

United States, or official acts of any officers thereof, or in any way connected with or due from the United States, unless such contract or agreement be executed and approved as follows:

First. Such agreement shall be in writing, and a duplicate of it delivered to each party.

Second. It shall bear the approval of the Secretary of the Interior and the Commissioner of Indian Affairs indorsed upon it.

Third. It shall contain the names of all parties in interest, their residence and occupations; and if made with a tribe, by their tribal authorities, the scope of authority and the reason for exercising that authority, shall be given specifically.

Fourth. It shall state the time when and place where made, the particular purpose for which made, the special thing or things to be done under it, and, if for the collection of money, the basis of the claim, the source from which it is to be collected, the disposition to be made of it when collected, the amount or rate per centum of the fee in all cases; and if any contingent matter or condition constitutes a part of the contract or agreement, it shall be specifically set forth.

Fifth. It shall have a fixed limited time to run, which shall be distinctly stated.

All contracts or agreements made in violation of this section shall be null and void, and all money or other thing of value paid to any person by any Indian or tribe, or any one else, for or on his or their behalf, on account of such services, in excess of the amount approved by the Commissioner and Secretary for such services, may be recovered by suit in the name of the United States in any court of the United States, regardless of the amount in controversy; and one-half thereof shall be paid to the person suing for the same, and the other half shall be paid into the Treasury for the use of the Indian or tribe by or for whom it was so paid.

(R.S. §2103; Pub. L. 85-770, Aug. 27, 1958, 72 Stat. 927.)

CODIFICATION

R.S. §2103 derived from acts Mar. 3, 1871, ch. 120, §3, 16 Stat. 570; May 21, 1872, ch. 177, §§1, 2, 17 Stat. 136.

AMENDMENTS

1958—Par. Second. Pub. L. 85-770 struck out requirement that contracts with Indian tribes be executed before a judge of a court of record.

Par. Sixth. Pub. L. 85-770 struck out par. Sixth enumerating contractual elements to be certified to by the judge.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Forfeiture of money received contrary to this section and punishment by fine or imprisonment, see section 438 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 81a, 84, 416a, 450l, 458cc, 2701, 2711 of this title; title 18 section 438.

§ 81a. Counsel for prosecution of claims against the United States; cancellation; revival

Any contracts or agreements approved prior to June 26, 1936, by the Secretary of the Interior between the authorities of any tribe, band, or group of Indians and their attorneys for the prosecution of claims against the United States, which provide that such contracts or agreements shall run for a period of years therein specified, and as long thereafter as may be required to complete the business therein provided for, or words of like import, or which provide that compensation for services rendered shall be on a quantum-meruit basis not to exceed a specified percentage, shall be deemed a sufficient compliance with section 81 of this title: *Provided, however*, That nothing herein contained shall limit the power of the Secretary of the Interior, after due notice and hearing and for proper cause shown, to cancel any such contract or agreement: *Provided further*, That the provisions of this section and section 81b of this title shall not be construed to revive any contract which has been terminated by lapse of time, operation of law, or by acts of the parties thereto.

(June 26, 1936, ch. 851, §1, 49 Stat. 1984.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 81b. Continuation of contracts with attorneys containing limitation of time where suits have been filed

Any existing valid contract made and approved prior to June 26, 1936, pursuant to any Act of Congress by any tribe, band, or group of Indians with an attorney or attorneys for the rendition of services in the prosecution of claims against the United States under authority of which suit or suits have been filed, and which contains a limitation of time for the completion of the services to be performed may be continued in full force unless a subsequent contract dealing with the same subject matter has been made and approved.

(June 26, 1936, ch. 851, §2, 49 Stat. 1984.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 81a of this title.

§ 82. Payments under contracts; aiding in making prohibited contracts

No money shall be paid to any agent or attorney by an officer of the United States under any such contract or agreement, other than the fees due him for services rendered thereunder; but the moneys due the tribe, Indian, or Indians, as the case may be, shall be paid by the United States, through its own officers or agents, to the party or parties entitled thereto; and no money or thing shall be paid to any person for services under such contract or agreement, until such person shall have first filed with the Commissioner of Indian Affairs a sworn statement,

showing each particular act of service under the contract, giving date and fact in detail, and the Secretary of the Interior and Commissioner of Indian Affairs shall determine therefrom whether, in their judgment, such contract or agreement has been complied with or fulfilled; if so, the same may be paid, and, if not, it shall be paid in proportion to the services rendered under the contract.

