

S. 288

108th CONGRESS 1st Session

Indian Contracting and Federal Land Management Demonstration Project Act

To encourage contracting by Indians and Indian tribes for the management of Federal land, and for other purposes.

IN THE SENATE OF THE UNITED STATES

February 4, 2003

Mr. CAMPBELL introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To encourage contracting by Indians and Indian tribes for the management of Federal land, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the `Indian Contracting and Federal Land Management Demonstration Project Act'.

SEC. 2. PURPOSES.

The purposes of this Act are--

(1) to expand the provisions of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) to increase Indian employment and income through greater contracting opportunities with the Federal Government;

(2) to encourage contracting by Indians and Indian tribes with respect to management of Federal land--

(A) to realize the benefit of Indian knowledge and expertise with respect to the land; and

(B) to promote innovative management strategies on Federal land that will result in greater sensitivity toward, and respect for, religious beliefs and sacred sites of Indians and Indian tribes;

(3) to better accommodate access to and ceremonial use of Indian sacred land by Indian religious practitioners; and

(4) to prevent significant damage to Indian sacred land.

SEC. 3. TRIBAL PROCUREMENT CONTRACTING AND RESERVATION DEVELOPMENT.

Section 7 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) is amended by adding at the end the following:

(d) TRIBAL PROCUREMENT CONTRACTING AND RESERVATION DEVELOPMENT-

(1) IN GENERAL- Subject to paragraph (2), on request by and application of an Indian tribe to provide certain services or deliverables that the Secretary of the Interior would otherwise procure from a private-sector entity (referred to in this subsection as an `applicant tribe'), and absent a request made by 1 or more Indian tribes that would receive a direct benefit from those services or deliverables to enter into contracts for those services or deliverables in accordance with section 102 (referred to in this subsection as a `beneficiary tribe'), the Secretary of the Interior shall enter into contracts for those services or deliverables with the applicant tribe in accordance with section 102.

(2) ASSURANCES- An applicant tribe shall provide the Secretary of the Interior with assurances that the principal beneficiary tribes that receive the services and deliverables for which the applicant tribe has entered into a contract with the Secretary of the Interior remain the Indian tribes originally intended to benefit from the services or deliverables.

(3) RIGHTS AND PRIVILEGES- For the purpose of this subsection, an applicant tribe shall enjoy, at a minimum, the same rights and privileges under this Act as would a beneficiary tribe if the beneficiary tribe exercised rights to enter into a contract relating to services or deliverables in accordance with section 102.

(4) NOTICE OF DESIRE TO CONTRACT- If a beneficiary tribe seeks to enter into a contract with the Secretary of the Interior for services or deliverables being provided by an applicant tribe--

(A) the beneficiary tribe shall immediately provide notice of the desire to enter into a contract for those services and deliverables to the applicant tribe and the Secretary; and

(B) not later than the date that is 180 days after the date on which the applicant tribe and the Secretary of the Interior receive the notice, the contract between the applicant tribe and the Secretary of the Interior for the services or deliverables shall terminate.'

SEC. 4. INDIAN AND FEDERAL LAND MANAGEMENT DEMONSTRATION PROJECT.

Section 403 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458cc) is amended by adding at the end the following:

(m) INDIAN AND FEDERAL LAND MANAGEMENT DEMONSTRATION PROJECT-

(1) DEFINITIONS- In this subsection:

(A) FEDERAL LAND-

(i) IN GENERAL- The term `Federal land' means any land or interest in or to land owned by the United States.

(ii) INCLUSION- The term `Federal land' includes a leasehold interest held by the United States.

(iii) EXCLUSION- The term `Federal land' does not include land held in trust by the United States for the benefit of an Indian tribe.

(B) PROJECT- The term `project' means the Indian and Federal Land Management Demonstration Project established under paragraph (2).

(C) SECRETARY- The term `Secretary' means the Secretary of the Interior.

(2) ESTABLISHMENT- The Secretary shall establish a demonstration project, to be known as the `Indian and Federal Land Management Demonstration Project', to enter into contracts with Indian tribes or tribal organizations under which the Indian tribes or tribal organizations shall carry out activities relating to Federal land management, including--

(A) archaeological, anthropological, and cultural surveys and analyses; and

(B) activities relating to the identification, maintenance, or protection of land considered to have religious, ceremonial, or cultural significance to the Indian tribe or tribal organization.

(3) PARTICIPATION- During each of the 2 fiscal years after the date of enactment of this subsection, the Secretary shall select not less than 12 eligible Indian tribes or tribal organizations to participate in the project.

(4) ELIGIBILITY- To be eligible to participate in the project, an Indian tribe or tribal organization, shall--

(A) request participation by resolution or other official action of the governing body of the Indian tribe or tribal organization;

(B) with respect to the 3 fiscal years immediately preceding the fiscal year for which participation is requested, demonstrate financial stability and financial management capability by showing that there were no unresolved significant and material audit exceptions in the required annual audit of the self-determination contracts of the Indian tribe or tribal organization;

(C) demonstrate significant use of or dependency on the relevant conservation system unit or other public land unit for which programs, functions, services, and activities are requested to be placed under contract with respect to the project; and

(D) before entering into any contract described in paragraph (6), complete a planning phase described in paragraph (5).

