

maintenance for which reimbursement has not been received. No allowance for upgrading the roads shall be included.

PART 661—INDIAN RESERVATION ROAD BRIDGE PROGRAM

Sec.

- 661.1 What is the purpose of this regulation?
- 661.3 Who must comply with this regulation?
- 661.5 What definitions apply to this regulation?
- 661.7 What is the Indian Reservation Road Bridge Program (IRRBP)?
- 661.9 How will the bridge project be funded/programmed once eligibility has been determined?
- 661.11 After a bridge project has been completed what happens with the excess or surplus funding?
- 661.13 What restrictions are there on the use of the IRRBP funds?
- 661.15 What is the total funding available for the IRR Bridge Program?
- 661.17 When will these funds become available?
- 661.19 When does an eligible project receive funding?
- 661.21 How long will these funds be available?
- 661.23 What can these IRR bridge funds be used for?
- 661.25 What are the criteria for bridge eligibility?
- 661.27 When is a bridge eligible for replacement?
- 661.29 When is a bridge eligible for rehabilitation?
- 661.31 How does ownership impact project selection?
- 661.33 Do IRRBP projects have to be on a transportation improvement program (TIP)?
- 661.35 What percent of the funding in any fiscal year is available for use on BIA owned IRR bridges and non-BIA owned IRR bridges?
- 661.37 What percent of a specific project's construction costs is covered under this program?
- 661.39 When are IRR bridge projects eligible for funding?
- 661.41 What does a complete application package consist of?
- 661.43 How are the FY 1998 projects to be treated?
- 661.45 How is a list of deficient bridges to be generated?
- 661.47 In the event of project cost over runs, how would they be funded?
- 661.49 Could regular IRR funds be used to fund a bridge project?
- 661.51 Could bridge maintenance be performed with these funds?

AUTHORITY: 23 U.S.C. 120(j) and (k), 202, and 315; 49 CFR 1.48.

SOURCE: 64 FR 38572, July 19, 1999, unless otherwise noted.

§ 661.1 What is the purpose of this regulation?

The purpose of this regulation is to prescribe policies for project selection and fund allocation procedures for administering the Indian Reservation Road Bridge Program (IRRBP).

§ 661.3 Who must comply with this regulation?

Public authorities must comply to participate in the IRRBP by preparing plans, specification and estimates (PS&E) for deficient Indian Reservation Road (IRR) bridges and make application for construction funds for the replacement or rehabilitation of these bridges.

§ 661.5 What definitions apply to this regulation?

The following definitions apply to this regulation:

Construction engineering (CE) is the supervision and inspection of construction activities; additional staking functions considered necessary for effective control of the construction operations; testing materials incorporated into construction; checking shop drawings; and measurements needed for the preparation of pay estimates.

Functional obsolescence (FO) is the state or process of being one in which the deck geometry, load carrying capacity (comparison of the original design load to the State legal load), clearance, or approach roadway alignment no longer meets the usual criteria for the system of which it is an integral part.

Indian reservation road means a public road that is located within or provides access to an Indian reservation or Indian trust land or restricted Indian land which is not subject to fee title alienation without the approval of the Federal Government, or Indian and Alaska Native villages, groups, or communities in which Indians and Alaskan Natives reside, whom the Secretary of the Interior has determined are eligible

for services generally available to Indians under Federal laws specifically applicable to Indians.

Indian reservation road bridge means a structure located on an Indian reservation road (IRR), including supports, erected over a depression or an obstruction, such as water, a highway, or a railway, and having a track or passageway for carrying traffic or other moving loads, and having an opening measured along the center of the roadway of more than 20 feet between undercopings of abutments or spring lines of arches, or extreme ends of the openings for multiple boxes; it may also include multiple pipes, where the clear distance between openings is less than half of the smaller contiguous opening.

Public authority means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

Public road means any road or street under the jurisdiction of and maintained by a public authority and open to public travel.

Structural deficient (SD) bridge means a bridge that has been restricted to light vehicles only, is closed or requires immediate rehabilitation to remain open.

Sufficiency rating (SR) means the numerical rating of a bridge based on its structural adequacy and safety, essentiality for public use, and its serviceability and functional obsolescence.

§ 661.7 What is the Indian Reservation Road Bridge Program (IRRB)?

Section 202(d)(4) of title 23, U.S.C., establishes a nationwide priority program for improving deficient Indian reservation road (IRR) bridges and reserves not less than \$13 million of IRR funds per year to replace and rehabilitate bridges that are in poor condition. This program which addresses the replacement of deficient IRR bridges is referred to as the IRRBP.

§ 661.9 How will the bridge project be funded/programmed once eligibility has been determined?

(a) Funding and/or programming of construction projects for IRR bridges

would be based on the order of receipt of a complete application package, i.e., eligibility requirements met, PS&E package is complete, etc. All application packages would be placed in a queue upon submission to the BIADOT and date stamped. This submission queue would form the basis for prioritization during any fiscal year (FY). After the queue for the FY is filled up, that is, the IRRBP funding is used up, a queue for the following FY would be established.

