

based upon the geographic proximity of comparable public education.

**(D) Other information**

Applications submitted under paragraph (1)(A) shall include information on the factors described in subparagraph (B)(i), but the applicant may also provide the Secretary such information relative to the factors described in subparagraph (B)(ii) as the applicant considers appropriate.

**(E) Deadline**

If the Secretary fails to make a determination under subparagraph (A) with respect to an application within 180 days after the date on which the Secretary received the application, the Secretary shall be treated as having made a determination that the tribally controlled school is eligible for assistance under the title<sup>1</sup> and the grant shall become effective 18 months after the date on which the Secretary received the application, or on an earlier date, at the Secretary's discretion.

**(d) Filing of applications and reports**

**(1) In general**

All applications and reports submitted to the Secretary under this chapter, and any amendments to such applications or reports, shall be filed with the education line officer designated by the Director of the Office of Indian Education Programs of the Bureau of Indian Affairs. The date on which such filing occurs shall, for purposes of this chapter, be treated as the date on which the application or amendment was submitted to the Secretary.

**(2) Supporting documentation**

Any application that is submitted under this chapter shall be accompanied by a document indicating the action taken by the tribal governing body in authorizing such application.

**(e) Effective date for approved applications**

Except as provided by subsection (c)(2)(E), a grant provided under this chapter, and any transfer of the operation of a Bureau school made under subsection (b), shall become effective beginning the academic year succeeding the fiscal year in which the application for the grant or transfer is made, or at an earlier date determined by the Secretary.

**(f) Denial of applications**

**(1) In general**

Whenever the Secretary refuses to approve a grant under this chapter, to transfer operation of a Bureau school under subsection (b), or determines that a school is not eligible for assistance under this chapter, the Secretary shall—

(A) state the objections in writing to the tribe or tribal organization within the allotted time;

(B) provide assistance to the tribe or tribal organization to overcome all stated objections;

(C) at the request of the tribe or tribal organization, provide the tribe or tribal orga-

nization a hearing on the record under the same rules and regulations that apply under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 5301 et seq.]; and

(D) provide an opportunity to appeal the objection raised.

**(2) Timeline for reconsideration of amended applications**

The Secretary shall reconsider any amended application submitted under this chapter within 60 days after the amended application is submitted to the Secretary.

**(g) Report**

The Bureau shall submit an annual report to the Congress on all applications received, and actions taken (including the costs associated with such actions), under this section at the same time that the President is required to submit to Congress the budget under section 1105 of title 31.

(Pub. L. 100-297, title V, § 5205, as added Pub. L. 107-110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2068.)

**Editorial Notes**

REFERENCES IN TEXT

The Education Amendments of 1978, referred to in subsecs. (a)(1)(A), (B), (b)(1), and (c)(1), is Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2143, as amended. Title XI of the Act is classified principally to chapter 22 (§ 2000 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 6301 of Title 20, Education, and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsecs. (a)(2) and (f)(1)(C), 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 title, referred to in subsec. (c)(2)(E), 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 2504, Pub. L. 100-297, title V, § 5205, Apr. 28, 1988, 102 Stat. 387; Pub. L. 100-427, § 10(c), Sept. 9, 1988, 102 Stat. 1608; Pub. L. 101-301, § 5(g), May 24, 1990, 104 Stat. 209; Pub. L. 102-119, § 26(f), Oct. 7, 1991, 105 Stat. 607; Pub. L. 103-382, title III, §§ 382(a), (b), 394(m)(2), Oct. 20, 1994, 108 Stat. 4017, 4029, related to composition of grants, prior to repeal by Pub. L. 107-110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2063. See section 2503 of this title.

**Statutory Notes and Related Subsidiaries**

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.

**§ 2505. Duration of eligibility determination**

**(a) In general**

If the Secretary determines that a tribally controlled school is eligible for assistance under

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

this chapter, the eligibility determination shall remain in effect until the determination is revoked by the Secretary, and the requirements of subsection (b) or (c) of section 2504 of this title, if applicable, shall be considered to have been met with respect to such school until the eligibility determination is revoked by the Secretary.

