

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.)<sup>1</sup>.

(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.

<sup>1</sup> 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.

**§ 1638d. Credit to appropriations of money collected for meals at Indian Health Service facilities**

Money before, on, and after September 30, 1994, collected for meals served at Indian Health Service facilities will be credited to the appropriations from which the services were furnished and shall be credited to the appropriation when received.

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

**Editorial Notes**

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.

**§ 1638e. Other funding, equipment, and supplies for facilities**

**(a) Authorization**

**(1) Authority to transfer funds**

The head of any Federal agency to which funds, equipment, or other supplies are made available for the planning, design, construction, or operation of a health care or sanitation facility may transfer the funds, equipment, or supplies to the Secretary for the planning, design, construction, or operation of a health care or sanitation facility to achieve—

(A) the purposes of this chapter; and

(B) the purposes for which the funds, equipment, or supplies were made available to the Federal agency.

**(2) Authority to accept funds**

The Secretary may—

(A) accept from any source, including Federal and State agencies, funds, equipment, or supplies that are available for the construction or operation of health care or sanitation facilities; and

(B) use those funds, equipment, and supplies to plan, design,<sup>1</sup> construct, and operate health care or sanitation facilities for Indians, including pursuant to a contract or compact under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).<sup>2</sup>

**(3) Effect of receipt**

Receipt of funds by the Secretary under this subsection shall not affect any priority established under section 1631 of this title.

**(b) Interagency agreements**

The Secretary may enter into interagency agreements with Federal or State agencies and other entities, and accept funds, equipment, or other supplies from those entities, to provide for the planning, design, construction, and operation of health care or sanitation facilities to be administered by Indian health programs to achieve—

(1) the purposes of this chapter; and

(2) the purposes for which the funds were appropriated or otherwise provided.

**(c) Establishment of standards**

**(1) In general**

The Secretary, acting through the Service, shall establish, by regulation, standards for the planning, design, construction, and operation of health care or sanitation facilities serving Indians under this chapter.

**(2) Other regulations**

Notwithstanding any other provision of law, any other applicable regulations of the Department shall apply in carrying out projects using funds transferred under this section.

**(d) Definition of sanitation facility**

In this section, the term “sanitation facility” means a safe and adequate water supply system, sanitary sewage disposal system, or sanitary solid waste system (including all related equipment and support infrastructure).

(Pub. L. 94-437, title III, §311, as added Pub. L. 111-148, title X, §10221(a), Mar. 23, 2010, 124 Stat. 935.)

**Editorial Notes**

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1)(A), (b)(1), and (c)(1), was in the original “this Act”, meaning Pub. L. 94-437, Sept. 30, 1976, 90 Stat. 1400, known as the Indian Health Care Improvement Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of this title and Tables.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), referred to in subsec. (a)(2)(B), 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 311 of Pub. L. 94-437 is based on section 145 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.

**§ 1638f. Indian country modular component facilities demonstration program**

**(a) Definition of modular component health care facility**

In this section, the term “modular component health care facility” means a health care facility that is constructed—

(1) off-site using prefabricated component units for subsequent transport to the destination location; and

(2) represents<sup>1</sup> a more economical method for provision of health care facility<sup>2</sup> than a traditionally constructed health care building.

**(b) Establishment**

The Secretary, acting through the Service, shall establish a demonstration program under

<sup>1</sup> So in original.

<sup>2</sup> See References in Text note below.

<sup>1</sup> So in original.

<sup>2</sup> So in original. Probably should be “provision of a health care facility”.