(b) In those cases where application packages have arrived at the same time, application packages would be ranked and prioritized based on the following criteria:

- (1) Bridge sufficiency rating (SR);
- (2) Bridge status with structurally deficient (SD) having precedence over functionally obsolete (FO);
- (3) Bridges on school bus routes;
- (4) Detour length;
- (5) Average daily traffic; and
- (6) Truck average daily traffic.

§ 661.11 After a bridge project has been completed what happens with the excess or surplus funding?

Since the funding is project specific, once a bridge construction project has been completed under this program, any excess or surplus funding would be returned to BIADOT/FHWA for use on additional approved deficient IRR bridge projects.

§ 661.13 What restrictions are there on the use of the IRRBP funds?

The IRRBP funds can only be used for construction and construction engineering (CE) and may not be used for project development.

§ 661.15 What is the total funding available for the IRR Bridge Program?

The statute provides a total program funding of not less than \$13 million for each fiscal year.

§ 661.17 When will these funds become available?

These funds become available on October 1 of each fiscal year.

§ 661.19

23 CFR Ch. I (4-1-02 Edition)

§ 661.19 When does an eligible project receive funding?

The statute provides that these funds are provided after the Secretary of Transportation (FHWA) approves a completed PS&E.

§ 661.21 How long will these funds be available?

The statute provides that the funds for each fiscal year are available for the year authorized plus three years (a total of four years).

§ 661.23 What can these IRR bridge funds be used for?

The statute provides that these funds can be used to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate to, apply sodium acetate/formate or other environmentally acceptable, minimally corrosive anti-icing and deicing compositions, or install scour countermeasures for deficient IRR bridges, including multiple pipe culverts.

§ 661.25 What are the criteria for bridge eligibility?

(a) Bridge eligibility requires the following:

(1) Have an opening of 20 feet or more;

(2) Be on an IRR;

(3) Be unsafe because of structural deficiencies, physical deterioration or functional obsolescence; and

(4) Be recorded in the national bridge inventory (NBI) maintained by the FHWA.

(b) Bridges that were constructed, rehabilitated or replaced in the last 10 years, will be eligible only for seismic retrofit or installation of scour countermeasures.

§ 661.27 When is a bridge eligible for replacement?

To be eligible for replacement, the bridge must be considered deficient for reasons of structural deficiency or functional obsolescence. Also, the bridge must have a sufficiency rating of less than 50 to be eligible for replacement.

§ 661.29 When is a bridge eligible for rehabilitation?

To be eligible for rehabilitation, the bridge must be considered deficient for reasons of structural deficiency or functional obsolescence. Also, the bridge must have a sufficiency rating of less than or equal to 80 to be eligible for rehabilitation. A bridge would be eligible for replacement if the total life cycle cost for bridge rehabilitation exceeds the costs to replace.

§ 661.31 How does ownership impact project selection?

Since the Federal government has both a trust responsibility and owns the BIA bridges on Indian reservations, primary consideration would be given to funding construction projects for deficient BIA owned IRR bridges. We emphasize that consideration could also be given to the funding of construction projects for the deficient non-BIA, IRR bridges, however; these projects must be supported by a tribal resolution.

§ 661.33 Do IRRBP projects have to be on a transportation improvement program (TIP)?

Yes. All IRRBP projects have to be listed on an approved TIP. Under 23 U.S.C. 204(j), IRR bridges must appear on the BIA's IRRBP TIP and be forwarded to the State.

§ 661.35 What percent of the funding in any fiscal year is available for use on BIA owned IRR bridges and non-BIA owned IRR bridges?

Up to 80 percent (\$10.4 million) of funding in any fiscal year would be available for use on BIA owned IRR bridges. This would leave 20 percent (\$2.6 million) of funding in any fiscal year that would be available for use on non-BIA owned IRR bridges. A smaller percentage of available funds has been set aside for non-BIA IRR bridges, since States and counties have access to Federal-aid and other funding to replace and rehabilitate their bridges and that 23 U.S.C. 204(c) requires that IRR funds be supplemental to and not in lieu of other funds apportioned to the State. The program policy will be to maximize the number of IRR bridges participating in the IRRBP in a given fiscal year regardless of ownership.

Federal Highway Administration, DOT

§ 661.45

§ 661.37 What percent of a specific project's construction costs is covered under this program?

The following funding provisions apply in administration of the IRRBP:

(a) 100 percent IRRBP funding would be provided for a BIA owned IRR bridge;

(b) Up to 80 percent of the IRRBP funding would be provided for a State, county, or locally owned non-BIA IRR bridge;

(c) States, counties, local and tribal governments would be required to provide at least 20 percent of the funds for non-BIA owned IRR bridges;

(d) The IRRBP funding ceiling for any single non-BIA owned IRR bridge project would be \$1.5 million.

§ 661.39 When are IRR bridge projects eligible for funding?

