regulations to implement the provisions of this part.

(2) Within seven months from January 4, 1975, the Secretary shall 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 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 shall promulgate rules and regulations to implement the provisions of this part.

(b) Revision and amendment

The Secretary is authorized to revise and amend any rules or regulations promulgated pursuant to subsection (a) of this section: *Provided*, That prior to any revision or amendment to such rules or regulations the Secretary shall, to the extent practicable, consult with appropriate national and 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.

(Pub. L. 93–638, title II, § 207, Jan. 4, 1975, 88 Stat. 2216.)

CHANGE OF NAME

Committee on Interior and Insular Affairs of the Senate abolished and replaced by Committee on Energy and Natural Resources of the Senate, effective Feb. 11, 1977. See Rule XXV of Standing Rules of the Senate, as amended by Senate Resolution No. 4, Ninety-fifth Congress (popularly cited as the ''Committee System Reorganization Amendments of 1977''), approved Feb. 4, 1977. Section 105 of Senate Resolution No. 4 established a temporary Select Committee on Indian Affairs having jurisdiction over matters relating to Indian affairs (such matters previously having been within the jurisdiction of the Committee on Interior and Insular Affairs). Senate Resolution No. 127, June 6, 1984, Ninety-eighth Congress, established the Select Committee on Indian Affairs as a permanent committee of the Senate, and section 25 of Senate Resolution No. 71, Feb. 25, 1993, One Hundred Third Congress, redesignated the Select Committee on Indian Affairs as the Committee on Indian Affairs.

Committee on Interior and Insular Affairs of the House of Representatives changed to Committee on Natural Resources of the House of Representatives on Jan. 5, 1993, by House Resolution No. 5, One Hundred Third Congress.

§ 458d. Eligibility for funds of tribe or tribal organization controlling or managing private schools

The Secretary is authorized and directed to provide funds, pursuant to this subchapter; the the[1] Act of April 16, 1934 (48 Stat. 596), as amended [25 U.S.C. 452 et seq.]; or any other authority granted to him to any tribe or tribal organization which controls and manages any previously private school.

(Pub. L. 93–638, title II, § 208, Jan. 4, 1975, 88 Stat. 2216; Pub. L. 97–375, title I, § 108(d), Dec. 21, 1982, 96 Stat. 1820.)

[1] So in original.

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.

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.

AMENDMENTS

1982—Pub. L. 97–375 struck out provisions relating to annual reporting requirements of Secretary to Congressional committees respecting educational assistance program conducted pursuant to this section.

§ 458e. Supplemental assistance to funds provided to local educational agencies

The assistance provided in this subchapter for the education of Indians in the public schools of any State is in addition and supplemental to assistance provided under title IX of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7801 et seq.].

(Pub. L. 93–638, title II, § 209, Jan. 4, 1975, 88 Stat. 2217; Pub. L. 103–382, title III, § 393(c), Oct. 20, 1994, 108 Stat. 4027.)

REFERENCES IN TEXT

The Elementary and Secondary Education Act of 1965, referred to in text, is Pub. L. 89–10, Apr. 11, 1965, 79 Stat. 27, as amended. Title IX of the Act is classified generally to subchapter IX (§ 7801 et seq.) of chapter 70 of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 6301 of Title 20 and Tables.

AMENDMENTS

1994—Pub. L. 103–382 substituted ''title IX of the Elementary and Secondary Education Act of 1965'' for ''title IV of the Act of June 23, 1972 (86 Stat. 235)''.

PART D—TRIBAL SELF-GOVERNANCE—DEPARTMENT OF THE INTERIOR

§ 458aa. Establishment

The Secretary of the Interior (hereinafter in this part referred to as the ''Secretary'') shall establish and carry out a program within the Department of the Interior to be known as Tribal Self-Governance (hereinafter in this part referred to as ''Self-Governance'') in accordance with this part.

(Pub. L. 93–638, title IV, § 401, as added Pub. L. 103–413, title II, § 204, Oct. 25, 1994, 108 Stat. 4271.)

