

(B) In providing a grant under this subsection, the Director shall give priority to any application received from an Indian tribe with inadequate electric service (as determined by the Director).

(C) In providing a grant under this subsection for an activity to provide, or expand the provision of, electricity on Indian land, the Director shall encourage cooperative arrangements between Indian tribes and utilities that provide service to Indian tribes, as the Director determines to be appropriate.

(5) The Secretary of Energy may issue such regulations as the Secretary determines to be necessary to carry out this subsection.

(6) There is authorized to be appropriated to carry out this subsection \$20,000,000 for each of fiscal years 2006 through 2016.

(c) Department of Energy loan guarantee program

(1) Subject to paragraphs (2) and (4), the Secretary of Energy may provide loan guarantees (as defined in section 661a of title 2) for an amount equal to not more than 90 percent of the unpaid principal and interest due on any loan made to an Indian tribe for energy development.

(2) In providing a loan guarantee under this subsection for an activity to provide, or expand the provision of, electricity on Indian land, the Secretary of Energy shall encourage cooperative arrangements between Indian tribes and utilities that provide service to Indian tribes, as the Secretary determines to be appropriate.

(3) A loan guarantee under this subsection shall be made by—

(A) a financial institution subject to examination by the Secretary of Energy; or

(B) an Indian tribe, from funds of the Indian tribe.

(4) The aggregate outstanding amount guaranteed by the Secretary of Energy at any time under this subsection shall not exceed \$2,000,000,000.

(5) The Secretary of Energy may issue such regulations as the Secretary of Energy determines are necessary to carry out this subsection.

(6) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

(7) Not later than 1 year after August 8, 2005, the Secretary of Energy shall submit to Congress a report on the financing requirements of Indian tribes for energy development on Indian land.

(d) Preference

(1) In purchasing electricity or any other energy product or byproduct, a Federal agency or department may give preference to an energy and resource production enterprise, partnership, consortium, corporation, or other type of business organization the majority of the interest in which is owned and controlled by 1 or more Indian tribes.

(2) In carrying out this subsection, a Federal agency or department shall not—

(A) pay more than the prevailing market price for an energy product or byproduct; or

(B) obtain less than prevailing market terms and conditions.

(Pub. L. 102-486, title XXVI, § 2602, as added Pub. L. 109-58, title V, § 503(a), Aug. 8, 2005, 119 Stat. 765.)

CODIFICATION

August 8, 2005, referred to in subsec. (c)(7), was in the original “the date of enactment of this section”, which was translated as meaning the date of enactment of Pub. L. 109-58, which amended this chapter generally, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 3502, Pub. L. 102-486, title XXVI, § 2602, Oct. 24, 1992, 106 Stat. 3113, related to tribal consultation in implementing provisions, prior to the general amendment of this chapter by Pub. L. 109-58.

§ 3503. Indian tribal energy resource regulation

(a) Grants

The Secretary may provide to Indian tribes, on an annual basis, grants for use in accordance with subsection (b).

(b) Use of funds

Funds from a grant provided under this section may be used—

(1)(A) by an Indian tribe for the development of a tribal energy resource inventory or tribal energy resource on Indian land;

(B) by an Indian tribe for the development of a feasibility study or other report necessary to the development of energy resources on Indian land;

(C) by an Indian tribe (other than an Indian Tribe in the State of Alaska, except the Metlakatla Indian Community) for—

(i) the development and enforcement of tribal laws (including regulations) relating to tribal energy resource development; and

(ii) the development of technical infrastructure to protect the environment under applicable law; or

(D) by a Native Corporation for the development and implementation of corporate policies and the development of technical infrastructure to protect the environment under applicable law; and

(2) by an Indian tribe for the training of employees that—

(A) are engaged in the development of energy resources on Indian land; or

(B) are responsible for protecting the environment.

(c) Other assistance

(1) In carrying out the obligations of the United States under this chapter, the Secretary shall ensure, to the maximum extent practicable and to the extent of available resources, that on the request of an Indian tribe, the Indian tribe shall have available scientific and technical information and expertise, for use in the regulation, development, and management of energy resources of the Indian tribe on Indian land.

(2) The Secretary may carry out paragraph (1)—

(A) directly, through the use of Federal officials; or

(B) indirectly, by providing financial assistance to an Indian tribe to secure independent assistance.

