people through the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from Federal domination of programs for and services to Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services.''

§ 450a–1. Tribal and Federal advisory committees

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 advisory committees or other advisory bodies composed of members of Indian tribes or members of Indian tribes and representatives of the Federal Government to ensure tribal participation in the implementation of the Indian Self-Determination and Education Assistance Act (Public Law 93–638) [25 U.S.C. 450 et seq.].

(Pub. L. 101–644, title II, § 204, as added Pub. L. 103–435, § 22(b), Nov. 2, 1994, 108 Stat. 4575.)

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in text, is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to this subchapter (§ 450 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.

CODIFICATION

Section was enacted as part of the Indian Self-Determination and Education Assistance Act Amendments of 1990, and not as part of the Indian Self-Determination and Education Assistance Act which comprises this subchapter.

§ 450b. Definitions

For purposes of this subchapter, the term—

(a) ''construction programs'' means programs for the planning, design, construction, repair, improvement, and expansion of buildings or facilities, including, but not limited to, housing, law enforcement and detention facilities, sanitation and water systems, roads, schools, administration and health facilities, irrigation and agricultural work, and water conservation, flood control, or port facilities;

(b) ''contract funding base'' means the base level from which contract funding needs are determined, including all contract costs;

(c) ''direct program costs'' means costs that can be identified specifically with a particular contract objective;

(d) ''Indian'' means a person who is a member of an Indian tribe;

(e) ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) [43 U.S.C. 1601 et seq.], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(f) ''indirect costs'' means costs incurred for a common or joint purpose benefiting more than one contract objective, or which are not readily assignable to the contract objectives specifically benefited without effort disproportionate to the results achieved;

(g) ''indirect cost rate'' means the rate arrived at through negotiation between an Indian tribe or tribal organization and the appropriate Federal agency;

(h) ''mature contract'' means a self-determination contract that has been continuously operated by a tribal organization for three or more years, and for which there are no significant and material audit exceptions in the annual financial audit of the tribal organization: *Provided*, That upon the request of a tribal organization or the tribal organization's Indian tribe for purposes of section 450f(a) of this title, a contract of the tribal organization which meets this definition shall be considered to be a mature contract;

(i) ''Secretary'', unless otherwise designated, means either the Secretary of Health and Human Services or the Secretary of the Interior or both;

(j) ''self-determination contract'' means a contract (or grant or cooperative agreement utilized under section 450e–1 of this title) entered into under part A of this subchapter between a tribal organization and the appropriate Secretary for the planning, conduct and administration of programs or services which are otherwise provided to Indian tribes and their members pursuant to Federal law: *Provided*, That except as provided[1] the last proviso in section 450j(a)[2] of this title, no contract (or grant or cooperative agreement utilized under section 450e–1 of this title) entered into under part A of this subchapter shall be construed to be a procurement contract;

(k) ''State education agency'' means the State board of education or other agency or officer primarily responsible for supervision by the State of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law;

(*l*) ''tribal organization'' means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: *Provided*, That in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant; and

(m) ''construction contract'' means a fixed-price or cost-reimbursement self-determination contract for a construction project, except that such term does not include any contract—

(1) that is limited to providing planning services and construction management services (or a combination of such services);

(2) for the Housing Improvement Program or roads maintenance program of the Bureau of Indian Affairs administered by the Secretary of the Interior; or

[1] So in original. Probably should be ''provided in''.

[2] See References in Text note below.

(3) for the health facility maintenance and improvement program administered by the Secretary of Health and Human Services.

(Pub. L. 93–638, § 4, Jan. 4, 1975, 88 Stat. 2204; Pub. L. 100–472, title I, § 103, Oct. 5, 1988, 102 Stat. 2286; Pub. L. 100–581, title II, § 208, Nov. 1, 1988, 102 Stat. 2940; Pub. L. 101–301, § 2(a)(1)–(3), May 24, 1990, 104 Stat. 206; Pub. L. 101–644, title II, § 202(1), (2), Nov. 29, 1990, 104 Stat. 4665; Pub. L. 103–413, title I, § 102(1), Oct. 25, 1994, 108 Stat. 4250.)

REFERENCES IN TEXT

This subchapter, referred to in text, was in the original "this Act", meaning Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, known as the Indian Self-Determination and Education Assistance Act, which is classified principally to this subchapter (§ 450 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.

The Alaska Native Claims Settlement Act, referred to in subsec. (e), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43, and Tables.