SHORT TITLE

For short title of title II of Pub. L. 103–413, which enacted this part, as the ''Tribal Self-Governance Act of 1994'', see section 201 of Pub. L. 103–413, set out as a Short Title of 1994 Amendment note under section 450 of this title.

CONGRESSIONAL STATEMENT OF FINDINGS

Section 202 of Pub. L. 103–413 provided that: ''Congress finds that—

''(1) the tribal right of self-government flows from the inherent sovereignty of Indian tribes and nations;

''(2) the United States recognizes a special government-to-government relationship with Indian tribes, including the right of the tribes to self-governance, as reflected in the Constitution, treaties, Federal statutes, and the course of dealings of the United States with Indian tribes;

''(3) although progress has been made, the Federal bureaucracy, with its centralized rules and regulations, has eroded tribal self-governance and dominates tribal affairs;

''(4) the Tribal Self-Governance Demonstration Project [established by title III of Pub. L. 93–638, formerly set out as a note under 25 U.S.C. 450f] was designed to improve and perpetuate the government-to-government relationship between Indian tribes and the United States and to strengthen tribal control over Federal funding and program management; and

''(5) Congress has reviewed the results of the Tribal Self-Governance Demonstration Project and finds that—

''(A) transferring control to tribal governments, upon tribal request, over funding and decision-making for Federal programs, services, functions, and activities, or portions thereof, is an effective way to implement the Federal policy of government-to-government relations with Indian tribes; and

''(B) transferring control to tribal governments, upon tribal request, over funding and decision-making for Federal programs, services, functions, and activities strengthens the Federal policy of Indian self-determination.''

CONGRESSIONAL DECLARATION OF POLICY

Section 203 of title II of Pub. L. 103–413 provided that: ''It is the policy of this title [enacting this part] to permanently establish and implement tribal self-governance—

''(1) to enable the United States to maintain and improve its unique and continuing relationship with, and responsibility to, Indian tribes;

''(2) to permit each Indian tribe to choose the extent of the participation of such tribe in self-governance;

''(3) to coexist with the provisions of the Indian Self-Determination Act [title I of Pub. L. 93–638, see Short Title note set out under section 450 of this title] relating to the provision of Indian services by designated Federal agencies;

''(4) to ensure the continuation of the trust responsibility of the United States to Indian tribes and Indian individuals;

''(5) to permit an orderly transition from Federal domination of programs and services to provide Indian tribes with meaningful authority to plan, conduct, redesign, and administer programs, services, functions, and activities that meet the needs of the individual tribal communities; and

''(6) to provide for an orderly transition through a planned and measurable parallel reduction in the Federal bureaucracy.''

§ 458bb. Selection of participating Indian tribes

(a) Continuing participation

Each Indian tribe that is participating in the Tribal Self-Governance Demonstration Project at the Department of the Interior under title III[1] on October 25, 1994, shall thereafter participate in Self-Governance under this part and cease participation in the Tribal Self-Governance Demonstration Project under title III[1] with respect to the Department of the Interior.

(b) Additional participants

(1) In addition to those Indian tribes participating in self-governance under subsection (a) of this section, the Secretary, acting through the Director of the Office of Self-Governance, may select up to 50 new tribes per year from the applicant pool described in subsection (c) of this section to participate in self-governance.

(2) If each tribe requests, two or more otherwise eligible Indian tribes may be treated as a single Indian tribe for the purpose of participating in Self-Governance as a consortium.

(c) Applicant pool

The qualified applicant pool for Self-Governance shall consist of each tribe that—

(1) successfully completes the planning phase described in subsection (d) of this section;

(2) has requested participation in Self-Governance by resolution or other official action by the tribal governing body; and

(3) has demonstrated, for the previous three fiscal years, financial stability and financial management capability as evidenced by the tribe having no material audit exceptions in the required annual audit of the self-determination contracts of the tribe.

(d) Planning phase

Each Indian tribe seeking to begin participation in Self-Governance shall complete a planning phase in accordance with this subsection. The tribe shall be eligible for a grant to plan and negotiate participation in Self-Governance. The planning phase shall include—

(1) legal and budgetary research; and

(2) internal tribal government planning and organizational preparation.