(Pub. L. 102-486, title XXVI, §2603, as added Pub. L. 109-58, title V, §503(a), Aug. 8, 2005, 119 Stat. 768.)

PRIOR PROVISIONS

A prior section 3503, Pub. L. 102-486, title XXVI, §2603, Oct. 24, 1992, 106 Stat. 3114; Pub. L. 105-388, §10, Nov. 13, 1998, 112 Stat. 3484, related to promotion of energy resource development and energy vertical integration on Indian reservations, prior to the general amendment of this chapter by Pub. L. 109-58.

§ 3504. Leases, business agreements, and rights-of-way involving energy development or transmission

(a) Leases and business agreements

In accordance with this section—

(1) an Indian tribe may, at the discretion of the Indian tribe, enter into a lease or business agreement for the purpose of energy resource development on tribal land, including a lease or business agreement for—

(A) exploration for, extraction of, processing of, or other development of the energy mineral resources of the Indian tribe located on tribal land; or

(B) construction or operation of—

(i) an electric generation, transmission, or distribution facility located on tribal land; or

(ii) a facility to process or refine energy resources developed on tribal land; and

(2) a lease or business agreement described in paragraph (1) shall not require review by or the approval of the Secretary under section 81 of this title, or any other provision of law, if—

(A) the lease or business agreement is executed pursuant to a tribal energy resource agreement approved by the Secretary under subsection (e);

(B) the term of the lease or business agreement does not exceed—

(i) 30 years; or

(ii) in the case of a lease for the production of oil resources, gas resources, or both, 10 years and as long thereafter as oil or gas is produced in paying quantities; and

(C) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including the periodic review and evaluation of the activities of the Indian tribe under the agreement, to be conducted pursuant to subsection (e)(2)(D)(i)).

(b) Rights-of-way for pipelines or electric transmission or distribution lines

An Indian tribe may grant a right-of-way over tribal land for a pipeline or an electric transmission or distribution line without review or approval by the Secretary if—

(1) the right-of-way is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

(2) the term of the right-of-way does not exceed 30 years;

(3) the pipeline or electric transmission or distribution line serves—

(A) an electric generation, transmission, or distribution facility located on tribal land; or

(B) a facility located on tribal land that processes or refines energy resources developed on tribal land; and

(4) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including the periodic review and evaluation of the activities of the Indian tribe under an agreement described in subparagraphs (D) and (E) of subsection (e)(2)).

(c) Renewals

A lease or business agreement entered into, or a right-of-way granted, by an Indian tribe under this section may be renewed at the discretion of the Indian tribe in accordance with this section.

(d) Validity

No lease, business agreement, or right-of-way relating to the development of tribal energy resources under this section shall be valid unless the lease, business agreement, or right-of-way is authorized by a tribal energy resource agreement approved by the Secretary under subsection (e)(2).

(e) Tribal energy resource agreements

(1) On the date on which regulations are promulgated under paragraph (8), an Indian tribe may submit to the Secretary for approval a tribal energy resource agreement governing leases, business agreements, and rights-of-way under this section.

(2)(A) Not later than 270 days after the date on which the Secretary receives a tribal energy resource agreement from an Indian tribe under paragraph (1), or not later than 60 days after the Secretary receives a revised tribal energy resource agreement from an Indian tribe under paragraph (4)(C) (or a later date, as agreed to by the Secretary and the Indian tribe), the Secretary shall approve or disapprove the tribal energy resource agreement.

(B) The Secretary shall approve a tribal energy resource agreement submitted under paragraph (1) if—

(i) the Secretary determines that the Indian tribe has demonstrated that the Indian tribe has sufficient capacity to regulate the development of energy resources of the Indian tribe;

(ii) the tribal energy resource agreement includes provisions required under subparagraph (D); and

(iii) the tribal energy resource agreement includes provisions that, with respect to a lease, business agreement, or right-of-way under this section—

(I) ensure the acquisition of necessary information from the applicant for the lease, business agreement, or right-of-way;

(II) address the term of the lease or business agreement or the term of conveyance of the right-of-way;

(III) address amendments and renewals;

(IV) address the economic return to the Indian tribe under leases, business agreements, and rights-of-way;