

CODIFICATION

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

In subsec. (e)(1), “division B (except sections 1123, 2303, 2304, and 2313) of subtitle I of title 41” substituted for “the Office of Federal Procurement and Policy Act” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2008—Subsec. (b)(4)(A). Pub. L. 110-315 substituted “the Tribally Controlled Colleges and Universities Assistance Act of 1978” for “the Tribally Controlled College or University Assistance Act of 1978”.

2000—Subsec. (h)(2). Pub. L. 106-568 struck out “and” before “section 5123 of this title” and substituted “and the Act of July 3, 1952 (25 U.S.C. 82a), shall not apply” for “shall not apply”.

1998—Subsec. (b)(4)(A). Pub. L. 105-244 substituted “Tribally Controlled College or University Assistance Act of 1978” for “Tribally Controlled Community College Assistance Act of 1978”.

1996—Subsec. (i). Pub. L. 104-109 added subsec. (i).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105-244, see section 3 of Pub. L. 105-244, set out as a note under section 1001 of Title 20, Education.

§ 5364. Budget request

The Secretary shall identify, in the annual budget request of the President to the Congress under section 1105 of title 31 any funds proposed to be included in agreements authorized under this subchapter.

(Pub. L. 93-638, title IV, §404, as added Pub. L. 103-413, title II, §204, Oct. 25, 1994, 108 Stat. 4275.)

CODIFICATION

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

§ 5365. Reports**(a) Requirement**

The Secretary shall submit to Congress a written report on January 1 of each year following October 25, 1994, regarding the administration of this subchapter.

(b) Contents

The report shall—

(1) identify the relative costs and benefits of Self-Governance;

(2) identify, with particularity, all funds that are specifically or functionally related to the provision by the Secretary of services and benefits to Self-Governance tribes and their members;

(3) identify the funds transferred to each Self-Governance tribe and the corresponding reduction in the Federal bureaucracy;

(4) include the separate views of the tribes; and

(5) include the funding formula for individual tribal shares of Central Office funds, together with the comments of affected Indian tribes, developed under subsection (d) of this section.

(c) Report on non-BIA programs

(1) In order to optimize opportunities for including non-Bureau of Indian Affairs programs,

services, functions, and activities, or portions thereof, in agreements with tribes participating in Self-Governance under this subchapter, the Secretary shall—

(A) review all programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior, other than through the Bureau of Indian Affairs, without regard to the agency or office concerned; and

(B) not later than 90 days after October 25, 1994, provide to the appropriate committees of Congress a listing of all such programs, services, functions, and activities, or portions thereof, that the Secretary determines, with the concurrence of tribes participating in Self-Governance under this subchapter, are eligible for inclusion in such agreements at the request of a participating Indian tribe.

(2) The Secretary shall establish programmatic targets, after consultation with tribes participating in Self-Governance under this subchapter, to encourage bureaus of the Department to assure that a significant portion of such programs, services, functions, and activities are actually included in the agreements negotiated under section 5363 of this title.

(3) The listing and targets under paragraphs (1) and (2) shall be published in the Federal Register and be made available to any Indian tribe participating in Self-Governance under this subchapter. The list shall be published before January 1, 1995, and annually thereafter by January 1 preceding the fiscal year in which the targets are to be met.

(4) Thereafter, the Secretary shall annually review and publish in the Federal Register, after consultation with tribes participating in Self-Governance under this subchapter, a revised listing and programmatic targets.

(d) Report on Central Office funds

Within 90 days after October 25, 1994, the Secretary shall, in consultation with Indian tribes, develop a funding formula to determine the individual tribal share of funds controlled by the Central Office of the Bureau of Indian Affairs for inclusion in the Self-Governance compacts. The Secretary shall include such formula in the annual report submitted to the Congress under subsection (b) of this section, together with the views of the affected Indian tribes.

(Pub. L. 93-638, title IV, §405, as added Pub. L. 103-413, title II, §204, Oct. 25, 1994, 108 Stat. 4276.)