(Pub. L. 93–638, title IV, § 402, as added Pub. L. 103–413, title II, § 204, Oct. 25, 1994, 108 Stat. 4272; amended Pub. L. 104–208, div. A, title I, § 101(d) [title I, § 117], Sept. 30, 1996, 110 Stat. 3009–181, 3009–201.)

REFERENCES IN TEXT

Title III, referred to in subsec. (a), means title III of Pub. L. 93–638, as added by Pub. L. 100–472, title II, § 209, Oct. 5, 1988, 102 Stat. 2296, and amended, which was set out as a note under section 450f of this title prior to repeal by Pub. L. 106–260, § 10, Aug. 18, 2000, 114 Stat. 734.

AMENDMENTS

1996—Subsec. (b)(1). Pub. L. 104–208 amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''In addition to those Indian tribes participating in Self-Governance under subsection (a) of this section, the Secretary, acting through the Director of the Office of Self-Governance, may select up to 20 new tribes per year from the applicant pool described in subsection (c) of this section to participate in Self-Governance.''

§ 458cc. Funding agreements

(a) Authorization

The Secretary shall negotiate and enter into an annual written funding agreement with the governing body of each participating tribal government in a manner consistent with the Federal Government's laws and trust relationship to and responsibility for the Indian people.

(b) Contents

Each funding agreement shall—

(1) authorize the tribe to plan, conduct, consolidate, and administer programs, services,

[1] See References in Text note below.

functions, and activities, or portions thereof, administered by the Department of the Interior through the Bureau of Indian Affairs, without regard to the agency or office of the Bureau of Indian Affairs within which the program, service, function, and activity, or portion thereof, is performed, including funding for agency, area, and central office functions in accordance with subsection (g)(3) of this section, and including any program, service, function, and activity, or portion thereof, administered under the authority of—

(A) the Act of April 16, 1934 (25 U.S.C. 452 et seq.);

(B) section 13 of this title; and

(C) programs, services, functions, and activities or portions thereof administered by the Secretary of the Interior that are otherwise available to Indian tribes or Indians for which appropriations are made to agencies other than the Department of the Interior;

(2) subject to such terms as may be negotiated, authorize the tribe to plan, conduct, consolidate, and administer programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior, other than through the Bureau of Indian Affairs, that are otherwise available to Indian tribes or Indians, as identified in section 458ee(c) of this title, except that nothing in this subsection may be construed to provide any tribe with a preference with respect to the opportunity of the tribe to administer programs, services, functions, and activities, or portions thereof, unless such preference is otherwise provided for by law;

(3) subject to the terms of the agreement, authorize the tribe to redesign or consolidate programs, services, functions, and activities, or portions thereof, and reallocate funds for such programs, services, functions, and activities, or portions thereof, except that, with respect to the reallocation, consolidation, and redesign of programs described in paragraph (2), a joint agreement between the Secretary and the tribe shall be required;

(4) prohibit the inclusion of funds provided—

(A) pursuant to the Tribally Controlled Colleges and Universities Assistance Act of 1978 (25 U.S.C. 1801 et seq.);

(B) for elementary and secondary schools under the formula developed pursuant to section 2008 of this title; and

(C) the Flathead Agency Irrigation Division or the Flathead Agency Power Division, except that nothing in this section shall affect the contract authority of such divisions under section 450f of this title;

(5) specify the services to be provided, the functions to be performed, and the responsibilities of the tribe and the Secretary pursuant to the agreement;

(6) authorize the tribe and the Secretary to reallocate funds or modify budget allocations within any year, and specify the procedures to be used;

(7) allow for retrocession of programs or portions of programs pursuant to section 450j(e) of this title;

(8) provide that, for the year for which, and to the extent to which, funding is provided to a tribe under this section, the tribe—

(A) shall not be entitled to contract with the Secretary for such funds under section 450f of this title, except that such tribe shall be eligible for new programs on the same basis as other tribes; and

(B) shall be responsible for the administration of programs, services, functions, and activities pursuant to agreements entered into under this section; and

(9) prohibit the Secretary from waiving, modifying, or diminishing in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians that exists under treaties, Executive orders, and other laws.

