(f) Single-agency audit report; additional information; declination criteria and procedures

(1) For each fiscal year during which an Indian tribal organization receives or expends funds pursuant to a contract entered into, or grant made, under this subchapter, the tribal organization that requested such contract or grant shall submit to the appropriate Secretary a single-agency audit report required by chapter 75 of title 31.

(2) In addition to submitting a single-agency audit report pursuant to paragraph (1), a tribal organization referred to in such paragraph shall submit such additional information concerning the conduct of the program, function, service, or activity carried out pursuant to the contract or grant that is the subject of the report as the tribal organization may negotiate with the Secretary.

(3) Any disagreement over reporting requirements shall be subject to the declination criteria and procedures set forth in section 450f of this title.

(Pub. L. 93–638, § 5, formerly § 5 and title I, § 108, Jan. 4, 1975, 88 Stat. 2204, 2212; renumbered and amended Pub. L. 100–472, title I, § 104, title II, § 208, Oct. 5, 1988, 102 Stat. 2287, 2296; Pub. L. 100–581, title II, § 209, Nov. 1, 1988, 102 Stat. 2940; Pub. L. 101–301, § 2(a)(4), May 24, 1990, 104 Stat. 206; Pub. L. 101–644, title II, § 202(3), Nov. 29, 1990, 104 Stat. 4665; Pub. L. 103–413, title I, § 102(2), Oct. 25, 1994, 108 Stat. 4250.)

REFERENCES IN TEXT

Section 450j–1(a)(3) of this title, referred to in subsec. (d), was repealed and a new subsec. (a)(3) of section 450j–1 was added by Pub. L. 103–413, title I, § 102(14)(C), Oct. 25, 1994, 108 Stat. 4257. See section 450j–1(a)(4) of this title.

AMENDMENTS

1994—Subsec. (f). Pub. L. 103–413 added subsec. (f) and struck out former subsec. (f) which read as follows: ''For each fiscal year during which an Indian tribal organization receives or expends funds pursuant to a contract or grant under this subchapter, the Indian tribe which requested such contract or grant shall submit to the appropriate Secretary a report including, but not limited to, an accounting of the amounts and purposes for which Federal funds were expended, information on the conduct of the program or service involved, and such other information as the appropriate Secretary may request through regulations promulgated under sections 552 and 553 of title 5.''

1990—Subsec. (a)(2). Pub. L. 101–301 substituted ''chapter 75 of title 31'' for ''the Single Audit Act of 1984 (98 Stat. 2327, 31 U.S.C. 7501 et seq.),''.

Subsec. (d). Pub. L. 101–644 substituted ''Except as provided in section 13a or 450j–1(a)(3) of this title,'' for ''Any'' and inserted ''through the respective Secretary'' before period at end.

1988—Subsec. (a). Pub. L. 100–472, § 104(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Each recipient of Federal financial assistance from the Secretary of Interior or the Secretary of Health Education, and Welfare, under this Act, shall keep such records as the appropriate Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.''

Subsec. (e). Pub. L. 100–581 substituted ''to each tribe'' for ''to tribes''.

Pub. L. 100–472, § 104(b), added subsec. (e).

Subsec. (f). Pub. L. 100–472, § 208, redesignated section 450*l* of this title as subsec. (f) of this section and inserted ''through regulations promulgated under sections 552 and 553 of title 5''.

§ 450d. Criminal activities involving grants, contracts, etc.; penalties

Whoever, being an officer, director, agent, or employee of, or connected in any capacity with, any recipient of a contract, subcontract, grant, or subgrant pursuant to this subchapter or the Act of April 16, 1934 (48 Stat. 596), as amended [25 U.S.C. 452 et seq.], embezzles, willfully misapplies, steals, or obtains by fraud any of the money, funds assets, or property which are the subject of such a grant, subgrant, contract, or subcontract, shall be fined not more than $10,000 or imprisoned for not more than two years, or both, but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed $100, he shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(Pub. L. 93–638, § 6, Jan. 4, 1975, 88 Stat. 2205.)

REFERENCES IN TEXT

Act of April 16, 1934, referred to in text, is act Apr. 16, 1934, ch. 147, 48 Stat. 596, as amended, popularly known as the Johnson-O'Malley Act, which is classified generally to section 452 et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 452 of this title and Tables.

§ 450e. Wage and labor standards

(a) Similar construction in locality

All laborers and mechanics employed by contractors or subcontractors (excluding tribes and tribal organizations) in the construction, alteration, or repair, including painting or decorating of buildings or other facilities in connection with contracts or grants entered into pursuant to this subchapter, shall be paid wages at not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40. With respect to construction, alteration, or repair work to which the Act of March 3, 1921[1] is applicable under the terms of this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14, of 1950, and section 3145 of title 40.

(b) Preference requirements for wages and grants

Any contract, subcontract, grant, or subgrant pursuant to this subchapter, the Act of April 16, 1934 (48 Stat. 596), as amended [25 U.S.C. 452 et seq.], or any other Act authorizing Federal contracts with or grants to Indian organizations or for the benefit of Indians, shall require that to the greatest extent feasible—

(1) preferences and opportunities for training and employment in connection with the administration of such contracts or grants shall be given to Indians; and

(2) preference in the award of subcontracts and subgrants in connection with the adminis-

[1] See References in Text note below.

tration of such contracts or grants shall be given to Indian organizations and to Indian-owned economic enterprises as defined in section 1452 of this title.

