

Bureau of Indian Affairs, Interior

§ 170.2

APPENDIX A TO SUBPART G—LIST OF ACTIVITIES ELIGIBLE FOR FUNDING UNDER BIA TRANSPORTATION FACILITY MAINTENANCE PROGRAM

Subpart H—Miscellaneous Provisions

HAZARDOUS AND NUCLEAR WASTE TRANSPORTATION

- 170.900 What is the purpose of the provisions relating to transportation of hazardous and nuclear waste?
- 170.901 What standards govern transportation of radioactive and hazardous materials?
- 170.902 What is the role of State, tribal, and local governments?
- 170.903 Who notifies tribes of the transport of radioactive waste?
- 170.904 Who responds to an accident involving a radioactive or hazardous materials shipment?
- 170.905 How can tribes obtain training in handling hazardous material?
- 170.906 Who cleans up radioactive and hazardous material spills?

REPORTING REQUIREMENTS AND INDIAN PREFERENCE

- 170.910 What information on the IRR Program or projects must BIA provide to tribes?
- 170.911 Are Indians entitled to employment and training preferences?
- 170.912 Does Indian employment preference apply to Federal-aid Highway Projects?
- 170.913 Do tribal-specific employment rights and contract preference laws apply?
- 170.914 What is the difference between tribal employment preference and Indian employment preference?
- 170.915 May tribal employment taxes or fees be included in an IRR project budget?
- 170.916 May tribes impose taxes or fees on those performing IRR Program services?
- 170.917 Can tribes receive direct payment of tribal employment taxes or fees?

EMERGENCY RELIEF

- 170.920 What is the purpose of the provisions relating to emergency relief?
- 170.921 What emergency or disaster assistance programs are available?
- 170.922 How can States get Emergency Relief Program funds to repair IRR System damage?
- 170.923 What qualifies for ERFO funding?
- 170.924 What happens if DOT denies an ERFO claim?
- 170.925 Is ERFO funding supplemental to IRR Program funding?
- 170.926 Can a tribe administer approved ERFO repairs under a self-determination contract or a self-governance agreement?
- 170.927 How can FEMA Program funds be used to repair damage?

TRIBAL TRANSPORTATION DEPARTMENTS

- 170.930 What is a tribal transportation department?
- 170.931 Can tribes use IRR Program funds to pay tribal transportation department operating costs?
- 170.932 Are there other funding sources for tribal transportation departments?
- 170.933 Can tribes regulate oversize or overweight vehicles?

RESOLVING DISPUTES

- 170.934 Are alternative dispute resolution procedures available?
- 170.935 How does a direct service tribe begin the alternative dispute resolution process?

OTHER MISCELLANEOUS PROVISIONS

- 170.941 May tribes become involved in transportation research?
- 170.942 Can a tribe use Federal funds for transportation services for a tribe's Welfare-to-Work, Temporary Assistance to Needy Families, and other quality-of-life improvement programs?

AUTHORITY: Pub. L. 105-178, 112 Stat. 107; 5 U.S.C. 565; 23 U.S.C. 101(a), 202, 204, 308; 25 U.S.C. 47, 25 U.S.C. 450.

SOURCE: 69 FR 43102, July 19, 2004, unless otherwise noted.

Subpart A—Policies, Applicability, and Definitions

§ 170.1 What does this part do?

This part provides rules and a funding formula for the Department of the Interior (DOI) in implementing the Indian Reservation Roads (IRR) Program. Included in this part are other Title 23 programs administered by the Secretary and implemented by tribes and tribal organizations under the Indian Self-Determination and Education Assistance Act of 1975, as amended (ISDEAA).

§ 170.2 What is the IRR Program and BIA Road Maintenance Program policy?

(a) It is the policy of the Secretary of the Interior and the Secretary of Transportation (Secretaries) to do the following in relation to the IRR and BIA Road Maintenance Programs:

- (1) Provide a uniform and consistent set of rules;
- (2) Foster knowledge of the programs by providing information about them and the opportunities that they create;

§ 170.3

25 CFR Ch. I (4–1–10 Edition)

(3) Facilitate tribal planning, conduct, and administration of the programs;

(4) Encourage the inclusion of these programs under self-determination contracts or self-governance agreements;

(5) Make available all contractible administrative functions under self-determination contracts or self-governance agreements; and

(6) Implement policies, procedures, and practices in consultation with Indian tribes to ensure the letter, spirit, and goals of Federal transportation programs are fully implemented.

(b) Where this part differs from provisions in the Indian Self-Determination and Education Assistance Act of 1975 (ISDEAA), this part should advance the policy of increasing tribal autonomy and discretion in program operation.

(c) This part is designed to enable Indian tribes to participate in all contractible IRR and BIA Road Maintenance programs. The Secretary of the Interior will afford Indian tribes the flexibility, information, and discretion to design roads programs under self-determination contracts and self-governance agreements to meet the needs of their communities consistent with this part.

(d) The Secretaries recognize that programs, functions, services, and activities, regardless of how they are administered, are an exercise of Indian tribes' self-determination and self-governance.

(1) The tribe is responsible for managing the day-to-day operation of its contracted Federal programs, functions, services, and activities.

(2) The tribe accepts responsibility and accountability to the beneficiaries under self-determination contracts and self-governance agreements for:

(i) Use of the funds; and

(ii) Satisfactory performance of all activities funded under the contract or agreement.

(3) The Secretary will continue to discharge the trust responsibilities to protect and conserve the trust resources of tribes and the trust resources of individual Indians.

(e) The Secretary should interpret Federal laws and regulations to facilitate including programs covered by

this part in the government-to-government agreements authorized under ISDEAA.

(f) The administrative functions referenced in paragraph (a)(5) of this section are contractible without regard to the organizational level within the Department of the Interior that carries out these functions. Including IRR Program administrative functions under self-determination contracts and self-governance agreements does not limit or reduce the funding for any program or service serving any other tribe.

(g) The Secretary is not required to reduce funding for a tribe under these programs to make funds available to another tribe.

(h) This part must be liberally construed for the benefit of tribes and to implement the Federal policy of self-determination and self-governance.

(i) Any ambiguities in this part must be construed in favor of the tribes so as to facilitate and enable the transfer of programs authorized by 23 U.S.C. 202 and title 25 U.S.C.

§ 170.3 When do other requirements apply to the IRR Program?

IRR Program Policy and Guidance Manuals and directives apply to the IRR Program only if they are consistent with this part and 25 CFR parts 900 and 1000. See 25 CFR part 900.5 for when a tribe must comply with other unpublished requirements.

§ 170.4 What is the effect of this part on existing tribal rights?

This part does not:

(a) Affect the sovereign immunity from suit enjoyed by tribes;

(b) Terminate or reduce the trust responsibility of the United States to tribes or individual Indians;

(c) Require a tribe to assume a program relating to the IRR Program; or

(d) Impede awards by other agencies of the United States or a State to tribes to administer programs under any other law.

§ 170.5 What definitions apply to this part?

AASHTO means the American Association of State Highway and Transportation Officials.