(R.S. §2104.)

CODIFICATION

R.S. §2104 derived from act May 21, 1872, ch. 177, §3, 17 Stat. 137.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Forfeiture of money received contrary to this section and punishment by fine or imprisonment, see section 438 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 438.

§ 82a. Contracts for payment of money permitted certain tribes; payment for legal services

Contracts involving the payment or expenditure of any money or affecting any property belonging to the Choctaw, Chickasaw, Cherokee, Creek, or Seminole Tribes of Indians, including contracts for professional legal services, may be made by said tribes, with the approval of the Secretary of the Interior, or his authorized representative, under such rules and regulations as the Secretary of the Interior may prescribe: *Provided*, That the provisions of this section shall not apply to contracts for professional legal services involving the prosecution of claims against the United States.

(July 3, 1952, ch. 549, §1, 66 Stat. 323.)

CONTRACTS INVOLVING CHOCTAW AND CHICKASAW TRIBES

Section 2 of act July 3, 1952, provided: "That the second proviso in section 28 of the Act of April 26, 1906, ch. 1876 (34 Stat. 148) [not classified to the Code], and the provisions contained in the fifth paragraph of section 17 of the Act of March 3, 1911, ch. 210 (36 Stat. 1070) [not classified to the Code], dealing with contracts made by the Choctaw and Chickasaw Tribes of Indians for professional legal services of attorneys, are hereby repealed."

§ 83. Repealed. June 25, 1948, ch. 645, §21, 62 Stat. 862

Section, R.S. §2105, related to payments under prohibited contracts. See section 438 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF REPEAL

Repeal by act June 25, 1948 effective Sept. 1, 1948.

§ 84. Assignments of contracts restricted

No assignment of any contracts embraced by section 81 of this title or of any part of one shall

be valid, unless the names of the assignees and their residences and occupations be entered in writing upon the contract, and the consent of the Secretary of the Interior and the Commissioner of Indian Affairs to such assignment be also indorsed thereon.

(R.S. §2106.)

CODIFICATION

R.S. §2106 derived from act May 21, 1872, ch. 177, §2, 17 Stat. 136.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

§ 85. Contracts relating to tribal funds or property

No contract made with any Indian, where such contract relates to the tribal funds or property in the hands of the United States, shall be valid, nor shall any payment for services rendered in relation thereto be made unless the consent of the United States has previously been given.

(June 30, 1913, ch. 4, §18, 38 Stat. 97.)

§ 86. Encumbrances on lands allotted to applicants for enrollment in Five Civilized Tribes; use of interest on tribal funds

Land allotted to any applicant for enrollment as a citizen in the Five Civilized Tribes whether an Indian or freedman, shall not be affected or encumbered by any deed, debt, or obligation of any character contracted prior to the time at which said land may be alienated under the laws of the United States: *Provided further*, That the interest accruing from tribal funds and deposited in banks in the State of Oklahoma may be used as authorized by the Act of March third, nineteen hundred and eleven, under the direction of the Secretary of the Interior, to defray the expense of per capita payments authorized by Congress.

(Aug. 1, 1914, ch. 222, §17, 38 Stat. 601; June 25, 1948, ch. 645, §3, 62 Stat. 859.)

REFERENCES IN TEXT

Act of March third, nineteen hundred and eleven, referred to in text, is act Mar. 3, 1911, ch. 210, 36 Stat. 1060, as amended, which, insofar as classified to the Code, enacted sections 11, 118, 143, 156, 300, and 301 of this title. For classification of this Act to the Code, see Tables.

AMENDMENTS

1948—Act June 25, 1948, struck out provisions relating to prohibiting contracts for compensation for services in relation to enrollment in the Five Civilized Tribes which is now covered by section 439 of Title 18, Crimes and Criminal Procedure.

EFFECTIVE DATE OF 1948 AMENDMENT

Amendment by act June 25, 1948 effective Sept. 1, 1948.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with cer-