(c) Self-determination contracts

Notwithstanding subsections (a) and (b) of this section, with respect to any self-determination contract, or portion of a self-determination contract, that is intended to benefit one tribe, the tribal employment or contract preference laws adopted by such tribe shall govern with respect to the administration of the contract or portion of the contract.

(Pub. L. 93–638, § 7, Jan. 4, 1975, 88 Stat. 2205; Pub. L. 103–413, title I, § 102(3), (4), Oct. 25, 1994, 108 Stat. 4251.)

REFERENCES IN TEXT

Act of March 3, 1921, referred to in subsec. (a), probably means the act of March 3, 1931, ch. 411, 46 Stat. 1494, as amended, known as the Davis Bacon Act, which was classified generally to sections 276a to 276a–5 of former Title 40, Public Buildings, Property, and Works, and was repealed and reenacted as sections 3141–3144, 3146, and 3147 of Title 40, Public Buildings, Property, and Works, by Pub. L. 107–217, §§ 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304.

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (a), is set out in the Appendix to Title 5, Government Organization and Employees.

Act of April 16, 1934, referred to in subsec. (b), is act Apr. 16, 1934, ch. 147, 48 Stat. 596, as amended, popularly known as the Johnson-O'Malley Act, which is classified generally to section 452 et seq. of this title. For complete classification of this Act to the Code, see Short Title note set out under section 452 of this title and Tables.

CODIFICATION

In subsec. (a), ''sections 3141–3144, 3146, and 3147 of title 40'' substituted for ''the Davis-Bacon Act of March 3, 1931 (46 Stat. 1494), as amended'' and ''section 3145 of title 40'' substituted for ''section 2 of the Act of June 13, 1934 (48 Stat. 948, 40 U.S.C. 276c)'' on authority of Pub. L. 107–217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103–413, § 102(3), substituted ''or subcontractors (excluding tribes and tribal organizations)'' for ''of subcontractors''.

Subsec. (c). Pub. L. 103–413, § 102(4), added subsec. (c).

§ 450e–1. Grant and cooperative agreements

The provisions of this subchapter shall not be subject to the requirements of chapter 63 of title 31: *Provided*, That a grant agreement or a cooperative agreement may be utilized in lieu of a contract under sections 450f and 450g[1] of this title when mutually agreed to by the appropriate Secretary and the tribal organization involved.

(Pub. L. 93–638, § 9, as added Pub. L. 98–250, § 1, Apr. 3, 1984, 98 Stat. 118; amended Pub. L. 101–301, § 2(a)(5), May 24, 1990, 104 Stat. 206.)

REFERENCES IN TEXT

Section 450g of this title, referred to in text, was in the original ''section 103 of this Act'', meaning section 103 of Pub. L. 93–638, the Indian Self-Determination Act. Section 103(a) and (b) and the first sentence of section 103(c) of Pub. L. 93–638, were repealed, and the remainder of section 103(c) of Pub. L. 93–638, was redesignated as section 102(d) of Pub. L. 93–638 (section 450f(d) of this title), by Pub. L. 100–472, title II, § 201(b)(1), Oct. 5, 1988, 102 Stat. 2289. Section 104 of Pub. L. 93–638 was renumbered as section 103 of Pub. L. 93–638 by section 202(a) of Pub. L. 100–472, and is classified to section 450h of this title.

AMENDMENTS

1990—Pub. L. 101–301 substituted ''chapter 63 of title 31'' for ''the Federal Grant and Cooperative Agreement Act of 1977 (Pub. L. 95–224; 92 Stat. 3)''.

§ 450e–2. Use of excess funds

Beginning in fiscal year 1998 and thereafter, where the actual costs of construction projects under self-determination contracts, compacts, or grants, pursuant to Public Laws 93–638, 103–413, or 100–297, are less than the estimated costs thereof, use of the resulting excess funds shall be determined by the appropriate Secretary after consultation with the tribes.

(Pub. L. 105–83, title III, § 310, Nov. 14, 1997, 111 Stat. 1590.)

REFERENCES IN TEXT

Public Law 93–638, referred to in text, is 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.

Public Law 103–413, referred to in text, is Pub. L. 103–413, Oct. 25, 1994, 108 Stat. 4250, known as the Indian Self-Determination Act Amendments of 1994, which is classified principally to part D (§ 458aa et seq.) of this subchapter. 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.

Public Law 100–297, referred to in text, is Pub. L. 100–297, Apr. 28, 1988, 102 Stat. 130, as amended, known as the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988. For complete classification of this Act to the Code, see Short Title of 1988 Amendments note set out under section 6301 of Title 20, Education, and Tables.

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1998, and not as part of the Indian Self-Determination and Education Assistance Act which comprises this subchapter.

PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following prior appropriation acts:

Pub. L. 104–208, div. A, title I, § 101(d) [title III, § 310], Sept. 30, 1996, 110 Stat. 3009–181, 3009–221.

Pub. L. 104–134, title I, § 101(c) [title III, § 310], Apr. 26, 1996, 110 Stat. 1321–156, 1321–197; renumbered title I, Pub. L. 104–140, § 1(a), May 2, 1996, 110 Stat. 1327.

§ 450e–3. Investment of advance payments; restrictions

Advance payments made by the Department of the Interior to Indian tribes, tribal organizations, and tribal consortia pursuant to the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) or the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2501 et

[1] See References in Text note below.