rectly attributable to contracts, grants and compacts pursuant to the Indian Self-Determination Act [25 U.S.C. 450f et seq.] and no funds appropriated by this or any other Act shall be available for any contract support costs or indirect costs associated with any contract, grant, cooperative agreement, self-governance compact, or funding agreement entered into between an Indian tribe or tribal organization and any entity other than the Indian Health Service.

(Pub. L. 105–277, div. A, § 101(e) [title II], Oct. 21, 1998, 112 Stat. 2681–231, 2681–280.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in text, is title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to this part (§ 450f et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

§ 450j–3. Department of the Interior: availability of funds for Indian self-determination or self-governance contract or grant support costs

Notwithstanding any other provision of law, including but not limited to the Indian Self-Determination Act of 1975, as amended [25 U.S.C. 450f et seq.], on and after November 29, 1999, funds available to the Department of the Interior for Indian self-determination or self-governance contract or grant support costs may be expended only for costs directly attributable to contracts, grants and compacts pursuant to the Indian Self-Determination Act of 1975 and on and after November 29, 1999, funds appropriated in this title[1] shall not be available for any contract support costs or indirect costs associated with any contract, grant, cooperative agreement, self-governance compact or funding agreement entered into between an Indian tribe or tribal organization and any entity other than an agency of the Department of the Interior.

(Pub. L. 106–113, div. B, § 1000(a)(3) [title I, § 113], Nov. 29, 1999, 113 Stat. 1535, 1501A–157.)

REFERENCES IN TEXT

The Indian Self-Determination Act of 1975, referred to in text, probably means the Indian Self-Determination Act, title I of Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to this part (§ 450f et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 450 of this title and Tables.

This title, referred to in text, is title I of the Department of the Interior and Related Agencies Appropriations Act, 2000, as enacted by Pub. L. 106–113, div. B, § 1000(a)(3), Nov. 29, 1999, 113 Stat. 1535, 1501A–135. For complete classification of this title to the Code, see Tables.

SIMILAR PROVISIONS

Similar provisions were contained in Pub. L. 105–277, div. A, § 101(e) [title I, § 114], Oct. 21, 1998, 112 Stat. 2681–231, 2681–255.

§ 450k. Rules and regulations

(a) Authority of Secretaries of the Interior and of Health and Human Services to promulgate; time restriction

(1) Except as may be specifically authorized in this subsection, or in any other provision of this subchapter, the Secretary of the Interior and the Secretary of Health and Human Services may not promulgate any regulation, nor impose any nonregulatory requirement, relating to self-determination contracts or the approval, award, or declination of such contracts, except that the Secretary of the Interior and the Secretary of Health and Human Services may promulgate regulations under this subchapter relating to chapter 171 of title 28, commonly known as the ''Federal Tort Claims Act'', the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.), declination and waiver procedures, appeal procedures, reassumption procedures, discretionary grant procedures for grants awarded under section 450h of this title, property donation procedures arising under section 450j(f) of this title, internal agency procedures relating to the implementation of this subchapter, retrocession and tribal organization relinquishment procedures, contract proposal contents, conflicts of interest, construction, programmatic reports and data requirements, procurement standards, property management standards, and financial management standards.

(2)(A) The regulations promulgated under this subchapter, including the regulations referred to in this subsection, shall be promulgated—

(i) in conformance with sections 552 and 553 of title 5 and subsections (c), (d), and (e) of this section; and

(ii) as a single set of regulations in title 25 of the Code of Federal Regulations.

(B) The authority to promulgate regulations set forth in this subchapter shall expire if final regulations are not promulgated within 20 months after October 25, 1994.

(b) Conflicting laws and regulations

The provisions of this subchapter shall supersede any conflicting provisions of law (including any conflicting regulations) in effect on the day before October 25, 1994, and the Secretary is authorized to repeal any regulation inconsistent with the provisions of this subchapter.

