

506 of Pub. L. 113-128, set out as a note under section 3101 of this title.

PART D—NATIONAL PROGRAMS

Statutory Notes and Related Subsidiaries

DEFINITION OF “SECRETARY”

In this part, “Secretary” means the Secretary of Labor, see section 3151(b)(1)(C)(ii)(II) of this title.

§ 3221. Native American programs

(a) Purpose

(1) In general

The purpose of this section is to support employment and training activities for Indian, Alaska Native, and Native Hawaiian individuals in order—

(A) to develop more fully the academic, occupational, and literacy skills of such individuals;

(B) to make such individuals more competitive in the workforce and to equip them with the entrepreneurial skills necessary for successful self-employment; and

(C) to promote the economic and social development of Indian, Alaska Native, and Native Hawaiian communities in accordance with the goals and values of such communities.

(2) Indian policy

All programs assisted under this section shall be administered in a manner consistent with the principles of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.)¹ and the government-to-government relationship between the Federal Government and Indian tribal governments.

(b) Definitions

As used in this section:

(1) Alaska Native

The term “Alaska Native” includes a Native and a descendant of a Native, as such terms are defined in subsections (b) and (r) of section 1602 of title 43.

(2) Indian, Indian tribe, and tribal organization

The terms “Indian”, “Indian tribe”, and “tribal organization” have the meanings given such terms in subsections (d), (e), and (l), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).¹

(3) Native Hawaiian and Native Hawaiian organization

The terms “Native Hawaiian” and “Native Hawaiian organization” have the meanings given such terms in section 7517 of title 20.

(c) Program authorized

Every 4 years, the Secretary shall, on a competitive basis, make grants to, or enter into contracts or cooperative agreements with, Indian tribes, tribal organizations, Alaska Native entities, Indian-controlled organizations serving Indians, or Native Hawaiian organizations to carry

out the authorized activities described in subsection (d).

(d) Authorized activities

(1) In general

Funds made available under subsection (c) shall be used to carry out the activities described in paragraph (2) that—

(A) are consistent with this section; and

(B) are necessary to meet the needs of Indians, Alaska Natives, or Native Hawaiians preparing to enter, reenter, or retain unsubsidized employment leading to self-sufficiency.

(2) Workforce development activities and supplemental services

(A) In general

Funds made available under subsection (c) shall be used for—

(i) comprehensive workforce development activities for Indians, Alaska Natives, or Native Hawaiians, including training on entrepreneurial skills; or

(ii) supplemental services for Indian, Alaska Native, or Native Hawaiian youth on or near Indian reservations and in Oklahoma, Alaska, or Hawaii.

(B) Special rule

Notwithstanding any other provision of this section, individuals who were eligible to participate in programs under section 1671 of this title (as such section was in effect on the day before August 7, 1998) shall be eligible to participate in an activity assisted under this section.

(e) Program plan

In order to receive a grant or enter into a contract or cooperative agreement under this section, an entity described in subsection (c) shall submit to the Secretary a program plan that describes a 4-year strategy for meeting the needs of Indian, Alaska Native, or Native Hawaiian individuals, as appropriate, in the area served by such entity. Such plan shall—

(1) be consistent with the purpose of this section;

(2) identify the population to be served;

(3) identify the education and employment needs of the population to be served and the manner in which the activities to be provided will strengthen the ability of the individuals served to obtain or retain unsubsidized employment leading to self-sufficiency;

(4) describe the activities to be provided and the manner in which such activities are to be integrated with other appropriate activities; and

(5) describe, after the entity submitting the plan consults with the Secretary, the performance accountability measures to be used to assess the performance of entities in carrying out the activities assisted under this section, which shall include the primary indicators of performance described in section 3141(b)(2)(A) of this title and expected levels of performance for such indicators, in accordance with subsection (h).

(f) Consolidation of funds

Each entity receiving assistance under subsection (c) may consolidate such assistance with

¹ See References in Text note below.

assistance received from related programs in accordance with the provisions of the Indian Employment, Training and Related Services Demonstration Act of 1992 (25 U.S.C. 3401 et seq.).¹

(g) Nonduplicative and nonexclusive services

Nothing in this section shall be construed—

(1) to limit the eligibility of any entity described in subsection (c) to participate in any activity offered by a State or local entity under this Act; or

(2) to preclude or discourage any agreement, between any entity described in subsection (c) and any State or local entity, to facilitate the provision of services by such entity or to the population served by such entity.

(h) Performance accountability measures

(1) Additional performance indicators and standards

(A) Development of indicators and standards

The Secretary, in consultation with the Native American Employment and Training Council, shall develop a set of performance indicators and standards that is in addition to the primary indicators of performance described in section 3141(b)(2)(A) of this title and that shall be applicable to programs under this section.

(B) Special considerations

Such performance indicators and standards shall take into account—

(i) the purpose of this section as described in subsection (a)(1);

(ii) the needs of the groups served by this section, including the differences in needs among such groups in various geographic service areas; and

(iii) the economic circumstances of the communities served, including differences in circumstances among various geographic service areas.

(2) Agreement on adjusted levels of performance

The Secretary and the entity described in subsection (c) shall reach agreement on the levels of performance for each of the primary indicators of performance described in section 3141(b)(2)(A) of this title, taking into account economic conditions, characteristics of the individuals served, and other appropriate factors and using, to the extent practicable, the statistical adjustment model under section 3141(b)(3)(A)(viii) of this title. The levels agreed to shall be the adjusted levels of performance and shall be incorporated in the program plan.

(i) Administrative provisions

(1) Organizational unit established

The Secretary shall designate a single organizational unit within the Department of Labor that shall have primary responsibility for the administration of the activities authorized under this section.

