

Significant Provisions of HR 3664

Scope of Effect on Parks, Refuges and Non-BIA Programs

Page	Section	Provision
15	§ 405 (b) (2) (B)	Mandatory assumption of program where “the Indian tribe has a federally reserved right” in local fisheries, wildlife, minerals, etc.
15	§ 405 (b) (3)	Any Interior programs “that are of special geographical, historical, or cultural significance to the Indian tribe” are eligible for inclusion within a funding agreement.
25	§ 407 (c)	Tribe has power to make final offer to Interior on agreement terms which Interior may reject for limited reasons.
26	§ 407 (c) (4) (A) (II)	Federal jobs or programs are ineligible for transfer to tribe only when Interior can demonstrate “by a controlling legal authority that” it “is an inherent Federal function.”
40	§ 410 (a) (1)	Interior Secretary “shall interpret each Federal law and regulation in a manner that facilitates the inclusion of programs in funding agreements.”
45	§ 414 (b) (2)	Annual report on number of federal employees and functions displaced by funding agreements.
46	§ 414 (c)	“In order to optimize opportunities for including” non-BIA programs, Secretary “shall establish programmatic targets...”

Special Concessions Enjoyed by Tribal Funding Agreements

Page	Section	Provision
17	§ 405 (c)	Interior may “not revise, amend, or require additional terms in a new or subsequent funding agreement without the consent of the Indian tribe.”
18	§ 405 (e)	Funding agreements “remain in effect until a subsequent funding agreement is executed” – without limitation. If a subsequent agreement increases funding levels, then that increase “shall be retroactive to the end of the term of the preceding” agreement.
28	§ 407 (f)	Any savings realized by Interior in activities subject to the agreement shall be made available to participating tribes.
29	§ 407 (i)	All provisions of any agreements “shall be liberally construed for the benefit of the Indian tribe...and any ambiguity shall be resolved in favor of the Indian tribe.”
35	§ 409 (b)	Tribe is entitled to full annual payment in advance.
36-37	§ 409 (g) (3) (B)	Interior may not reduce funding levels in subsequent years except for limited reasons.
37-38	§ 409 (g) (3) (C) & (D)	Payments to tribes may not be reduced to reflect higher federal costs, including higher costs in supervising funding agreement.

38	§ 409 (h)	Tribes entitled to free use of federal transportation, facilities and personnel in carrying out eligible activities.
39-40	§ 409 (l)	Tribes are “not obligated to continue performance that requires an expenditure of funds in excess of the amount of funds transferred...” In that event, the “tribe may suspend performance of the activity until such time as additional funds are transferred.”

Limited Federal Oversight on Tribal Funding Agreements

Page	Section	Provision
20	§ 406 (d)	Tribes “may redesign or consolidate programs or reallocate funds in any manner that the Indian tribe deems to be in the best interest of the Indian community...”
22	§ 406 (g)	Tribal activities under funding agreement not subject to Freedom of Information Act.
45	§ 414 (a) 3	Interior “Secretary may not impose any reporting requirements on participating tribes...”
22-24	§ 407 (b)	Interior may suspend or terminate funding agreement only for “gross mismanagement” or “imminent jeopardy” to public health or resources.
41	§ 410 (b)	Tribes may secure waiver of any federal regulation unless such waiver specifically prohibited by law.
49	§ 415 (a) (3)	Power of Interior Secretary to promulgate any new regulations governing tribal funding agreements “shall expire” 18 months after the effective date of this bill becoming law.
49	§ 415 (b) (1)	Regulations for funding agreements shall be developed through “negotiated rulemaking” in which “only Federal and tribal government representatives” may participate. No public input is provided for.
50	§ 416	Funding agreements “shall not be subject to any agency circular, policy, manual, guidance, or rule adopted by the {Interior} Department...”