(c) Revisions and amendments; procedures applicable

The Secretary of the Interior and the Secretary of Health and Human Services are authorized, with the participation of Indian tribes and tribal organizations, to revise and amend any rules or regulations promulgated pursuant to this section: *Provided*, That prior to any revision or amendment to such rules or regulations, the respective Secretary or Secretaries shall present the proposed revision or amendment to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives and shall, to the extent practicable, consult with appropriate national or regional Indian organizations and shall publish any proposed revisions in the Federal Register not less than sixty days prior to the effective date of such rules and regulations in order to provide adequate notice to, and receive comments from, other interested parties.

[1] See References in Text note below.

(d) Consultation in drafting and promulgating; negotiation process; interagency committees; extension of deadlines

(1) In drafting and promulgating regulations as provided in subsection (a) of this section (including drafting and promulgating any revised regulations), the Secretary of the Interior and the Secretary of Health and Human Services shall confer with, and allow for active participation by, representatives of Indian tribes, tribal organizations, and individual tribal members.

(2)(A) In carrying out rulemaking processes under this subchapter, the Secretary of the Interior and the Secretary of Health and Human Services shall follow the guidance of—

(i) subchapter III of chapter 5 of title 5, commonly known as the ''Negotiated Rulemaking Act of 1990''; and

(ii) the recommendations of the Administrative Conference of the United States numbered 82–4 and 85–5 entitled ''Procedures for Negotiating Proposed Regulations'' under sections 305.82–4 and 305.85–5 of title 1, Code of Federal Regulations, and any successor recommendation or law (including any successor regulation).

(B) The tribal participants in the negotiation process referred to in subparagraph (A) shall be nominated by and shall represent the groups described in this paragraph and shall include tribal representatives from all geographic regions.

(C) The negotiations referred to in subparagraph (B) shall be conducted in a timely manner. Proposed regulations to implement the amendments made by the Indian Self-Determination Contract Reform Act of 1994 shall be published in the Federal Register by the Secretary of the Interior and the Secretary of Health and Human Services not later than 180 days after October 25, 1994.

(D) Notwithstanding any other provision of law (including any regulation), the Secretary of the Interior and the Secretary of Health and Human Services are authorized to jointly establish and fund such interagency committees or other interagency bodies, including advisory bodies comprised of tribal representatives, as may be necessary or appropriate to carry out the provisions of this subchapter.

(E) If the Secretary determines that an extension of the deadlines under subsection (a)(2)(B) of this section and subparagraph (C) of this paragraph is appropriate, the Secretary may submit proposed legislation to Congress for the extension of such deadlines.

(e) Exceptions in or waiver of regulations

The Secretary may, with respect to a contract entered into under this subchapter, make exceptions in the regulations promulgated to carry out this subchapter, or waive such regulations, if the Secretary finds that such exception or waiver is in the best interest of the Indians served by the contract or is consistent with the policies of this subchapter, and is not contrary to statutory law. In reviewing each request, the Secretary shall follow the timeline, findings, assistance, hearing, and appeal procedures set forth in section 450f of this title.

(Pub. L. 93–638, title I, § 107, Jan. 4, 1975, 88 Stat. 2212; Pub. L. 96–88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 100–472, title II, § 207, Oct. 5, 1988, 102 Stat. 2295; Pub. L. 101–644, title II, § 203(f), Nov. 29, 1990, 104 Stat. 4666; Pub. L. 103–413, title I, § 105, Oct. 25, 1994, 108 Stat. 4269; Pub. L. 103–435, § 22(a)(1), Nov. 2, 1994, 108 Stat. 4575; Pub. L. 103–437, § 10(c)(2), Nov. 2, 1994, 108 Stat. 4589; Pub. L. 104–133, § 1, Apr. 25, 1996, 110 Stat. 1320; Pub. L. 104–287, § 6(e), Oct. 11, 1996, 110 Stat. 3399.)

