

Subsec. (i). Pub. L. 102-573, §307(b)(2), struck out subsec. (i) which authorized appropriation of such sums as necessary for fiscal years 1991 and 1992 for purpose of carrying out this section.

§ 1638. Land transfer

The Bureau of Indian Affairs is authorized to transfer, at no cost, up to 5 acres of land at the Chemawa Indian School, Salem, Oregon, to the Service for the provision of health care services. The land authorized to be transferred by this section is that land adjacent to land under the jurisdiction of the Service and occupied by the Chemawa Indian Health Center.

(Pub. L. 94-437, title III, §308, as added Pub. L. 102-573, title III, §306, Oct. 29, 1992, 106 Stat. 4564.)

§ 1638a. Tribal management of federally owned quarters

(a) Rental rates

(1) Establishment

Notwithstanding any other provision of law, a tribal health program that operates a hospital or other health facility and the federally owned quarters associated with such a facility pursuant to a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)¹ may establish the rental rates charged to the occupants of those quarters, on providing notice to the Secretary.

(2) Objectives

In establishing rental rates under this subsection, a tribal health program shall attempt—

(A) to base the rental rates on the reasonable value of the quarters to the occupants of the quarters; and

(B) to generate sufficient funds to prudently provide for the operation and maintenance of the quarters, and at the discretion of the tribal health program, to supply reserve funds for capital repairs and replacement of the quarters.

(3) Equitable funding

A federally owned quarters the rental rates for which are established by a tribal health program under this subsection shall remain eligible to receive improvement and repair funds to the same extent that all federally owned quarters used to house personnel in programs of the Service are eligible to receive those funds.

(4) Notice of rate change

A tribal health program that establishes a rental rate under this subsection shall provide occupants of the federally owned quarters a notice of any change in the rental rate by not later than the date that is 60 days notice before the effective date of the change.

(5) Rates in Alaska

A rental rate established by a tribal health program under this section for a federally owned quarters in the State of Alaska may be

based on the cost of comparable private rental housing in the nearest established community with a year-round population of 1,500 or more individuals.

(b) Direct collection of rent

(1) In general

Notwithstanding any other provision of law, and subject to paragraph (2), a tribal health program may collect rent directly from Federal employees who occupy federally owned quarters if the tribal health program submits to the Secretary and the employees a notice of the election of the tribal health program to collect rents directly from the employees.

(2) Action by employees

On receipt of a notice described in paragraph (1)—

(A) the affected Federal employees shall pay rent for occupancy of a federally owned quarters directly to the applicable tribal health program; and

(B) the Secretary shall not have the authority to collect rent from the employees through payroll deduction or otherwise.

(3) Use of payments

The rent payments under this subsection—

(A) shall be retained by the applicable tribal health program in a separate account, which shall be used by the tribal health program for the maintenance (including capital repairs and replacement) and operation of the quarters, as the tribal health program determines to be appropriate; and

(B) shall not be made payable to, or otherwise be deposited with, the United States.

(4) Retrocession of authority

If a tribal health program that elected to collect rent directly under paragraph (1) requests retrocession of the authority of the tribal health program to collect that rent, the retrocession shall take effect on the earlier of—

(A) the first day of the month that begins not less than 180 days after the tribal health program submits the request; and

(B) such other date as may be mutually agreed on by the Secretary and the tribal health program.

(Pub. L. 94-437, title III, §309, as added Pub. L. 111-148, title X, §10221(a), Mar. 23, 2010, 124 Stat. 935.)

Editorial Notes

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), referred to in subsec. (a)(1), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, which was classified principally to subchapter II (§450 et seq.) of chapter 14 of this title prior to editorial reclassification as chapter 46 (§5301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

CODIFICATION

Section 309 of Pub. L. 94-437 is based on section 144 of title I of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Sen-

¹ See References in Text note below.

ate in Dec. 2009, which was enacted into law by section 10221(a) of Pub. L. 111-148.

PRIOR PROVISIONS

A prior section 1638a, Pub. L. 94-437, title III, §309, as added Pub. L. 102-573, title III, §307(a), Oct. 29, 1992, 106 Stat. 4564, authorized appropriations through fiscal year 2000 to carry out this subchapter, prior to repeal by Pub. L. 111-148, title X, §10221(a), Mar. 23, 2010, 124 Stat. 935. The repeal is based on section 101(b)(6) of title I of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Senate in Dec. 2009, which was enacted into law by section 10221(a) of Pub. L. 111-148.

