

## § 170.106

(h) General funds of the tribal government; and

(i) Any other funds available for the purpose of consultation, collaboration, and coordination activities.

### **§ 170.106 When must State governments consult with tribes?**

Each State must develop the State Transportation Improvement Program (STIP) in consultation with tribes and BIA in those areas under Indian tribal jurisdiction. This includes providing for a fully coordinated transportation planning process that coordinates transportation planning efforts carried out by the State with transportation planning efforts carried out by tribes. The statewide and metropolitan planning organization requirements are in 23 U.S.C. 134 and 135. Regulations can be found at 23 CFR part 450.

### **§ 170.107 Should planning organizations and local governments consult with tribes when planning for transportation projects?**

Yes. The Department's policy is to foster and improve communication, cooperation, and coordination among metropolitan planning organizations (MPOs), regional planning organizations (RPOs), local governments, municipal governments, and tribes on transportation matters of common concern. Accordingly, planning organizations and local governments should consult with tribal governments when planning for transportation projects.

### **§ 170.108 Should Indian tribes and BIA consult with States' planning organizations and local governments in the development of their IRRTP?**

Yes.

(a) All regionally significant IRR Program projects must be:

(1) Developed in cooperation with State and metropolitan planning organizations; and

(2) Included in appropriate Federal Lands Highway Program transportation improvement programs for inclusion in state and metropolitan plans.

(b) BIA and tribes are encouraged to consult with States, metropolitan and regional planning organizations, and local and municipal governments, on

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transportation matters of common concern.

### **§ 170.109 How do the Secretaries prevent discrimination or adverse impacts?**

In administering the IRR Program, the Secretaries ensure that non-discrimination and environmental justice principles are integral program elements. The Secretaries consult with tribes early in the program development process to identify potential discrimination and to recommend corrective actions to avoid disproportionately high and adverse effects on tribes and Native American populations.

### **§ 170.110 How can State and local governments prevent discrimination or adverse impacts?**

(a) Under 23 U.S.C. 134 and 135, and 23 CFR part 450, State and local government officials should consult and work with tribes early in the development of programs to:

(1) Identify potential discrimination; and

(2) Recommend corrective actions to avoid disproportionately high and adverse effects on tribes and Native American populations.

(b) Examples of adverse effects include, but are not limited to:

(1) Impeding access to tribal communities or activities;

(2) Creating excessive access to culturally or religiously sensitive areas;

(3) Negatively affecting natural resources, trust resources, tribal businesses, religious, and cultural sites;

(4) Harming indigenous plants and animals; and

(5) Impairing the ability of tribal members to engage in commercial, cultural, and religious activities.

### **§ 170.111 What can a tribe do if discrimination or adverse impacts occur?**

If discrimination or adverse impacts occur, a tribe should take the following steps in the order listed:

(a) Take reasonable steps to resolve the problem directly with the State or local government involved;

(b) Contact BIA, FHWA, or the Federal Transit Authority (FTA), as appropriate, to report the problem and