REFERENCES IN TEXT

The Contract Disputes Act of 1978, referred to in subsec. (a)(1), is Pub. L. 95–563, Nov. 1, 1978, 92 Stat. 2383, as amended, which is classified principally to chapter 9 (§ 601 et seq.) of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 41 and Tables.

The Indian Self-Determination Contract Reform Act of 1994, referred to in subsec. (d)(2)(C), is title I of Pub. L. 103–413, Oct. 25, 1994, 108 Stat. 4250, which enacted section 450*l* of this title, amended this section and sections 450b, 450c, 450e, 450f, 450j, 450j–1, 450m, and 450m–1 of this title, and enacted provisions set out as a note under section 450 of this title. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 450 of this title and Tables.

AMENDMENTS

1996—Subsec. (a)(2)(B). Pub. L. 104–133 substituted ''20 months'' for ''18 months''.

Subsec. (b). Pub. L. 104–287 repealed Pub. L. 103–437, § 10(c)(2)(A). See 1994 Amendment note below.

1994—Subsec. (a). Pub. L. 103–413, § 105(1), added subsec. (a) and struck out former subsec. (a) which read as follows: ''The Secretaries of the Interior and of Health and Human Services are each authorized to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purposes of carrying out the provisions of this subchapter: *Provided, however*, That all Federal requirements for self-determination contracts and grants under this Act shall be promulgated as regulations in conformity with sections 552 and 553 of title 5.''

Subsec. (b). Pub. L. 103–437, § 10(c)(2)(A), which directed that subsec. (b) be repealed, was itself repealed by Pub. L. 104–287, § 6(e). See Effective Date and Construction of 1996 Amendment note below.

Pub. L. 103–435, which directed substitution of ''Committee on Natural Resources'' for ''Committee on Interior and Insular Affairs'' in par. (2), could not be executed because ''Committee on Interior and Insular Affairs'' did not appear in text subsequent to amendment by Pub. L. 103–413, § 105(1). See below.

Pub. L. 103–413, § 105(1), added subsec. (b) and struck out former subsec. (b) which read as follows:

''(b)(1) Within three months from October 5, 1988, the Secretary shall consider and formulate appropriate regulations to implement the provisions of this Act, with the participation of Indian tribes. Such proposed regulations shall contain all Federal requirements applicable to self-determination contracts and grants under this Act.

''(2) Within six months from October 5, 1988, the Secretary shall present the proposed regulations to the Select Committee on Indian Affairs of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives.

''(3) Within seven months from October 5, 1988, the Secretary shall publish proposed regulations in the Federal Register for the purpose of receiving comments from tribes and other interested parties.

''(4) Within ten months from October 5, 1988, the Secretary shall promulgate regulations to implement the provisions of such Act.''

Subsec. (c). Pub. L. 103–437, § 10(c)(2)(B), substituted ''Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the

House of Representatives'' for ''Committees on Interior and Insular Affairs of the United States Senate and House of Representatives''.

Subsecs. (d), (e). Pub. L. 103–413, § 105(2), added subsecs. (d) and (e).

1990—Subsec. (c). Pub. L. 101–644 inserted '', with the participation of Indian tribes and tribal organizations,'' after ''authorized''.

1988—Subsec. (a). Pub. L. 100–472, § 207(a), substituted ''Health and Human Services'' for ''Health, Education, and Welfare'', and inserted proviso relating to promulgation of Federal requirements for self-determination contracts as regulations.

Subsec. (b). Pub. L. 100–472, § 207(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

''(1) Within six months from January 4, 1975, the Secretary of the Interior and the Secretary of Health and Human Services shall each to the extent practicable, consult with national and regional Indian organizations to consider and formulate appropriate rules and regulations to implement the provisions of this subchapter.

''(2) Within seven months from January 4, 1975, the Secretary of the Interior and the Secretary of Health and Human Services shall each present the proposed rules and regulations to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives.

