

(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; Pub. L. 116-180, title II, § 201(b), Oct. 21, 2020, 134 Stat. 879.)

### Editorial Notes

#### REFERENCES IN TEXT

This chapter, referred to in subsecs. (a)(1) and (f)(1), 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 chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

Section 5325(a)(3) of this title, referred to in subsec. (d), was repealed and a new subsec. (a)(3) of section 5325 was added by Pub. L. 103-413, title I, § 102(14)(C), Oct. 25, 1994, 108 Stat. 4257. See section 5325(a)(4) of this title.

#### CODIFICATION

Section was formerly classified to section 450c of this title prior to editorial reclassification and renumbering as this section.

#### AMENDMENTS

2020—Subsec. (b). Pub. L. 116-180, § 201(b)(1), substituted “after the retention period for the report that is submitted to the Secretary under subsection (a)” for “after completion of the project or undertaking referred to in the preceding subsection of this section” and inserted at end “The retention period shall be defined in regulations promulgated by the Secretary pursuant to section 5373 of this title.”

Subsec. (f)(1). Pub. L. 116-180, § 201(b)(2), inserted “if the Indian Tribal organization expends \$500,000 or more in Federal awards during such fiscal year” after “under this chapter.”

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 chapter, 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 5325(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 chapter, 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 former section 450f of this title as subsec. (f) of this section and inserted “through regulations promulgated under sections 552 and 553 of title 5”.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2020 AMENDMENT

Pub. L. 116-180, title II, § 201(c), Oct. 21, 2020, 134 Stat. 879, provided that: “The amendment made by subsection (b)(2) [amending this section] shall not take effect until 14 months after the date of enactment of this Act [Oct. 21, 2020].”

### § 5306. 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 chapter or the Act of April 16, 1934 (48 Stat. 596), as amended [25 U.S.C. 5342 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.)

### Editorial Notes

#### REFERENCES IN TEXT

This chapter, referred to in text, 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 chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

Act of April 16, 1934, referred to in text, is act Apr. 16, 1934, ch. 147, 48 Stat. 596, popularly known as the Johnson-O'Malley Act, which is classified generally to section 5342 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 was formerly classified to section 450d of this title prior to editorial reclassification and renumbering as this section.

### § 5307. 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 chapter, 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<sup>1</sup> is applicable

<sup>1</sup> See References in Text note below.

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 chapter, the Act of April 16, 1934 (48 Stat. 596), as amended [25 U.S.C. 5342 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 administration 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.)

**Editorial Notes**

REFERENCES IN TEXT

This chapter, referred to in subsections (a) and (b), 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 chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

Act of March 3, 1921, referred to in subsection (a), probably means the act of March 3, 1931, ch. 411, 46 Stat. 1494, 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 subsection (a), is set out in the Appendix to Title 5, Government Organization and Employees.

Act of April 16, 1934, referred to in subsection (b), is act Apr. 16, 1934, ch. 147, 48 Stat. 596, popularly known as the Johnson-O’Malley Act, which is classified generally to section 5342 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 was formerly classified to section 450e of this title prior to editorial reclassification and renumbering as this section.

In subsection (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).

**§ 5308. Grant and cooperative agreements**

The provisions of this chapter 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 section 5321<sup>1</sup> 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.)

**Editorial Notes**

REFERENCES IN TEXT

This chapter, referred to in text, 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 chapter. 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 5321 of this title, referred to in text, was in the original “sections 102 and 103 of this Act”, and was translated as meaning section 102 of Pub. L. 93-638 because 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 of Pub. L. 93-638 was redesignated as section 102(d) by Pub. L. 100-472, title II, §201(b)(1), Oct. 5, 1988, 102 Stat. 2289.

Section was formerly classified to section 450e-1 of this title prior to editorial reclassification and renumbering as this section.

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)”.

**§ 5309. 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.)

**Editorial Notes**

REFERENCES IN TEXT

Public Law 93-638, referred to in text, is 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 chapter. For com-

<sup>1</sup> See Codification note below.