

§ 5364. Compacts**(a) In general**

The Secretary shall negotiate and enter into a written compact with each Indian Tribe participating in self-governance in a manner consistent with the trust responsibility of the Federal Government, treaty obligations, and the government-to-government relationship between Indian Tribes and the United States.

(b) Contents

A compact under subsection (a) shall—

- (1) specify and affirm the general terms of the government-to-government relationship between the Indian Tribe and the Secretary; and
- (2) include such terms as the parties intend shall control during the term of the compact.

(c) Amendment

A compact under subsection (a) may be amended only by agreement of the parties.

(d) Effective date

The effective date of a compact under subsection (a) shall be—

- (1) the date of the execution of the compact by the parties; or
- (2) such date as is mutually agreed upon by the parties.

(e) Duration

A compact under subsection (a) shall remain in effect—

- (1) for so long as permitted by Federal law; or
- (2) until termination by written agreement, retrocession, or reassumption.

(f) Existing compacts

An Indian Tribe participating in self-governance under this subchapter, as in effect on October 21, 2020, shall have the option at any time after that date—

- (1) to retain its negotiated compact (in whole or in part) to the extent that the provisions of the compact are not directly contrary to any express provision of this subchapter; or
- (2) to negotiate a new compact in a manner consistent with this subchapter.

(Pub. L. 93–638, title IV, §404, as added Pub. L. 116–180, title I, §101(e), Oct. 21, 2020, 134 Stat. 864.)

Editorial Notes**PRIOR PROVISIONS**

A prior section 5364, Pub. L. 93–638, title IV, §404, as added Pub. L. 103–413, title II, §204, Oct. 25, 1994, 108 Stat. 4275, related to identification of funds in annual budget request, prior to repeal by Pub. L. 116–180, title I, §101(e), Oct. 21, 2020, 134 Stat. 864. See section 5371 of this title. Such section was formerly classified to section 458dd of this title prior to editorial reclassification and renumbering as section 5364.

§ 5365. General provisions**(a) Applicability**

An Indian Tribe and the Secretary shall include in any compact or funding agreement provisions that reflect the requirements of this subchapter.

(b) Conflicts of interest

An Indian Tribe participating in self-governance shall ensure that internal measures are in place to address, pursuant to Tribal law and procedures, conflicts of interest in the administration of programs.

(c) Audits**(1) Single Agency Audit Act**

Chapter 75 of title 31 shall apply to a funding agreement under this subchapter.

(2) Cost principles

An Indian Tribe shall apply cost principles under the applicable Office of Management and Budget circular, except as modified by—

(A) any provision of law, including section 5325 of this title; or

(B) any exemptions to applicable Office of Management and Budget circulars subsequently granted by the Office of Management and Budget.

(3) Federal claims

Any claim by the Federal Government against an Indian Tribe relating to funds received under a funding agreement based on any audit under this subsection shall be subject to section 5325(f) of this title.

(d) Redesign and consolidation

Except as provided in section 5367 of this title, an Indian Tribe may redesign or consolidate programs, or reallocate funds for programs, in a compact or funding agreement in any manner that the Indian Tribe determines to be in the best interest of the Indian community being served—

(1) so long as the redesign or consolidation does not have the effect of denying eligibility for services to population groups otherwise eligible to be served under applicable Federal law; and

(2) except that, with respect to the reallocation, consolidation, and redesign of programs described in subsection (b)(2) or (c) of section 5363 of this title, a joint agreement between the Secretary and the Indian Tribe shall be required.

(e) Retrocession**(1) In general**

An Indian Tribe may fully or partially retrocede to the Secretary any program under a compact or funding agreement.

(2) Effective date**(A) Agreement**

Unless an Indian Tribe rescinds a request for retrocession under paragraph (1), the retrocession shall become effective on the date specified by the parties in the compact or funding agreement.

(B) No agreement

In the absence of a specification of an effective date in the compact or funding agreement, the retrocession shall become effective on—

(i) the earlier of—

(I) 1 year after the date on which the request is submitted; and