

Editorial Notes

PRIOR PROVISIONS

A prior section 3506, Pub. L. 102-486, title XXVI, §2606, Oct. 24, 1992, 106 Stat. 3118, related to tribal government energy assistance program, prior to the general amendment of this chapter by Pub. L. 109-58.

AMENDMENTS

2018—Subsec. (c)(3). Pub. L. 115-325 substituted “energy development” for “energy resource development”.

§ 3507. Appraisals

(a) In general

For any transaction that requires approval of the Secretary and involves mineral or energy resources held in trust by the United States for the benefit of an Indian tribe or by an Indian tribe subject to Federal restrictions against alienation, any appraisal relating to fair market value of those resources required to be prepared under applicable law may be prepared by—

- (1) the Secretary;
- (2) the affected Indian tribe; or
- (3) a certified, third-party appraiser pursuant to a contract with the Indian tribe.

(b) Secretarial review and approval

Not later than 45 days after the date on which the Secretary receives an appraisal prepared by or for an Indian tribe under paragraph (2) or (3) of subsection (a), the Secretary shall—

- (1) review the appraisal; and
- (2) approve the appraisal unless the Secretary determines that the appraisal fails to meet the standards set forth in regulations promulgated under subsection (d).

(c) Notice of disapproval

If the Secretary determines that an appraisal submitted for approval under subsection (b) should be disapproved, the Secretary shall give written notice of the disapproval to the Indian tribe and a description of—

- (1) each reason for the disapproval; and
- (2) how the appraisal should be corrected or otherwise cured to meet the applicable standards set forth in the regulations promulgated under subsection (d).

(d) Regulations

The Secretary shall promulgate regulations to carry out this section, including standards the Secretary shall use for approving or disapproving the appraisal described in subsection (a).

(Pub. L. 102-486, title XXVI, §2607, as added Pub. L. 115-325, title II, §204(a), Dec. 18, 2018, 132 Stat. 4463.)

CHAPTER 38—INDIAN TRIBAL JUSTICE SUPPORT

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§ 3601. Findings

The Congress finds and declares that—

(1) there is a government-to-government relationship between the United States and each Indian tribe;

(2) the United States has a trust responsibility to each tribal government that includes the protection of the sovereignty of each tribal government;

(3) Congress, through statutes, treaties, and the exercise of administrative authorities, has recognized the self-determination, self-reliance, and inherent sovereignty of Indian tribes;

(4) Indian tribes possess the inherent authority to establish their own form of government, including tribal justice systems;

(5) tribal justice systems are an essential part of tribal governments and serve as important forums for ensuring public health and safety and the political integrity of tribal governments;

(6) Congress and the Federal courts have repeatedly recognized tribal justice systems as the appropriate forums for the adjudication of disputes affecting personal and property rights;

(7) traditional tribal justice practices are essential to the maintenance of the culture and identity of Indian tribes and to the goals of this chapter;

(8) tribal justice systems are inadequately funded, and the lack of adequate funding impairs their operation; and

(9) tribal government involvement in and commitment to improving tribal justice systems is essential to the accomplishment of the goals of this chapter.

(Pub. L. 103-176, §2, Dec. 3, 1993, 107 Stat. 2004.)

Statutory Notes and Related Subsidiaries

SHORT TITLE

Pub. L. 103-176, §1, Dec. 3, 1993, 107 Stat. 2004, provided that: “This Act [enacting this chapter] may be cited as the ‘Indian Tribal Justice Act.’”

§ 3602. Definitions

For purposes of this chapter:

(1) The term “Bureau” means the Bureau of Indian Affairs of the Department of the Interior.

(2) The term “Courts of Indian Offenses” means the courts established pursuant to part 11 of title 25, Code of Federal Regulations.

(3) The term “Indian tribe” means any Indian tribe, band, nation, pueblo, or other organized group or community, including any Alaska Native entity, which administers justice under its inherent authority or the authority of the United States and which is recognized as eligible for the special programs and services provided by the United States to

Indian tribes because of their status as Indians.

(4) The term “judicial personnel” means any judge, magistrate, court counselor, court clerk, court administrator, bailiff, probation officer, officer of the court, dispute resolution facilitator, or other official, employee, or volunteer within the tribal justice system.