(c) Additional activities

Each funding agreement negotiated pursuant to subsections (a) and (b) of this section may, in accordance to such additional terms as the parties deem appropriate, also include other programs, services, functions, and activities, or portions thereof, administered by the Secretary of the Interior which are of special geographic, historical, or cultural significance to the participating Indian tribe requesting a compact.

(d) Provisions relating to Secretary

Funding agreements negotiated between the Secretary and an Indian tribe shall include provisions—

(1) to monitor the performance of trust functions by the tribe through the annual trust evaluation, and

(2) for the Secretary to reassume a program, service, function, or activity, or portions thereof, if there is a finding of imminent jeopardy to a physical trust asset, natural resources, or public health and safety.

(e) Construction projects

(1) Regarding construction programs or projects, the Secretary and Indian tribes may negotiate for the inclusion of specific provisions of division B (except sections 1123, 2303, 2304, and 2313) of subtitle I of title 41 and Federal acquisition regulations in any funding agreement entered into under this subchapter. Absent a negotiated agreement, such provisions and regulatory requirements shall not apply.

(2) In all construction projects performed pursuant to this part, the Secretary shall ensure that proper health and safety standards are provided for in the funding agreements.

(f) Submission for review

Not later than 90 days before the proposed effective date of an agreement entered into under this section, the Secretary shall submit a copy of such agreement to—

(1) each Indian tribe that is served by the Agency that is serving the tribe that is a party to the funding agreement;

(2) the Committee on Indian Affairs of the Senate; and

(3) the Subcommittee on Native American Affairs of the Committee on Natural Resources of the House of Representatives.

(g) Payment

(1) At the request of the governing body of the tribe and under the terms of an agreement en-

tered into under this section, the Secretary shall provide funding to the tribe to carry out the agreement.

(2) The funding agreements authorized by this part and title III of this Act shall provide for advance payments to the tribes in the form of annual or semi-annual installments at the discretion of the tribes.

(3) Subject to paragraph (4) of this subsection and paragraphs (1) through (3) of subsection (b) of this section, the Secretary shall provide funds to the tribe under an agreement under this part for programs, services, functions, and activities, or portions thereof, in an amount equal to the amount that the tribe would have been eligible to receive under contracts and grants under this subchapter, including amounts for direct program and contract support costs and, in addition, any funds that are specifically or functionally related to the provision by the Secretary of services and benefits to the tribe or its members, without regard to the organization level within the Department where such functions are carried out.

(4) Funds for trust services to individual Indians shall be available under an agreement entered into under this section only to the extent that the same services that would have been provided by the Secretary are provided to individual Indians by the tribe.

(h) Civil actions

(1) Except as provided in paragraph (2), for the purposes of section 450m–1 of this title, the term ''contract'' shall include agreements entered into under this part.

(2) For the period that an agreement entered into under this part is in effect, the provisions of section 81 of this title, section 476 of this title, and the Act of July 3, 1952 (25 U.S.C. 82a), shall not apply to attorney and other professional contracts by Indian tribal governments participating in Self-Governance under this part.

(i) Facilitation

(1) Except as otherwise provided by law, the Secretary shall interpret each Federal law and regulation in a manner that will facilitate—

(A) the inclusion of programs, services, functions, and activities in the agreements entered into under this section; and

(B) the implementation of agreements entered into under this section.

(2)(A) A tribe may submit a written request for a waiver to the Secretary identifying the regulation sought to be waived and the basis for the request.

(B) Not later than 60 days after receipt by the Secretary of a written request by a tribe to waive application of a Federal regulation for an agreement entered into under this section, the Secretary shall either approve or deny the requested waiver in writing to the tribe. A denial may be made only upon a specific finding by the Secretary that identified language in the regulation may not be waived because such waiver is prohibited by Federal law. The Secretary's decision shall be final for the Department.