The statute provides that IRR funds to carry out IRRBP projects shall be made available only on approval of the PS&E by the Secretary (FHWA). Approval consists of having completed and approved bridge design, specifications and estimates. The project must be ready for construction, right of way must have been acquired, and the project contract must be awarded within 120 calendar days of funding. A copy of the FHWA or BIADOT PS&E approval letter, certification checklist and IRRBP TIP must be forwarded by the area office to the BIADOT/FLH for review and acceptance. For non-BIA IRR bridges, the application package must also include a tribal resolution supporting the project. Submittal of an incomplete application package would form the basis for project disapproval and the BIA area office would have to revise and resubmit the package.

§ 661.41 What does a complete application package consist of?

A complete application package would consist of the following: the FHWA or BIADOT PS&E approval letter, certification checklist and IRRBP TIP. In addition to the preceding items, for non-BIA IRR bridges, the application package must also include a tribal resolution supporting the project.

§ 661.43 How are the FY 1998 projects to be treated?

In order not to penalize any BIA area office which completed PS&E packages in FY 1998 that were not funded because the project selection/fund allocation procedures for distribution of funds for FY 1998 were not in place, the funds for approved projects would be made available to the BIA area offices on receipt and acceptance of their application packages.

§ 661.45 How is a list of deficient bridges to be generated?

(a) In consultation with the BIA, a list of deficient BIA IRR bridges will be developed each fiscal year by the FHWA based on the annual April update of the NBI. The NBI is based on data from the inspection of all bridges. Likewise, a list of non-BIA IRR bridges will be obtained from the NBI. These lists would form the basis for identifying bridges that would be considered potentially eligible for participation in the IRRBP. Two separate master bridge lists (one each for BIA and non-BIA IRR bridges) will be developed and will include, at a minimum, the following:

- (1) Sufficiency rating (SR);
- (2) Status (structurally deficient or functionally obsolete);
- (3) Average daily traffic (NBI item 29);
- (4) Detour length (NBI item 19); and
- (5) Truck average daily traffic (NBI item 109).

(b) These lists would be provided by the FHWA to the BIADOT for publication and notification of affected BIA area offices, Indian tribal governments (ITG)s, and State and local governments.

(c) BIA area offices in consultation with ITGs, are encouraged to prioritize the design for bridges that are structurally deficient over bridges that are simply functionally obsolete, since the former is more critical structurally than the latter. Bridges that have higher average daily traffic (ADT) should be considered before those that have lower ADT. Detour length should also be a factor in selection and submittal of bridges, with those having a higher detour length being of greater concern. Lastly, bridges with higher

§ 661.47

truck ADT should take precedence over those which have lower truck ADT. Other items of note should be whether school buses use the bridge and the types of trucks that may cross the bridge and the loads imposed.

§ 661.47 In the event of project cost over runs, how would they be funded?

(a) Because of the critical nature of this program, BIA area road engineer (ARE) approved costs in excess of the project estimate could be funded out of this program depending on the availability of funds and subject to BIADOT/FLH project approval procedures. The ARE would request additional IRRBP funding for a specific bridge project and submit a request with appropriate justification along with an explanation as to why this additional IRRBP funding is necessary.

(b) In addition, project cost over runs may be funded out of regular IRR program funds.

§ 661.49 Could regular IRR funds be used to fund a bridge project?

Yes. Regular IRR construction funds can be used to fund a bridge project with the concurrence of the FHWA, BIADOT and the BIA ARE.

§ 661.51 Could bridge maintenance be performed with these funds?

No. Bridge maintenance repairs would not be within the scope of funding, e.g., guard rail repair, deck repairs, repair of traffic control devices, striping, cleaning scuppers, deck sweeping, snow and debris removal, etc. There are maintenance funds available through annual Department of the Interior appropriations for use on BIA owned bridges. The Department of the Interior maintenance funds would be the appropriate funding source for bridge maintenance.

PART 667 [RESERVED]

23 CFR Ch. I (4-1-02 Edition)

PART 668—EMERGENCY RELIEF PROGRAM

Subpart A—Procedures for Federal-Aid Highways

Sec.

- 668.101 Purpose.
- 668.103 Definitions.
- 668.105 Policy.
- 668.107 Federal share payable.
- 668.109 Eligibility.
- 668.111 Application procedures.
- 668.113 Program and project procedures.

Subpart B—Procedures for Federal Agencies for Federal Roads

- 668.201 Purpose.
- 668.203 Definitions.
- 668.205 Policy.
- 668.207 Federal share payable from emergency fund.
- 668.209 Eligibility of work.
- 668.211 Notification, damage assessment, and finding.
- 668.213 Application procedures.
- 668.215 Programming and project procedures.

AUTHORITY: 23 U.S.C. 101, 120(e), 125 and 315; 49 CFR 1.48(b).

Subpart A—Procedures for Federal-Aid Highways

SOURCE: 52 FR 21948, June 10, 1987, unless otherwise noted.

§ 668.101 Purpose.

To establish policy and provide program guidance for the administration of emergency funds for the repair or reconstruction of Federal-aid highways, which are found to have suffered serious damage by natural disasters over a wide area or serious damage from catastrophic failures. Guidance for application by Federal agencies for reconstruction of Federal roads that are not part of the Federal-aid highways is contained in 23 CFR part 668, subpart B.

[52 FR 21948, June 10, 1987, as amended at 61 FR 67212, Dec. 20, 1996]