CONSENTATION WITH INDIAN TRIBES
provided that: “In carrying out this title [enacting this chapter, section 714h of Title 42, The Public Health and Welfare, and subtitle V (§16001) of chapter 148 of Title 42, amending section 432 of this title and section 5315 of Title 5, Government Organization and Employ-
ees, and enacting provisions set out as a note under
section 15801 of Title 42] and the amendments made by
section 7144e of Title 42, The Public Health and
Welfare, and subchapter V (§ 16001) of chapter 149 of
chapter.

§ 3502. Indian tribal energy resource development
(a) Department of the Interior program
(1) To assist Indian tribes in the development of
energy resources and further the goal of Indian
self-determination, the Secretary shall estab-
lish and implement an Indian energy re-
source development program to assist consent-
ing Indian tribes and tribal energy development
organizations in achieving the purposes of this chapter.

(2) In carrying out the Program, the Secretary shall—
(A) provide development grants to Indian
tribes and tribal energy development organiza-
tions for use in developing or obtaining the
managerial and technical capacity needed to
develop energy resources on Indian land, and
to properly account for resulting energy pro-
duction and revenues;

(B) provide grants to Indian tribes and tribal
energy development organizations for use in
carrying out projects to promote the integra-
tion of energy resources, and to process, use,
or develop those energy resources, on Indian
land;

(C) provide low-interest loans to Indian
tribes and tribal energy development organiza-
tions for use in the promotion of energy re-
source development on Indian land and inte-
gration of energy resources;

(D) provide grants and technical assistance
to an appropriate tribal environmental organi-
zation, as determined by the Secretary, that
represents multiple Indian tribes to estab-
lish a national resource center to develop tribal
capacity to establish and carry out tribal en-
vironmental programs in support of energy-re-
lated programs and activities under this chap-
ter, including—
(i) training programs for tribal environ-
mental officials, program managers, and
other governmental representatives;

(ii) the development of model environ-
mental policies and tribal laws, including
tribal environmental review codes, and the
creation and maintenance of a clearinghouse
of best environmental management prac-
tices; and

(iii) recommended standards for reviewing
the implementation of tribal environmental
laws and policies within tribal judicial or
other tribal appeals systems; and

(E) consult with each applicable Indian tribe
before adopting or approving a well spacing
program or plan applicable to the energy re-
sources of that Indian tribe or the members of
that Indian tribe.

(b) Department of Energy Indian energy edu-
cation planning and management assistance
program
(1) The Director shall establish programs to
assist consenting Indian tribes in meeting en-
ergy education, research and development, plan-
ning, and management needs.

(2) In carrying out this subsection, the Direc-
tor may provide grants, on a competitive basis,
to an Indian tribe, intertribal organization, or
tribal energy development organization for use
in carrying out—
(A) energy, energy efficiency, and energy
conservation programs;

(B) studies and other activities supporting
tribal acquisitions of energy supplies, services,
and facilities, including the creation of tribal
utilities to assist in securing electricity to
promote electrification of homes and busi-
nesses on Indian land;

(C) activities to increase the capacity of In-
dian tribes to manage energy development and
energy efficiency programs;

(D) planning, construction, development, op-
eration, maintenance, and improvement of
tribal electrical generation, transmission, and
distribution facilities located on Indian land;

(E) development, construction, and inter-
connection of electric power transmission fa-
cilities located on Indian land with other elec-
tric transmission facilities.

(3) TECHNICAL AND SCIENTIFIC RESOURCES.—In
addition to providing grants to Indian tribes
under this subsection, the Secretary shall col-
laborate with the Directors of the National Lab-
oratories in making the full array of technical
and scientific resources of the Department of
Energy available for tribal energy activities and
projects.

(4)(A) The Director shall develop a program to
support and implement research projects that
provide Indian tribes with opportunities to par-
ticipate in carbon sequestration practices on Indian land, including—

(i) geologic sequestration;
(ii) forest sequestration;
(iii) agricultural sequestration; and
(iv) any other sequestration opportunities the Director considers to be appropriate.

(B) The activities carried out under subparagraph (A) shall be—

(i) coordinated with other carbon sequestration research and development programs conducted by the Secretary of Energy;
(ii) conducted to determine methods consistent with existing standardized measurement protocols to account and report the quantity of carbon dioxide or other greenhouse gases sequestered in projects that may be implemented on Indian land; and
(iii) reviewed periodically to collect and distribute to Indian tribes information on carbon sequestration practices that will increase the sequestration of carbon without threatening the social and economic well-being of Indian tribes.

(5)(A) The Director, in consultation with Indian tribes, may develop a formula for providing grants under this subsection.

(B) The activities carried out under subsection (a)(5)(A) shall be—

(i) geologic sequestration;
(ii) forest sequestration; and
(iii) reviewed periodically to collect and distribute to Indian tribes information on carbon sequestration practices that will increase the sequestration of carbon without threatening the social and economic well-being of Indian tribes.

(d) Preference

(1) In purchasing electricity or any other energy product or byproduct, a Federal agency or department may give preference to an energy product or byproduct that is produced by a small business, a small business concern, a small business concern group, or a small business contracting organization, as the Secretary determines to be appropriate.

(2) In providing a grant under this subsection for an activity to provide, or expand the provision of, electricity on Indian land, the Director shall give priority to any application received from an Indian tribe with adequate electric service (as determined by the Director).

(3) A loan guaranteed under this subsection 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.

Amendments


Subsec. (b)(2). Pub. L. 115–325, §§ 101(b)(1), 105(b)(2), substituted “Indian tribe, intertribal organization, or tribal energy development organization” for “Indian tribe or tribal energy resource development organization” in introductory provisions.

§ 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 or a tribal energy development organization, the Indian tribe or tribal energy development organization 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 or tribal energy development organization to secure independent assistance.


§ 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;

(B) construction or operation of—

(i) an electric production, generation, transmission, or distribution facility (including a facility that produces electricity from renewable energy resources) located on tribal land; or

(ii) a facility to process or refine energy resources, at least a portion of which have been developed on or produced from tribal land; or

(C) pooling, unitization, or communization of the energy mineral resources of the Indian tribe located on tribal land with any other energy mineral resource (including energy mineral resources owned by the Indian tribe or an individual Indian in fee, trust, or restricted status or by any other persons or entities) if the owner, or, if appropriate, lessee, of the resources has consented or consents to the pooling, unitization, or communization of the other resources under any lease or agreement; 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 (including regulations), if the lease or business agreement—

(A) was executed—

(i) in accordance with the requirements of a tribal energy resource agreement in effect under subsection (e) (including the periodic review and evaluation of the activities of the Indian tribe under the agreement, to be conducted pursuant to subparagraphs (D) and (E) of subsection (e)(2)); or