(5) The term “Office” means the Office of Tribal Justice Support within the Bureau of Indian Affairs.

(6) The term “Secretary” means the Secretary of the Interior.

(7) The term “tribal organization” means any organization defined in section 5304(l) of this title.

(8) The term “tribal justice system” means the entire judicial branch, and employees thereof, of an Indian tribe, including (but not limited to) traditional methods and forums for dispute resolution, lower courts, appellate courts (including intertribal appellate courts), alternative dispute resolution systems, and circuit rider systems, established by inherent tribal authority whether or not they constitute a court of record.

(Pub. L. 103-176, §3, Dec. 3, 1993, 107 Stat. 2004.)

SUBCHAPTER I—TRIBAL JUSTICE SYSTEMS

§ 3611. Office of Tribal Justice Support

(a) Establishment

There is hereby established within the Bureau the Office of Tribal Justice Support. The purpose of the Office shall be to further the development, operation, and enhancement of tribal justice systems and Courts of Indian Offenses.

(b) Transfer of existing functions and personnel

All functions performed before December 3, 1993, by the Branch of Judicial Services of the Bureau and all personnel assigned to such Branch as of December 3, 1993, are hereby transferred to the Office of Tribal Justice Support. Any reference in any law, regulation, executive order, reorganization plan, or delegation of authority to the Branch of Judicial Services is deemed to be a reference to the Office of Tribal Justice Support.

(c) Functions

In addition to the functions transferred to the Office pursuant to subsection (b), the Office shall perform the following functions:

(1) Provide funds to Indian tribes and tribal organizations for the development, enhancement, and continuing operation of tribal justice systems.

(2) Provide technical assistance and training, including programs of continuing education and training for personnel of Courts of Indian Offenses.

(3) Study and conduct research concerning the operation of tribal justice systems.

(4) Promote cooperation and coordination among tribal justice systems and the Federal and State judiciary systems.

(5) Oversee the continuing operations of the Courts of Indian Offenses.

(6) Provide funds to Indian tribes and tribal organizations for the continuation and en-

hancement of traditional tribal judicial practices.

(d) No imposition of standards

Nothing in this chapter shall be deemed or construed to authorize the Office to impose justice standards on Indian tribes.

(e) Assistance to tribes

(1) The Office shall provide technical assistance and training to any Indian tribe or tribal organization upon request. Technical assistance and training shall include (but not be limited to) assistance for the development of—

(A) tribal codes and rules of procedure;

(B) tribal court administrative procedures and court records management systems;

(C) methods of reducing case delays;

(D) methods of alternative dispute resolution;

(E) tribal standards for judicial administration and conduct; and

(F) long-range plans for the enhancement of tribal justice systems.

(2) Technical assistance and training provided pursuant to paragraph (1) may be provided through direct services, by contract with independent entities, or through grants to Indian tribes or tribal organizations.

(f) Information clearinghouse on tribal justice systems

The Office shall maintain an information clearinghouse (which shall include an electronic data base) on tribal justice systems and Courts of Indian Offenses, including (but not limited to) information on staffing, funding, model tribal codes, tribal justice activities, and tribal judicial decisions. The Office shall take such actions as may be necessary to ensure the confidentiality of records and other matters involving privacy rights.

(Pub. L. 103-176, title I, §101, Dec. 3, 1993, 107 Stat. 2005.)

§ 3612. Survey of tribal judicial systems

(a) In general

Not later than six months after December 3, 1993, the Secretary, in consultation with Indian tribes, shall enter into a contract with a non-Federal entity to conduct a survey of conditions of tribal justice systems and Courts of Indian Offenses to determine the resources and funding, including base support funding, needed to provide for expeditious and effective administration of justice. The Secretary, in like manner, shall annually update the information and findings contained in the survey required under this section.

(b) Local conditions

In the course of any annual survey, the non-Federal entity shall document local conditions of each Indian tribe, including, but not limited to—

(1) the geographic area and population to be served;

(2) the levels of functioning and capacity of the tribal justice system;

(3) the volume and complexity of the case-loads;