Part A of this subchapter, referred to in subsec. (j), was in the original "title I of this act", meaning title I of Pub. L. 93–638, known as the Indian Self-Determination Act, which is classified principally to part A (§ 450f et seq.) of this subchapter. For complete classification of title I to the Code, see Short Title note set out under section 450 of this title and Tables.

Section 450j(a) of this title, referred to in subsec. (j), was repealed and a new subsec. (a) of section 450j was added by Pub. L. 103–413, title I, § 102(10), Oct. 25, 1994, 108 Stat. 4253, which does not contain provisos.

AMENDMENTS

1994—Subsec. (g). Pub. L. 103–413, § 102(1)(A), substituted "indirect cost rate" for "indirect costs rate".

Subsec. (m). Pub. L. 103–413, § 102(1)(B)–(D), added subsec. (m).

1990—Subsec. (e). Pub. L. 101–301, § 2(a)(1), inserted a comma before "which is recognized".

Subsec. (h). Pub. L. 101–644, § 202(1), struck out "in existence on October 5, 1988," before "which meets this definition".

Subsec. (j). Pub. L. 101–644, § 202(2), substituted "contract (or grant or cooperative agreement utilized under section 450e–1 of this title) entered" for "contract entered" in two places.

Pub. L. 101–301, § 2(a)(2), (3), substituted "under this subchapter" for "pursuant to this Act" in two places and struck out "the" before "Secretary".

1988—Pub. L. 100–472 amended section generally, substituting subsecs. (a) to (*l*) for former subsecs. (a) to (d) and (f) which defined "Indian", "Indian tribe", "Tribal organization", "Secretary", and "State education agency".

Subsec. (h). Pub. L. 100–581, § 208(a)(1), substituted "by a tribal organization" for "by tribal organization".

Pub. L. 100–581, § 208(a)(2), which directed the amendment of subsec. (h) by substituting "a tribal organization or the tribal organization's Indian tribe for purposes of section 450f(a) of this title" for "a tribal organization or a tribal governing body" was executed by substituting the new language for "a tribal organization or tribal governing body" to reflect the probable intent of Congress.

Subsec. (j). Pub. L. 100–581, § 208(b), substituted "the Secretary for the planning" for "Secretary the planning" and "except as provided the last proviso in section 450j(a) of this title, no contract" for "no contract".

§ 450c. Reporting and audit requirements for recipients of Federal financial assistance

(a) Maintenance of records

(1) Each recipient of Federal financial assistance under this subchapter shall keep such records as the appropriate Secretary shall prescribe by regulation promulgated under sections 552 and 553 of title 5, including records which fully disclose—

(A) the amount and disposition by such recipient of the proceeds of such assistance,

(B) the cost of the project or undertaking in connection with which such assistance is given or used,

(C) the amount of that portion of the cost of the project or undertaking supplied by other sources, and

(D) such other information as will facilitate an effective audit.

(2) For the purposes of this subsection, such records for a mature contract shall consist of quarterly financial statements for the purpose of accounting for Federal funds, the annual single-agency audit required by chapter 75 of title 31[1] and a brief annual program report.

(b) Access to books, documents, papers, and records for audit and examination by Comptroller General, etc.

The Comptroller General and the appropriate Secretary, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in the preceding subsection of this section, have access (for the purpose of audit and examination) to any books, documents, papers, and records of such recipients which in the opinion of the Comptroller General or the appropriate Secretary may be related or pertinent to the grants, contracts, subcontracts, subgrants, or other arrangements referred to in the preceding subsection.

(c) Availability by recipient of required reports and information to Indian people served or represented

Each recipient of Federal financial assistance referred to in subsection (a) of this section shall make such reports and information available to the Indian people served or represented by such recipient as and in a manner determined to be adequate by the appropriate Secretary.

(d) Repayment to Treasury by recipient of unexpended or unused funds

Except as provided in section 13a or 450j–1(a)(3)[2] of this title, funds paid to a financial assistance recipient referred to in subsection (a) of this section and not expended or used for the purposes for which paid shall be repaid to the Treasury of the United States through the respective Secretary.

(e) Annual report to tribes

The Secretary shall report annually in writing to each tribe regarding projected and actual staffing levels, funding obligations, and expenditures for programs operated directly by the Secretary serving that tribe.

[1] So in original. Probably should be followed by a comma.

[2] See References in Text note below.