

law. Any Indian tribe that alleges that a compact or funding agreement is in violation of this section may apply the provisions of section 5331 of this title.

(b) Federal trust and treaty responsibilities

Nothing in this chapter shall be construed to diminish in any way the trust responsibility of the United States to Indian tribes and individual Indians that exists under treaties, Executive orders, or other laws and court decisions.

(c) Obligations of the United States

The Indian Health Service under this chapter shall neither bill nor charge those Indians who may have the economic means to pay for services, nor require any Indian tribe to do so.

(Pub. L. 93-638, title V, §515, as added Pub. L. 106-260, §4, Aug. 18, 2000, 114 Stat. 729.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (c), 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 458aaa-14 of this title prior to editorial reclassification and renumbering as this section.

§ 5396. Application of other sections of this chapter

(a) Mandatory application

All provisions of sections 5305(b), 5306, 5307, 5321(c) and (d), 5323, 5324(k) and (l), 5325(a) through (k), and 5332 of this title and section 314 of Public Law 101-512 (coverage under chapter 171 of title 28, commonly known as the “Federal Tort Claims Act”), to the extent not in conflict with this subchapter, shall apply to compacts and funding agreements authorized by this subchapter.

(b) Discretionary application

At the request of a participating Indian tribe, any other provision of subchapter I of this chapter, to the extent such provision is not in conflict with this subchapter, shall be made a part of a funding agreement or compact entered into under this subchapter. The Secretary is obligated to include such provision at the option of the participating Indian tribe or tribes. If such provision is incorporated it shall have the same force and effect as if it were set out in full in this subchapter. In the event an Indian tribe requests such incorporation at the negotiation stage of a compact or funding agreement, such incorporation shall be deemed effective immediately and shall control the negotiation and resulting compact and funding agreement.

(Pub. L. 93-638, title V, §516, as added Pub. L. 106-260, §4, Aug. 18, 2000, 114 Stat. 729.)

Editorial Notes

REFERENCES IN TEXT

Section 314 of Pub. L. 101-512, referred to in subsec. (a), is section 314 of Pub. L. 101-512, as amended, which is set out as a note under section 5321 of this title.

Subchapter I of this chapter, referred to in subsec. (b), was in the original “title I”, meaning title I of Pub. L. 93-638, known as the Indian Self-Determination Act, which is classified principally to subchapter I (§5321 et seq.) of this chapter. For complete classification of title I to the Code, see Short Title note set out under section 5301 of this title and Tables.

CODIFICATION

Section was formerly classified to section 458aaa-15 of this title prior to editorial reclassification and renumbering as this section.

§ 5397. Regulations

(a) In general

(1) Promulgation

Not later than 90 days after August 18, 2000, 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.

(2) Publication of proposed regulations

Proposed regulations to implement this subchapter shall be published in the Federal Register by the Secretary no later than 1 year after August 18, 2000.

(3) Expiration of authority

The authority to promulgate regulations under paragraph (1) shall expire 21 months after August 18, 2000.

(b) Committee

(1) In general

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 nominated by and be representatives of Indian tribes with funding agreements under this chapter.

(2) Requirements

The committee shall confer with, and accommodate participation by, representatives of Indian tribes, inter-tribal consortia, tribal organizations, and individual tribal members.

(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 Indian tribes.

(d) Effect

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

(e) Effect of circulars, policies, manuals, guidances, and rules

Unless expressly agreed to by the participating Indian tribe in the compact or funding agreement, the participating Indian tribe shall not be subject to any agency circular, policy, manual, guidance, or rule adopted by the Indian Health Service, except for the eligibility provisions of section 5324(g) of this title and regulations promulgated under this section.

(Pub. L. 93-638, title V, §517, as added Pub. L. 106-260, §4, Aug. 18, 2000, 114 Stat. 730.)

Editorial Notes

REFERENCES IN TEXT

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

CODIFICATION

Section was formerly classified to section 458aaa-16 of this title prior to editorial reclassification and renumbering as this section.

§ 5398. Appeals

In any appeal (including civil actions) involving decisions made by the Secretary under this subchapter, the Secretary shall have the burden of proof of demonstrating by clear and convincing evidence—

- (1) the validity of the grounds for the decision made; and
- (2) that the decision is fully consistent with provisions and policies of this subchapter.

(Pub. L. 93-638, title V, § 518, as added Pub. L. 106-260, § 4, Aug. 18, 2000, 114 Stat. 730.)

Editorial Notes

CODIFICATION

Section was formerly classified to section 458aaa-17 of this title prior to editorial reclassification and renumbering as this section.

§ 5399. Authorization of appropriations**(a) In general**

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

(b) Availability of appropriations

Notwithstanding any other provision of this chapter, the provision of funds under this chapter shall be subject to the availability of appropriations and the Secretary is not required to reduce funding for programs, projects, or activities serving a tribe in order to make funds available to another tribe or tribal organization under this chapter.

(Pub. L. 93-638, title V, § 519, as added Pub. L. 106-260, § 4, Aug. 18, 2000, 114 Stat. 731.)

Editorial Notes

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 458aaa-18 of this title prior to editorial reclassification and renumbering as this section.

SUBCHAPTER VI—INDIAN LAW
ENFORCEMENT FOUNDATION

§ 5411. Definitions

In this subchapter:

(1) Board

The term “Board” means the Board of Directors of the Foundation.

(2) Bureau

The term “Bureau” means the Office of Justice Services of the Bureau of Indian Affairs.

(3) Committee

The term “Committee” means the Committee for the Establishment of the Indian Law Enforcement Foundation established under section 5412(e)(1) of this title.

(4) Foundation

The term “Foundation” means the Indian Law Enforcement Foundation established under section 5412 of this title.

(5) Secretary

The term “Secretary” means the Secretary of the Interior.

(Pub. L. 93-638, title VII, § 701, as added Pub. L. 111-211, title II, § 231(c), July 29, 2010, 124 Stat. 2274.)

Editorial Notes

CODIFICATION

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

§ 5412. Indian Law Enforcement Foundation**(a) Establishment****(1) In general**

As soon as practicable after July 29, 2010, the Secretary shall establish, under the laws of the District of Columbia and in accordance with this subchapter, a foundation, to be known as the “Indian Law Enforcement Foundation”.

(2) Funding determinations

No funds, gift, property, or other item of value (including any interest accrued on such an item) acquired by the Foundation shall—

- (A) be taken into consideration for purposes of determining Federal appropriations relating to the provision of public safety or justice services to Indians; or
- (B) otherwise limit, diminish, or affect the Federal responsibility for the provision of public safety or justice services to Indians.

(b) Nature of corporation

The Foundation—

- (1) shall be a charitable and nonprofit federally chartered corporation; and
- (2) shall not be an agency or instrumentality of the United States.

(c) Place of incorporation and domicile

The Foundation shall be incorporated and domiciled in the District of Columbia.

(d) Duties

The Foundation shall—

- (1) encourage, accept, and administer, in accordance with the terms of each donation, private gifts of real and personal property, and any income from or interest in such gifts, for