AMENDMENTS

1998—Subsec. (c). Pub. L. 105–277 inserted ''450c(d),'' after ''sections''.

§ 458gg. 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 part, 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 part.

(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 part.

(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 part.

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

§ 458hh. Authorization of appropriations

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

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

PART E—TRIBAL SELF-GOVERNANCE—INDIAN HEALTH SERVICE

CODIFICATION

This part 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 was added by Pub. L. 106–568, title XIII, § 1302, Dec. 27, 2000, 114 Stat. 2936, and is classified to part F (§ 458bbb et seq.) of this subchapter.

§ 458aaa. Definitions

(a) In general

In this part:

(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 450b(m) of this title, that may otherwise be included in a funding agreement under this part.

(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.

(4) Inherent Federal functions

The term ''inherent Federal functions'' means those Federal functions which cannot legally be delegated to Indian tribes.

(5) Inter-tribal consortium

The term ''inter-tribal consortium'' means a coalition of two[1] more separate Indian tribes that join together for the purpose of participating in self-governance, including tribal organizations.

(6) Secretary

The term ''Secretary'' means the Secretary of Health and Human Services.

(7) Self-governance

The term ''self-governance'' means the program of self-governance established under section 458aaa–1 of this title.

(8) Tribal share

The term ''tribal share'' means an Indian tribe's portion of all funds and resources that support secretarial programs, services, functions, and activities (or portions thereof) that are not required by the Secretary for performance of inherent Federal functions.

(b) Indian tribe

In any case in which an Indian tribe has authorized another Indian tribe, an inter-tribal consortium, or a tribal organization to plan for or carry out programs, services, functions, or activities (or portions thereof) on its behalf under this part, the authorized Indian tribe, inter-tribal consortium, or tribal organization shall have the rights and responsibilities of the authorizing Indian tribe (except as otherwise provided in the authorizing resolution or in this part). In such

[1] So in original. Probably should be followed by ''or''.