

- (aa) the burden on Contract Health Services; or
- (bb) the need for emergency room visits.

(d) Technical assistance

On receipt of an application or request from an Indian tribe, a consortium of Indian tribes, or a tribal organization, the Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with this section, including information regarding the Service unit budget and available funding for carrying out the proposed demonstration project.

(e) Service to ineligible persons

Subject to section 1680c of this title, the authority to provide services to persons otherwise ineligible for the health care benefits of the Service, and the authority to extend hospital privileges in Service facilities to non-Service health practitioners as provided in section 1680c of this title, may be included, subject to the terms of that section, in any demonstration project approved pursuant to this section.

(f) Equitable treatment

For purposes of subsection (c), the Secretary, in evaluating facilities operated under any contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.),² shall use the same criteria that the Secretary uses in evaluating facilities operated directly by the Service.

(g) Equitable integration of facilities

The Secretary shall ensure that the planning, design, construction, renovation, and expansion needs of Service and non-Service facilities that are the subject of a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)² for health services are fully and equitably integrated into the implementation of the health care delivery demonstration projects under this section.

(Pub. L. 94-437, title III, §307, as added Pub. L. 101-630, title V, §504, Nov. 28, 1990, 104 Stat. 4562; amended Pub. L. 102-573, title III, §§304, 307(b)(2), title VII, §701(c)(2), title IX, §902(4)(A), Oct. 29, 1992, 106 Stat. 4562, 4564, 4572, 4591; Pub. L. 111-148, title X, §10221(a), Mar. 23, 2010, 124 Stat. 935.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1)(B), (b)(2)(B), (c)(3)(A), was in the original “this Act”, meaning Pub. L. 94-437, Sept. 30, 1976, 90 Stat. 1400, known as the Indian Health Care Improvement 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 1601 of this title and Tables.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), referred to in subsecs. (a), (f), and (g), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, which was classified principally to subchapter II (§450 et seq.) of chapter 14 of this title prior to editorial reclassification as 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.

CODIFICATION

Amendment by Pub. L. 111-148 is based on section 143 of title I of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Senate in Dec. 2009, which was enacted into law by section 10221(a) of Pub. L. 111-148.

AMENDMENTS

2010—Pub. L. 111-148 amended section generally. Prior to amendment, section authorized contracts and grants to carry out an Indian health care delivery demonstration project and related to use of funds, criteria, technical assistance, service to ineligible persons, equitable treatment, equitable integration of facilities, and report to Congress.

1992—Pub. L. 102-573, §902(4)(A), made technical amendment to section catchline.

Subsec. (c)(1)(A). Pub. L. 102-573, §304(a)(1), inserted “or program” after “facility” in two places.

Subsec. (c)(3)(A). Pub. L. 102-573, §304(a)(2), substituted “On or before September 30, 1995, the” for “The” and inserted “and for which a completed application has been received by the Secretary” after “paragraph (1)”.

Subsec. (c)(3)(B). Pub. L. 102-573, §304(a)(3), which directed amendment of subsec. (c) by striking subpar. (B) and inserting a new subpar. (B), was executed by making the amendment in par. (3) of subsec. (c) to reflect the probable intent of Congress. Prior to amendment, subpar. (B) read as follows: “After entering into contracts or awarding grants in accordance with subparagraph (A), and taking into account contracts entered into and grants awarded under such subparagraph, the Secretary may only enter into one contract or award one grant under this subsection with respect to a service area until the Secretary has entered into contracts or awarded grants for all service areas with respect to which the Secretary receives applications during the application period, as determined by the Secretary, which meet the criteria developed under paragraph (1).”

Subsec. (e). Pub. L. 102-573, §701(c)(2), made technical amendment to the reference to section 1680c of this title to reflect renumbering of corresponding section of original act.

Subsec. (h). Pub. L. 102-573, §304(b), amended subsec. (h) generally. Prior to amendment, subsec. (h) read as follows: “Within 90 days after the end of the period set out in subsection (a) of this section, the Secretary shall prepare and submit to Congress a report, together with legislative recommendations, on the findings and conclusions derived from the demonstration projects.”

Subsec. (i). Pub. L. 102-573, §307(b)(2), struck out subsec. (i) which authorized appropriation of such sums as necessary for fiscal years 1991 and 1992 for purpose of carrying out this section.