**(b) Annual reports**

**(1) In general**

Each recipient of a grant provided under this chapter shall complete an annual report which shall be limited to—

(A) an annual financial statement reporting revenue and expenditures as defined by the cost accounting established by the grantee;

(B) an annual financial audit conducted pursuant to the standards of the Single Audit Act of 1984 [31 U.S.C. 7501 et seq.];

(C) a biennial compliance audit of the procurement of personal property during the period for which the report is being prepared that shall be in compliance with written procurement standards that are developed by the local school board;

(D) an annual submission to the Secretary of the number of students served and a brief description of programs offered under the grant; and

(E) a program evaluation conducted by an impartial evaluation review team, to be based on the standards established for purposes of subsection (c)(1)(A)(ii).<sup>1</sup>

**(2) Evaluation review teams**

Where appropriate, other tribally controlled schools and representatives of tribally controlled community colleges shall make up members of the evaluation review teams.

**(3) Evaluations**

In the case of a school which is accredited, evaluations will be conducted at intervals under the terms of accreditation.

**(4) Submission of report**

**(A) To tribal governing body**

Upon completion of the report required under paragraph (1), the recipient of the grant shall send (via first class mail, return receipt requested) a copy of such annual report to the tribal governing body (as defined in section 2012(f) of this title) of the tribally controlled school.

**(B) To Secretary**

Not later than 30 days after receiving written confirmation that the tribal governing body has received the report sent pursuant to subparagraph (A), the recipient of the grant shall send a copy of the report to the Secretary.

**(c) Revocation of eligibility**

**(1) Determination of eligibility for assistance**

The Secretary shall not revoke a determination that a school is eligible for assistance under this chapter if—

(A) the Indian tribe or tribal organization submits the reports required under subsection (b) with respect to the school; and

(B) at least one of the following clauses applies with respect to the school:

(i) The school is certified or accredited by a State or regional accrediting association or is a candidate in good standing for such accreditation under the rules of the State or regional accrediting association, showing that credits achieved by the students within the education programs are, or will be, accepted at grade level by a State certified or regionally accredited institution.

(ii) The Secretary determines that there is a reasonable expectation that the certification or accreditation described in clause (i), or candidacy in good standing for such certification or accreditation, will be achieved by the school within 3 years. The school seeking accreditation shall remain under the standards of the Bureau in effect on January 8, 2002, until such time as the school is accredited, except that if the Bureau standards are in conflict with the standards of the accrediting agency, the standards of such agency shall apply in such case.

(iii) The school is accredited by a tribal department of education if such accreditation is accepted by a generally recognized regional or State accreditation agency.

(iv)(I) With respect to a school that lacks accreditation, or that is not a candidate for accreditation, based on circumstances that are not beyond the control of the school board, every 3 years an impartial evaluator agreed upon by the Secretary and the grant recipient conducts evaluations of the school, and the school receives a positive assessment under such evaluations. The evaluations are conducted under standards adopted by a contractor under a contract for the school entered into under the Indian Self-Determination and Education Assistance Act [25 U.S.C. 5301 et seq.] (or revisions of such standards agreed to by the Secretary and the grant recipient) prior to January 8, 2002.

(II) If the Secretary and a grant recipient other than a tribal governing body fail to agree on such an evaluator, the tribal governing body shall choose the evaluator or perform the evaluation. If the Secretary and a grant recipient that is a tribal governing body fail to agree on such an evaluator, subclause (I) shall not apply.

(III) A positive assessment by an impartial evaluator under this clause shall not affect the revocation of a determination of eligibility by the Secretary where such revocation is based on circumstances that were within the control of the school board.

**(2) Notice requirements for revocation**

The Secretary shall not revoke a determination that a school is eligible for assistance under this chapter, or reassume control of a

<sup>1</sup> So in original. Probably should be subsection "(c)(1)(B)(ii)."

school that was a Bureau school prior to approval of an application submitted under section 2505(b)(1)(A)<sup>2</sup> of this title until the Secretary—

(A) provides notice to the tribally controlled school and the tribal governing body (within the meaning of section 2021 of this title) of the tribally controlled school which states—

(i) the specific deficiencies that led to the revocation or resumption determination; and

(ii) the actions that are needed to remedy such deficiencies; and

(B) affords such authority an opportunity to effect the remedial actions.