(2) Regulations

The Secretary shall consult with the entities described in subsection (c) in—

(A) establishing regulations to carry out this section, including regulations relating

to the performance accountability measures for entities receiving assistance under this section; and

(B) developing a funding distribution plan that takes into consideration previous levels of funding (prior to July 22, 2014) to such entities.

(3) Waivers

(A) In general

With respect to an entity described in subsection (c), the Secretary, notwithstanding any other provision of law, may, pursuant to a request submitted by such entity that meets the requirements established under subparagraph (B), waive any of the statutory or regulatory requirements of this subchapter that are inconsistent with the specific needs of the entity described in such subsection, except that the Secretary may not waive requirements relating to wage and labor standards, worker rights, participation and protection of workers and participants, grievance procedures, and judicial review.

(B) Request and approval

An entity described in subsection (c) that requests a waiver under subparagraph (A) shall submit a plan to the Secretary to improve the program of workforce investment activities carried out by the entity, which plan shall meet the requirements established by the Secretary and shall be generally consistent with the requirements of section 3249(i)(3)(B) of this title.

(4) Advisory Council

(A) In general

Using funds made available to carry out this section, the Secretary shall establish a Native American Employment and Training Council to facilitate the consultation described in paragraph (2) and to provide the advice described in subparagraph (C).

(B) Composition

The Council shall be composed of individuals, appointed by the Secretary, who are representatives of the entities described in subsection (c).

(C) Duties

The Council shall advise the Secretary on the operation and administration of the programs assisted under this section, including the selection of the individual appointed as head of the unit established under paragraph (1).

(D) Personnel matters

(i) Compensation of members

Members of the Council shall serve without compensation.

(ii) Travel expenses

The members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, while away from their homes or regular places of business in the performance of services for the Council.

(iii) Administrative support

The Secretary shall provide the Council with such administrative support as may be necessary to perform the functions of the Council.

(E) Chairperson

The Council shall select a chairperson from among its members.

(F) Meetings

The Council shall meet not less than twice each year.

(G) Application

Section 1013 of title 5 shall not apply to the Council.

(5) Technical assistance

The Secretary, acting through the unit established under paragraph (1), is authorized to provide technical assistance to entities described in subsection (c) that receive assistance under such subsection to enable such entities to improve the activities authorized under this section that are provided by such entities.

(6) Agreement for certain federally recognized Indian tribes to transfer funds to the program

A federally recognized Indian tribe that administers funds provided under this section and funds provided by more than one State under other sections of this subchapter may enter into an agreement with the Secretary and the Governors of the affected States to transfer the funds provided by the States to the program administered by the tribe under this section.

(j) Compliance with single audit requirements; related requirement

Grants made and contracts and cooperative agreements entered into under this section shall be subject to the requirements of chapter 75 of subtitle V of title 31, and charging of costs under this section shall be subject to appropriate circulars issued by the Office of Management and Budget.

(k) Assistance to unique populations in Alaska and Hawaii**(1) In general**

Notwithstanding any other provision of law, the Secretary is authorized to award grants, on a competitive basis, to entities with demonstrated experience and expertise in developing and implementing programs for the unique populations who reside in Alaska or Hawaii, including public and private nonprofit organizations, tribal organizations, American Indian tribal colleges or universities, institutions of higher education, or consortia of such organizations or institutions, to improve job training and workforce investment activities for such unique populations.

(2) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection—

- (A) \$461,000 for fiscal year 2015;
- (B) \$497,000 for fiscal year 2016;

- (C) \$507,000 for fiscal year 2017;
- (D) \$518,000 for fiscal year 2018;
- (E) \$530,000 for fiscal year 2019; and
- (F) \$542,000 for fiscal year 2020.

(Pub. L. 113–128, title I, §166, July 22, 2014, 128 Stat. 1560; Pub. L. 114–95, title IX, §9215(yyy)(4), Dec. 10, 2015, 129 Stat. 2192; Pub. L. 117–286, §4(a)(192), Dec. 27, 2022, 136 Stat. 4327.)

Editorial Notes

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsecs. (a)(2) and (b)(2), 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 Title 25, Indians, prior to editorial reclassification as chapter 46 (§5301 et seq.) of Title 25. Section 4 of the Act was classified to section 450b of Title 25 prior to editorial reclassification as section 5304 of Title 25. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 25 and Tables.

Section 1671 of this title, referred to in subsec. (d)(2)(B), was repealed by Pub. L. 105–220, title I, §199(b)(2), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000.

The Indian Employment, Training and Related Services Demonstration Act of 1992, referred to in subsec. (f), is Pub. L. 102–477, Oct. 23, 1992, 106 Stat. 2302, which is classified generally to chapter 36 (§3401 et seq.) of Title 25, Indians. The Act was renamed the Indian Employment, Training and Related Services Act of 1992 by Pub. L. 115–93, §2, Dec. 18, 2017, 131 Stat. 2026. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of Title 25 and Tables.

This Act, referred to in subsec. (g)(1), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

AMENDMENTS

2022—Subsec. (i)(4)(G). Pub. L. 117–286 substituted “Section 1013 of title 5” for “Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.)”.

2015—Subsec. (b)(3). Pub. L. 114–95 made technical amendment to reference in original act which appears in text as reference to section 7517 of title 20.

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EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of Title 20, Education.

EFFECTIVE DATE

Section effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as a note under section 3101 of this title.

§ 3222. Migrant and seasonal farmworker programs**(a) In general**

Every 4 years, the Secretary shall, on a competitive basis, make grants to, or enter into con-