§ 1638. Land transfer

The Bureau of Indian Affairs is authorized to transfer, at no cost, up to 5 acres of land at the Chemawa Indian School, Salem, Oregon, to the Service for the provision of health care services. The land authorized to be transferred by this section is that land adjacent to land under the jurisdiction of the Service and occupied by the Chemawa Indian Health Center.

(Pub. L. 94-437, title III, §308, as added Pub. L. 102-573, title III, §306, Oct. 29, 1992, 106 Stat. 4564.)

§ 1638a. Tribal management of federally owned quarters

(a) Rental rates

(1) Establishment

Notwithstanding any other provision of law, a tribal health program that operates a hos-

pital or other health facility and the federally owned quarters associated with such a facility pursuant to a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)¹ may establish the rental rates charged to the occupants of those quarters, on providing notice to the Secretary.

(2) Objectives

In establishing rental rates under this subsection, a tribal health program shall attempt—

(A) to base the rental rates on the reasonable value of the quarters to the occupants of the quarters; and

(B) to generate sufficient funds to prudently provide for the operation and maintenance of the quarters, and at the discretion of the tribal health program, to supply reserve funds for capital repairs and replacement of the quarters.

(3) Equitable funding

A federally owned quarters the rental rates for which are established by a tribal health program under this subsection shall remain eligible to receive improvement and repair funds to the same extent that all federally owned quarters used to house personnel in programs of the Service are eligible to receive those funds.

(4) Notice of rate change

A tribal health program that establishes a rental rate under this subsection shall provide occupants of the federally owned quarters a notice of any change in the rental rate by not later than the date that is 60 days notice before the effective date of the change.

(5) Rates in Alaska

A rental rate established by a tribal health program under this section for a federally owned quarters in the State of Alaska may be based on the cost of comparable private rental housing in the nearest established community with a year-round population of 1,500 or more individuals.

(b) Direct collection of rent

(1) In general

Notwithstanding any other provision of law, and subject to paragraph (2), a tribal health program may collect rent directly from Federal employees who occupy federally owned quarters if the tribal health program submits to the Secretary and the employees a notice of the election of the tribal health program to collect rents directly from the employees.

(2) Action by employees

On receipt of a notice described in paragraph (1)—

(A) the affected Federal employees shall pay rent for occupancy of a federally owned quarters directly to the applicable tribal health program; and

(B) the Secretary shall not have the authority to collect rent from the employees through payroll deduction or otherwise.

¹ See References in Text note below.

(3) Use of payments

The rent payments under this subsection—

(A) shall be retained by the applicable tribal health program in a separate account, which shall be used by the tribal health program for the maintenance (including capital repairs and replacement) and operation of the quarters, as the tribal health program determines to be appropriate; and

(B) shall not be made payable to, or otherwise be deposited with, the United States.

(4) Retrocession of authority

If a tribal health program that elected to collect rent directly under paragraph (1) requests retrocession of the authority of the tribal health program to collect that rent, the retrocession shall take effect on the earlier of—

(A) the first day of the month that begins not less than 180 days after the tribal health program submits the request; and

(B) such other date as may be mutually agreed on by the Secretary and the tribal health program.

(Pub. L. 94-437, title III, §309, as added Pub. L. 111-148, title X, §10221(a), Mar. 23, 2010, 124 Stat. 935.)

Editorial Notes

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), referred to in subsec. (a)(1), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, which was classified principally to subchapter II (§450 et seq.) of chapter 14 of this title prior to editorial reclassification as 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.

CODIFICATION

Section 309 of Pub. L. 94-437 is based on section 144 of title I of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Senate in Dec. 2009, which was enacted into law by section 10221(a) of Pub. L. 111-148.

PRIOR PROVISIONS

A prior section 1638a, Pub. L. 94-437, title III, §309, as added Pub. L. 102-573, title III, §307(a), Oct. 29, 1992, 106 Stat. 4564, authorized appropriations through fiscal year 2000 to carry out this subchapter, prior to repeal by Pub. L. 111-148, title X, §10221(a), Mar. 23, 2010, 124 Stat. 935. The repeal is based on section 101(b)(6) of title I of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Senate in Dec. 2009, which was enacted into law by section 10221(a) of Pub. L. 111-148.

§ 1638b. Applicability of Buy American requirement

(a) Duty of Secretary

The Secretary shall ensure that the requirements of the Buy American Act apply to all procurements made with funds made available to carry out this subchapter.

(b) Report to Congress

The Secretary shall submit to the Congress a report on the amount of procurements from foreign entities made in fiscal years 1993 and 1994