§ 1638b. Applicability of Buy American requirement

(a) Duty of Secretary

The Secretary shall ensure that the requirements of the Buy American Act apply to all procurements made with funds made available to carry out this subchapter.

(b) Report to Congress

The Secretary shall submit to the Congress a report on the amount of procurements from foreign entities made in fiscal years 1993 and 1994 with funds made available to carry out this subchapter. Such report shall separately indicate the dollar value of items procured with such funds for which the Buy American Act was waived pursuant to the Trade Agreement Act of 1979 or any international agreement to which the United States is a party.

(c) Fraudulent use of Made-in-America label

If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds made available to carry out this subchapter, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

(d) "Buy American Act" defined

For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.)¹.

(Pub. L. 94-437, title III, §310, as added Pub. L. 102-573, title III, §308, Oct. 29, 1992, 106 Stat. 4564; amended Pub. L. 111-148, title X, §10221(a), Mar. 23, 2010, 124 Stat. 935.)

Editorial Notes

REFERENCES IN TEXT

The Trade Agreement Act of 1979, referred to in subsec. (b), probably means the Trade Agreements Act of 1979, Pub. L. 96-39, July 26, 1979, 93 Stat. 144. For complete classification of this Act to the Code, see References in Text note set out under section 2501 of Title 19, Customs Duties, and Tables.

¹ See References in Text note below.

Title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933, referred to in subsec. (d), is title III of act Mar. 3, 1933, ch. 212, 47 Stat. 1520, known as the Buy American Act, which was classified generally to sections 10a, 10b, and 10c of former Title 41, Public Contracts, and was substantially repealed and restated in chapter 83 (§8301 et seq.) of Title 41, Public Contracts, by Pub. L. 111-350, §§3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. For complete classification of title III to the Code, see Short Title of 1933 Act note set out under section 101 of Title 41 and Tables. For disposition of sections of former Title 41, see Disposition Table preceding section 101 of Title 41.

CODIFICATION

Amendment by Pub. L. 111-148 is based on section 101(c)(3) of title I of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Senate in Dec. 2009, which was enacted into law by section 10221(a) of Pub. L. 111-148.

AMENDMENTS

2010—Subsecs. (a) to (c). Pub. L. 111-148 substituted "funds made available to carry out this subchapter" for "funds provided pursuant to the authorization contained in section 1638a of this title".

§ 1638c. Contracts for personal services in Indian Health Service facilities

In fiscal year 1995 and thereafter (a) the Secretary may enter into personal services contracts with entities, either individuals or organizations, for the provision of services in facilities owned, operated or constructed under the jurisdiction of the Indian Health Service; (b) the Secretary may exempt such a contract from competitive contracting requirements upon adequate notice of contracting opportunities to individuals and organizations residing in the geographic vicinity of the health facility; (c) consideration of individuals and organizations shall be based solely on the qualifications established for the contract and the proposed contract price; and (d) individuals providing health care services pursuant to these contracts are covered by the Federal Tort Claims Act.

(Pub. L. 103-332, title II, Sept. 30, 1994, 108 Stat. 2530.)

Editorial Notes

REFERENCES IN TEXT

The Federal Tort Claims Act, referred to in text, is title IV of act Aug. 2, 1946, ch. 753, 60 Stat. 842, which was classified principally to chapter 20 (§§921, 922, 931-934, 941-946) of former Title 28, Judicial Code and Judiciary. Title IV of act Aug. 2, 1946, was substantially repealed and reenacted as sections 1346(b) and 2671 et seq. of Title 28, Judiciary and Judicial Procedure, by act June 25, 1948, ch. 646, 62 Stat. 992, the first section of which enacted Title 28. The Federal Tort Claims Act is also commonly used to refer to chapter 171 of Title 28, Judiciary and Judicial Procedure. For complete classification of title IV to the Code, see Tables. For distribution of former sections of Title 28 into the revised Title 28, see Table at the beginning of Title 28.

CODIFICATION

Section was enacted as part of the Department of the Interior and Related Agencies Appropriations Act, 1995, and not as part of the Indian Health Care Improvement Act which comprises this chapter.