**(3) Technical assistance**

The Secretary shall provide such technical assistance to enable the school and governing body to carry out such remedial actions.

**(4) Hearing and appeal**

In addition to notice and technical assistance under this subsection, the Secretary shall provide to the school and governing body—

(A) at the request of the school or governing body, a hearing on the record regarding the revocation or reassumption determination, to be conducted under the rules and regulations described in section 2505(f)(1)(C)<sup>3</sup> of this title; and

(B) an opportunity to appeal the decision resulting from the hearing.

**(d) Applicability of section pursuant to election under section 2507(b)**

With respect to a tribally controlled school that receives assistance under this chapter pursuant to an election made under section 2507(b) of this title—

(1) subsection (b) of this section shall apply; and

(2) the Secretary may not revoke eligibility for assistance under this chapter except in conformance with subsection (c) of this section.

(Pub. L. 100-297, title V, § 5206, as added Pub. L. 107-110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2072.)

**Editorial Notes**

REFERENCES IN TEXT

The Single Audit Act of 1984, referred to in subsec. (b)(1)(B), is Pub. L. 98-502, Oct. 19, 1984, 98 Stat. 2327, which enacted chapter 75 (§7501 et seq.) of Title 31, Money and Finance, and provisions set out as notes under section 7501 of Title 31. For complete classification of this Act to the Code, see Short Title of 1984 Amendment note set out under section 7501 of Title 31 and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (c)(1)(B)(iv)(I), 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.

PRIOR PROVISIONS

A prior section 2505, Pub. L. 100-297, title V, § 5206, Apr. 28, 1988, 102 Stat. 388; Pub. L. 100-427, § 11, Sept. 9,

1988, 102 Stat. 1608; Pub. L. 105-362, title VIII, § 801(d), Nov. 10, 1998, 112 Stat. 3288, related to eligibility for grants, prior to repeal by Pub. L. 107-110, title X, § 1043, Jan. 8, 2002, 115 Stat. 2063. See section 2504 of this title.Q04

**Statutory Notes and Related Subsidiaries**

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.

**§ 2506. Payment of grants; investment of funds**

**(a) Payments**

**(1) In general**

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

(A) the first payment shall be made not later than July 1 of each year in an amount equal to 80 percent of the amount which the grantee was entitled to receive during the preceding academic year; and

(B) the second payment, consisting of the remainder to which the grantee is entitled for the academic year, shall be made not later than December 1 of each year.

**(2) Excess funding**

In a case in which the amount provided to a grant recipient under paragraph (1)(A) is in excess of the amount that the recipient is entitled to receive for the academic year involved, the recipient shall return to the Secretary such excess amount not later than 30 days after the final determination that the school was overpaid pursuant to this section. The amount returned to the Secretary under this paragraph shall be distributed equally to all schools in the system.

**(3) Newly funded schools**

For any school for which no payment under this chapter was made from Bureau funds in the preceding academic year, full payment of the amount computed for the first academic year of eligibility under this chapter shall be made not later than December 1 of the academic year.

**(4) Late funding**

With regard to funds for grantees that become available for obligation on October 1 of the fiscal year for which such funds are appropriated, the Secretary shall make payments to grantees not later than December 1 of the fiscal year.

**(5) Applicability of certain title 31 provisions**

The provisions of chapter 39 of title 31 shall apply to the payments required to be made by paragraphs (1), (3), and (4).

**(6) Restrictions**

Paragraphs (1), (3), and (4) shall be subject to any restriction on amounts of payments under this chapter that are imposed by a continuing resolution or other Act appropriating the funds involved.

<sup>2</sup> So in original. Probably should be section "2504(b)(1)(A)".

<sup>3</sup> So in original. Probably should be section "2504(f)(1)(C)".