(5) PLANNING PHASE- Not later than 1 year after the date on which the Secretary selects an Indian tribe or tribal organization to participate in the project, the Indian tribe or tribal organization shall complete, to the satisfaction of the Indian tribe or tribal organization, a planning phase that includes--

(A) legal and budgetary research; and

(B) internal tribal planning and organizational preparation.

(6) CONTRACTS-

(A) IN GENERAL- On request by an Indian tribe or tribal organization that meets the eligibility criteria specified in paragraph (4), the Secretary shall negotiate and enter into a contract with the Indian tribe or tribal organization under which the Indian tribe or tribal organization shall plan, conduct, and administer programs, services, functions, and activities (or portions of programs, services, functions, and activities) requested by the Indian tribe or tribal organization that relate to--

(i) archaeological, anthropological, and cultural surveys and analyses; and

(ii) the identification, maintenance, or protection of land considered to have religious, ceremonial, or cultural significance to the Indian tribe or tribal organization.

(B) TIME LIMITATION FOR NEGOTIATION OF CONTRACTS- Not later than 90 days after a participating Indian tribe or tribal organization notifies the Secretary of completion by the Indian tribe or tribal organization of the planning phase described in paragraph (5), the Secretary shall initiate and conclude negotiations with respect to a

contract described in subparagraph (A) (unless an alternative negotiation and implementation schedule is agreed to by the Secretary and the Indian tribe or tribal organization).

(C) IMPLEMENTATION- An Indian tribe or tribal organization that enters into a contract under this paragraph shall begin implementation of the contract--

(i) not later than October 1 of the fiscal year following the fiscal year in which the Indian tribe or tribal organization completes the planning phase under paragraph (5); or

(ii) in accordance with an alternative implementation schedule agreed to under subparagraph (B).

(D) TERM- A contract entered into under this paragraph may have a term of not to exceed 5 fiscal years, beginning with the fiscal year in which the contract is entered into.

(E) DECLINATION AND APPEALS PROVISIONS- The provisions of this Act relating to declination and appeals of contracts, including section 110, shall apply to a contract negotiated under this paragraph.

(7) ADMINISTRATION OF CONTRACTS-

(A) INCLUSION OF CERTAIN TERMS-

(i) IN GENERAL- At the request of an Indian tribe or tribal organization, the benefits, privileges, terms, and conditions of agreements entered into in accordance with this Act, and such other terms and conditions as are mutually agreed to and not otherwise contrary to law, may be included in a contract entered into under paragraph (6).

(ii) FORCE AND EFFECT- If any provision of this Act is incorporated in a contract under clause (i), the provision shall--

(I) have the same force and effect as under this Act; and

(II) apply notwithstanding any other provision of law.

(B) AUDIT- A contract entered into under paragraph (6) shall provide for a single-agency audit report to be filed in accordance with chapter 75 of title 31, United States Code.

(C) TRANSFER OF EMPLOYEES-

(i) IN GENERAL- A Federal employee employed at the time of transfer of administrative responsibility for a program, service, function, or activity to an Indian tribe or tribal organization under this subsection shall not be separated from Federal service by reason of the transfer.

(ii) INTERGOVERNMENTAL ACTIONS- An intergovernmental personnel action may be used to transfer supervision of a Federal employee described in clause (i) to an Indian tribe or tribal organization.

(iii) TREATMENT OF TRANSFERRED EMPLOYEES- Notwithstanding any priority reemployment list, directive, rule, regulation, or other order from the Department of the Interior, the Office of Management and Budget, or any other Federal agency, a Federal employee described in clause (i) shall be given priority placement for any available position within the respective agency of the employee.

(8) FUNDING AND PAYMENTS- A contract entered into under paragraph (6) shall provide that, with respect to the transfer of administrative responsibility for each program, service, function, and activity covered by the contract--

(A) for each fiscal year during which the contract is in effect, the Secretary shall provide to the Indian tribe or tribal organization that is a party to the contract funds in an amount that is at least equal to the amount that the Secretary would have otherwise expended in carrying out the program, service, function, or activity for the fiscal year; and

(B) funds provided to an Indian tribe or tribal organization under subparagraph (A) shall be paid by the Secretary by such date before the beginning of the applicable fiscal year as the Secretary and the Indian tribe or tribal organization may jointly determine, in the form of annual or semiannual installments.

(9) PLANNING GRANTS-

(A) IN GENERAL- Subject to the availability of appropriations, on application by an Indian tribe or tribal organization that is a participant in the project, the Secretary shall provide to the Indian tribe or tribal organization a grant in the amount of \$100,000 to assist the Indian tribe or tribal organization in--

(i) completing the planning phase described in paragraph (5); and

(ii) planning for the contracting of programs, functions, services, and activities in accordance with a contract entered into under paragraph (6).

(B) NO REQUIREMENT OF GRANT- An Indian tribe or tribal organization may carry out responsibilities of the Indian tribe or tribal organization described in subparagraph (A) without applying for a grant under this paragraph.

(C) LIMITATION ON GRANTS- No Indian tribe or tribal organization may receive more than 1 grant under this paragraph.

(D) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated to carry out this paragraph such sums as are necessary for each of the 2 fiscal years following the fiscal year in which this subsection is enacted.

(10) REPORT- Not later than 90 days after each of December 31, 2003, and December 31, 2006, the Secretary shall submit to Congress a detailed report on the project, including--

(A) a description of the project;

(B) findings with respect to the project; and

(C) an analysis of the costs and benefits of the project.

END