''(3) Within eight months from January 4, 1975, the Secretary of the Interior and the Secretary of Health and Human Services shall publish proposed rules and regulations in the Federal Register for the purpose of receiving comments from interested parties.

''(4) Within ten months from January 4, 1975, the Secretary of the Interior and the Secretary of Health and Human Services shall promulgate rules and regulations to implement the provisions of this subchapter.''

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted for ''Secretary of Health, Education, and Welfare'' in subsec. (c), pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE AND CONSTRUCTION OF 1996 AMENDMENT

Section 6(e) of Pub. L. 104–287 provided that: ''Effective November 2, 1994, section 10(c)(2)(A) of the Act of November 2, 1994 (Public Law 103–437, 108 Stat. 4589) [amending this section], is repealed and section 107(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450k(b)), as amended by section 105(1) of the Indian Self-Determination Act (Public Law 103–413, 108 Stat. 4269), is revived and shall read as if section 10(c)(2)(A) of the Act of November 2, 1994 (Public Law 103–437, 108 Stat. 4589), had not been enacted.

§ 450*l*. Contract or grant specifications

(a) Terms

Each self-determination contract entered into under this subchapter shall—

(1) contain, or incorporate by reference, the provisions of the model agreement described in subsection (c) of this section (with modifications where indicated and the blanks appropriately filled in), and

(2) contain such other provisions as are agreed to by the parties.

(b) Payments; Federal records

Notwithstanding any other provision of law, the Secretary may make payments pursuant to section 1(b)(6) of such model agreement. As provided in section 1(b)(7) of the model agreement, the records of the tribal government or tribal organization specified in such section shall not be considered Federal records for purposes of chapter 5 of title 5.

(c) Model agreement

The model agreement referred to in subsection (a)(1) of this section reads as follows:

"SECTION 1. AGREEMENT BETWEEN THE SECRETARY AND THE _____ TRIBAL GOVERNMENT.

''(a) AUTHORITY AND PURPOSE.—

''(1) AUTHORITY.—This agreement, denoted a Self-Determination Contract (referred to in this agreement as the 'Contract'), is entered into by the Secretary of the Interior or the Secretary of Health and Human Services (referred to in this agreement as the 'Secretary'), for and on behalf of the United States pursuant to title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and by the authority of the _____ tribal government or tribal organization (referred to in this agreement as the 'Contractor'). The provisions of title I of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) are incorporated in this agreement.

''(2) PURPOSE.—Each provision of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and each provision of this Contract shall be liberally construed for the benefit of the Contractor to transfer the funding and the following related functions, services, activities, and programs (or portions thereof), that are otherwise contractable under section 102(a) of such Act, including all related administrative functions, from the Federal Government to the Contractor: (List functions, services, activities, and programs).

''(b) TERMS, PROVISIONS, AND CONDITIONS.—

''(1) TERM.—Pursuant to section 105(c)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(c)(1)), the term of this contract shall be ____ years. Pursuant to section 105(d)(1) of such Act (25 U.S.C. 450j(d)), upon the election by the Contractor, the period of this Contract shall be determined on the basis of a calendar year, unless the Secretary and the Contractor agree on a different period in the annual funding agreement incorporated by reference in subsection (f)(2).

''(2) EFFECTIVE DATE.—This Contract shall become effective upon the date of the approval and execution by the Contractor and the Secretary, unless the Contractor and the Secretary agree on an effective date other than the date specified in this paragraph.

''(3) PROGRAM STANDARD.—The Contractor agrees to administer the program, services, functions and activities (or portions thereof) listed in subsection (a)(2) of the Contract in conformity with the following standards: (list standards).

''(4) FUNDING AMOUNT.—Subject to the availability of appropriations, the Secretary shall make available to the Contractor the total amount specified in the annual funding agreement incorporated by reference in subsection (f)(2). Such amount shall not be less than the applicable amount determined pursuant to section 106(a) of the Indian Self-Determination