(j) Funds

All funds provided under funding agreements entered into pursuant to this subchapter, and all funds provided under contracts or grants made pursuant to this subchapter, shall be treated as non-Federal funds for purposes of meeting matching requirements under any other Federal law.

(k) Disclaimer

Nothing in this section is intended or shall be construed to expand or alter existing statutory authorities in the Secretary so as to authorize the Secretary to enter into any agreement under subsection (b)(2) of this section and section 458ee(c)(1) of this title with respect to functions that are inherently Federal or where the statute establishing the existing program does not authorize the type of participation sought by the tribe: *Provided*, however an Indian tribe or tribes need not be identified in the authorizing statute in order for a program or element of a program to be included in a compact under subsection (b)(2) of this section.

(*l*) Incorporate self-determination provisions

At the option of a participating tribe or tribes, any or all provisions of part A of this subchapter shall be made part of an agreement entered into under title III of this Act or this part. The Secretary is obligated to include such provisions at the option of the participating tribe or tribes. If such provision is incorporated it shall have the same force and effect as if set out in full in title III or this part.

(Pub. L. 93–638, title IV, § 403, as added Pub. L. 103–413, title II, § 204, Oct. 25, 1994, 108 Stat. 4272; amended Pub. L. 104–109, § 19, Feb. 12, 1996, 110 Stat. 766; Pub. L. 105–244, title IX, § 901(d), Oct. 7, 1998, 112 Stat. 1828; Pub. L. 106–568, title VIII, § 812(b), Dec. 27, 2000, 114 Stat. 2917; Pub. L. 110–315, title IX, § 941(k)(2)(H), Aug. 14, 2008, 122 Stat. 3467.)

REFERENCES IN TEXT

Act of April 16, 1934, referred to in subsec. (b)(1)(A), is act Apr. 16, 1934, ch. 147, 48 Stat. 596, 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.

The Tribally Controlled Colleges and Universities Assistance Act of 1978, referred to in subsec. (b)(4)(A), is Pub. L. 95–471, Oct. 17, 1978, 92 Stat. 1325, which is classified principally to chapter 20 (§ 1801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1801 of this title and Tables.

This subchapter, referred to in subsecs. (e)(1), (g)(3), and (j), 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 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.

Title III of this Act, referred to in subsecs. (g)(2) and (*l*), is title III of Pub. L. 93–638, as added by Pub. L. 100–472, title II, § 209, Oct. 5, 1988, 102 Stat. 2296, which was set out as a note under section 450f of this title prior to repeal by Pub. L. 106–260, § 10, Aug. 18, 2000, 114 Stat. 734.

The Act of July 3, 1952, referred to in subsec. (h)(2), is act July 3, 1952, ch. 549, 66 Stat. 323, which enacted section 82a of this title and provisions set out as a note under section 82a of this title.

Part A of this subchapter, referred to in subsec. (*l*), 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.

CODIFICATION

In subsec. (e)(1), ''division B (except sections 1123, 2303, 2304, and 2313) of subtitle I of title 41'' substituted for ''the Office of Federal Procurement and Policy Act'' on authority of Pub. L. 111–350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2008—Subsec. (b)(4)(A). Pub. L. 110–315 substituted ''the Tribally Controlled Colleges and Universities Assistance Act of 1978'' for ''the Tribally Controlled College or University Assistance Act of 1978''.

2000—Subsec. (h)(2). Pub. L. 106–568 struck out ''and'' before ''section 476 of this title'' and substituted ''and the Act of July 3, 1952 (25 U.S.C. 82a), shall not apply'' for ''shall not apply''.

1998—Subsec. (b)(4)(A). Pub. L. 105–244 substituted ''Tribally Controlled College or University Assistance Act of 1978'' for ''Tribally Controlled Community College Assistance Act of 1978''.

1996—Subsec. (*l*). Pub. L. 104–109 added subsec. (*l*).