CODIFICATION

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

§ 5366. Disclaimers**(a) Other services, contracts, and funds**

Nothing in this subchapter shall be construed to limit or reduce in any way the services, contracts, or funds that any other Indian tribe or tribal organization is eligible to receive under section 5321 of this title or any other applicable Federal law.

(b) Federal trust responsibilities

Nothing in this chapter shall be construed to diminish the Federal trust responsibility to In-

dian tribes, individual Indians, or Indians with trust allotments.

(c) Application of other sections of chapter

All provisions of sections 5305(d), 5306, 5321(c), 5323, 5324(f), 5331, and 5332 of this title shall apply to agreements provided under this subchapter.

(Pub. L. 93-638, title IV, §406, as added Pub. L. 103-413, title II, §204, Oct. 25, 1994, 108 Stat. 4277; amended Pub. L. 105-277, div. A, §101(e) [title I, §133], Oct. 21, 1998, 112 Stat. 2681-231, 2681-264.)

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 458ff of this title prior to editorial reclassification and renumbering as this section.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105-277 inserted “5305(d),” after “sections”.

§ 5367. Regulations

(a) In general

Not later than 90 days after October 25, 1994, at the request of a majority of the Indian tribes with agreements under this subchapter, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5 to negotiate and promulgate such regulations as are necessary to carry out this subchapter.

(b) Committee

A negotiated rulemaking committee established pursuant to section 565 of title 5 to carry out this section shall have as its members only Federal and tribal government representatives, a majority of whom shall be representatives of Indian tribes with agreements under this subchapter.

(c) Adaptation of procedures

The Secretary shall adapt the negotiated rulemaking procedures to the unique context of Self-Governance and the government-to-government relationship between the United States and the Indian tribes.

(d) Effect

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

(Pub. L. 93-638, title IV, §407, as added Pub. L. 103-413, title II, §204, Oct. 25, 1994, 108 Stat. 4277.)

CODIFICATION

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

§ 5368. Authorization of appropriations

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

(Pub. L. 93-638, title IV, §408, as added Pub. L. 103-413, title II, §204, Oct. 25, 1994, 108 Stat. 4278.)

CODIFICATION

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

SUBCHAPTER V—TRIBAL SELF-GOVERNANCE—INDIAN HEALTH SERVICE

CODIFICATION

Subchapter is comprised of title V of Pub. L. 93-638, as added by Pub. L. 106-260, §4, Aug. 18, 2000, 114 Stat. 712. Another title V of Pub. L. 93-638, as added by Pub. L. 106-568, title XIII, §1302, Dec. 27, 2000, 114 Stat. 2936, was redesignated title VIII, and is classified to subchapter VII (§5421 et seq.) of this chapter.

§ 5381. Definitions

(a) In general

In this subchapter:

(1) Construction project

The term “construction project”—

(A) means an organized noncontinuous undertaking to complete a specific set of predetermined objectives for the planning, environmental determination, design, construction, repair, improvement, or expansion of buildings or facilities, as described in a construction project agreement; and

(B) does not include construction program administration and activities described in paragraphs (1) through (3) of section 5304(m) of this title, that may otherwise be included in a funding agreement under this subchapter.

(2) Construction project agreement

The term “construction project agreement” means a negotiated agreement between the Secretary and an Indian tribe, that at a minimum—

(A) establishes project phase start and completion dates;

(B) defines a specific scope of work and standards by which it will be accomplished;

(C) identifies the responsibilities of the Indian tribe and the Secretary;

(D) addresses environmental considerations;

(E) identifies the owner and operations and maintenance entity of the proposed work;

(F) provides a budget;

(G) provides a payment process; and

(H) establishes the duration of the agreement based on the time necessary to complete the specified scope of work, which may be 1 or more years.

(3) Gross mismanagement

The term “gross mismanagement” means a significant, clear, and convincing violation of a compact, funding agreement, or regulatory, or statutory requirements applicable to Federal funds transferred to an Indian tribe by a compact or funding agreement that results in a significant reduction of funds available for the programs, services, functions, or activities (or portions thereof) assumed by an Indian tribe.