)(1) of this title; or

(3) to develop modifications to any proposal for a self-determination contract which the Secretary has declined to approve pursuant to section 5321 of this title.

(e) Grants for technical assistance and for planning, etc., Federal programs for tribe

The Secretary is authorized, upon the request of an Indian tribe, to make a grant to any tribal organization for—

(1) obtaining technical assistance from providers designated by the tribal organization, including tribal organizations that operate mature contracts, for the purposes of program planning and evaluation, including the development of any management systems necessary for contract management, and the development of cost allocation plans for indirect cost rates; and

(2) the planning, designing, monitoring, and evaluating of Federal programs serving the tribe, including Federal administrative functions.

(Pub. L. 93-638, title I, §103, formerly §104, Jan. 4, 1975, 88 Stat. 2207; renumbered §103 and amended Pub. L. 100-472, title II, §202, Oct. 5, 1988, 102 Stat. 2289; Pub. L. 101-644, title II, §203(g)(1), Nov. 29, 1990, 104 Stat. 4666.)

REFERENCES IN TEXT

Section 103 of this Act, referred to in subsec. (b)(2), probably means former section 103 of Pub. L. 93-638, which was classified to former section 450g of this title, prior to repeal in part and transfer in part to former section 450f(d) of this title by Pub. L. 100-472, title II, §201(b)(1), Oct. 5, 1988, 102 Stat. 2289, and editorial reclassification and renumbering of former section 450f(d) as section 5321(d) of this title. See Prior Provisions note below.

This chapter, referred to in subsec. (d)(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.

² See References in Text note below.

CODIFICATION

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

PRIOR PROVISIONS

A prior section 103 of Pub. L. 93-638 was classified to former section 450g of this title prior to repeal in part and transfer in part to former section 450f(d) of this title by Pub. L. 100-472, title II, §201(b)(1), Oct. 5, 1988, 102 Stat. 2289, and editorial reclassification and renumbering of former section 450f(d) as section 5321(d) of this title.

AMENDMENTS

1990—Subsec. (a)(3). Pub. L. 101-644, which directed the substitution of “Indian country (as defined in chapter 53 of title 18)” for “reservation boundaries” in “section 301(a)(3) of the Indian Self-Determination Act”, was executed to this section, which is section 103(a)(3) of that Act, to reflect the probable intent of Congress.

1988—Subsec. (a). Pub. L. 100-472, §202(b), inserted “or” at end of par. (2), substituted a period for “; or” at end of par. (3), and struck out par. (4) which read as follows: “the planning, designing, monitoring, and evaluating of Federal programs serving the tribe.”

Subsec. (b). Pub. L. 100-472, §202(c), substituted “Health and Human Services” for “Health, Education, and Welfare”.

Subsecs. (d), (e). Pub. L. 100-472, §202(d), added subsecs. (d) and (e).

AUTHORITY OF SECRETARY TO ACQUIRE LANDS IN TRUST

Pub. L. 101-644, title II, §203(g)(2), Nov. 29, 1990, 104 Stat. 4666, provided that: “The amendment made by paragraph (1) [amending this section] shall not alter or otherwise modify or affect existing prohibitions or limitations on the Secretary’s authority to acquire lands in trust.”

§5323. Retention of Federal employee coverage, rights and benefits by employees of tribal organizations

(a) to (d) Omitted

(e) Eligible employees; Federal employee programs subject to retention

Notwithstanding the provisions of sections 8347(o), 8713, and 8914 of title 5, executive order, or administrative regulation, an employee serving under an appointment not limited to one year or less who leaves Federal employment to be employed by a tribal organization, the city of St. Paul, Alaska, the city of St. George, Alaska, upon incorporation, or the Village Corporations of St. Paul and St. George Islands established pursuant to section 1607 of title 43, in connection with governmental or other activities which are or have been performed by employees in or for Indian communities is entitled, if the employee and the tribal organization so elect, to the following:

(1) To retain coverage, rights, and benefits under subchapter I of chapter 81 (“Compensation for Work Injuries”) of title 5, and for this purpose his employment with the tribal organization shall be deemed employment by the United States. However, if an injured employee, or his dependents in case of his death, receives from the tribal organization any payment (including an allowance, gratuity, payment under an insurance policy for which the premium is wholly paid by the tribal organiza-