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

§ 458dd. Budget request

The Secretary shall identify, in the annual budget request of the President to the Congress under section 1105 of title 31 any funds proposed to be included in agreements authorized under this part.

(Pub. L. 93–638, title IV, § 404, as added Pub. L. 103–413, title II, § 204, Oct. 25, 1994, 108 Stat. 4275.)

§ 458ee. Reports

(a) Requirement

The Secretary shall submit to Congress a written report on January 1 of each year following October 25, 1994, regarding the administration of this part.

(b) Contents

The report shall—

(1) identify the relative costs and benefits of Self-Governance;

(2) identify, with particularity, all funds that are specifically or functionally related to the provision by the Secretary of services and benefits to Self-Governance tribes and their members;

(3) identify the funds transferred to each Self-Governance tribe and the corresponding reduction in the Federal bureaucracy;

(4) include the separate views of the tribes; and

(5) include the funding formula for individual tribal shares of Central Office funds, together with the comments of affected Indian tribes, developed under subsection (d) of this section.

(c) Report on non-BIA programs

(1) In order to optimize opportunities for including non-Bureau of Indian Affairs programs, services, functions, and activities, or portions thereof, in agreements with tribes participating in Self-Governance under this part, the Secretary shall—

(A) review all programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior, other than through the Bureau of Indian Affairs, without regard to the agency or office concerned; and

(B) not later than 90 days after October 25, 1994, provide to the appropriate committees of Congress a listing of all such programs, services, functions, and activities, or portions thereof, that the Secretary determines, with the concurrence of tribes participating in Self-Governance under this part, are eligible for inclusion in such agreements at the request of a participating Indian tribe.

(2) The Secretary shall establish programmatic targets, after consultation with tribes participating in Self-Governance under this part, to encourage bureaus of the Department to assure that a significant portion of such programs, services, functions, and activities are actually included in the agreements negotiated under section 458cc of this title.

(3) The listing and targets under paragraphs (1) and (2) shall be published in the Federal Register and be made available to any Indian tribe participating in Self-Governance under this part. The list shall be published before January 1, 1995, and annually thereafter by January 1 preceding the fiscal year in which the targets are to be met.

(4) Thereafter, the Secretary shall annually review and publish in the Federal Register, after consultation with tribes participating in Self-Governance under this part, a revised listing and programmatic targets.

(d) Report on Central Office funds

Within 90 days after October 25, 1994, the Secretary shall, in consultation with Indian tribes, develop a funding formula to determine the individual tribal share of funds controlled by the Central Office of the Bureau of Indian Affairs for inclusion in the Self-Governance compacts. The Secretary shall include such formula in the annual report submitted to the Congress under subsection (b) of this section, together with the views of the affected Indian tribes.

(Pub. L. 93–638, title IV, § 405, as added Pub. L. 103–413, title II, § 204, Oct. 25, 1994, 108 Stat. 4276.)

§ 458ff. Disclaimers

(a) Other services, contracts, and funds

Nothing in this part shall be construed to limit or reduce in any way the services, contracts, or funds that any other Indian tribe or tribal organization is eligible to receive under section 450f of this title or any other applicable Federal law.

(b) Federal trust responsibilities

Nothing in this subchapter shall be construed to diminish the Federal trust responsibility to Indian tribes, individual Indians, or Indians with trust allotments.

(c) Application of other sections of subchapter

All provisions of sections 450c(d), 450d, 450f(c), 450i, 450j(f), 450m–1, and 450n of this title shall apply to agreements provided under this part.

(Pub. L. 93–638, title IV, § 406, as added Pub. L. 103–413, title II, § 204, Oct. 25, 1994, 108 Stat. 4277; amended Pub. L. 105–277, div. A, § 101(e) [title I, § 133], Oct. 21, 1998, 112 Stat. 2681–231, 2681–264.)

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. A former title V of Pub. L. 93–638 was added by Pub. L. 106–568, title XIII, § 1302, Dec. 27, 2000, 114 Stat. 2936, was redesignated title VIII, and is classified to part H (§ 458ddd 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.

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