

Bureau of Indian Affairs, Interior

§ 170.136

TOLL, FERRY AND AIRPORT FACILITIES

§ 170.130 How can tribes use Federal highway funds for toll and ferry facilities?

(a) A tribe can use Federal-aid highway funds, including IRR Program funds, to study, design, construct, and operate toll highways, bridges, and tunnels, as well as ferry boats and ferry terminal facilities. The following table shows how a tribe can initiate construction of these facilities.

To initiate construction of a . . .	A tribe must . . .
(1) Toll highway, bridge, or tunnel.	(i) Meet and follow the requirements set forth in 23 U.S.C. 129; and (ii) If IRR Program funds are used, enter into a self-tunnel governance agreement or self-determination contract with the Secretary of the Interior.
(2) Ferry boat or ferry terminal.	Meet and follow the requirements set forth in 23 U.S.C. 129(c).

(b) A tribe can use IRR Program funds to fund 100 percent of the conversion or construction of a toll facility.

(c) If a tribe obtains non-IRR Program Federal funding for the conversion or construction of a toll facility, these funds will cover a maximum of 80 percent of the project cost. In this case, the tribe may use IRR Program funds for the required 20 percent local match.

§ 170.131 How can a tribe find out more about designing and operating a toll facility?

Information on designing and operating a toll highway, bridge or tunnel is available from the International Bridge, Tunnel and Turnpike Association. The Association publishes a variety of reports, statistics, and analyses. The Web site is located at <http://www.ibtta.org>. Information is also available from FHWA.

§ 170.132 When can a tribe use IRR Program funds for airport facilities?

(a) A tribe can use IRR Program funds for construction of airport and heliport access roads, if the access roads are open to the public.

(b) A tribe cannot use IRR Program funds to construct or improve runways, airports or heliports. Funds for these uses are available under the Airport

Improvement Program (AIP) from the Federal Aviation Administration (FAA). (See FAA Advisory Circular No. 150/5370-10A.)

RECREATION, TOURISM AND TRAILS

§ 170.135 Can a tribe use Federal funds for its recreation, tourism, and trails program?

Yes. A tribe, tribal organization, tribal consortium, or BIA may use IRR Program funds for recreation, tourism, and trails programs if the programs are included in the IRR/TIP. Additionally, the following Federal programs for recreation, tourism, and trails are possible sources of Federal funding:

- (a) IRR Program (23 U.S.C. 204);
- (b) Surface Transportation Program—Transportation Enhancement (23 U.S.C. 133);
- (c) National Scenic Byway Program (23 U.S.C. 162);
- (d) Recreational Trails Program (23 U.S.C. 206);
- (e) National Highway System (23 U.S.C. 104);
- (f) Public Lands Discretionary Program (23 U.S.C. 204);
- (g) Other funding from other Federal departments; and
- (h) Other funding that Congress may authorize and appropriate.

§ 170.136 How can a tribe obtain funds?

(a) To receive funding for programs that serve recreation, tourism, and trails' goals, a tribe should:

- (1) Identify a program meeting the eligibility guidelines for the funds and have it ready for development; and
- (2) Have a viable project ready for improvement or construction, including necessary permits.

(b) FHWA provides Federal funds to the States for recreation, tourism, and trails under 23 U.S.C. 104, 133, 162, 204, and 206. States solicit proposals from tribes and local governments in their transportation planning process. A tribe may ask:

- (1) To administer these programs under the State's locally administered project program; or
- (2) That for projects that are otherwise contractible under Public Law 93-638 (25 U.S.C. 450 *et seq.*), that the State return the funds to FHWA and have

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them transferred to BIA for tribal self-determination contracts or self-governance agreements under ISDEAA.

(c) Congress provides funds under 23 U.S.C. 205 and 214 for activities for Federal agencies. A tribe can contract with all agencies within the Department of the Interior under ISDEAA for this work.

(d) In order to use National Scenic Byway funds, the project must be on a road designated as a State or Federal scenic byway.

(e) In order to expend non-IRR Program Federal funds for its recreation, tourism, and trails programs, a tribe must ensure that the project is on an approved TIP or STIP.

§ 170.137 What types of activities can a recreation, tourism, and trails program include?

(a) The following are examples of activities that tribes and tribal organizations may perform under a recreation, tourism, and trails program:

- (1) Transportation planning for tourism and recreation travel;
- (2) Adjacent vehicle parking areas;
- (3) Development of tourist information and interpretative signs;
- (4) Provision for non-motorized trail activities including pedestrians and bicycles;
- (5) Provision for motorized trail activities including all terrain vehicles, motorcycles, snowmobiles, etc.;
- (6) Construction improvements that enhance and promote safe travel on trails;
- (7) Safety and educational activities;
- (8) Maintenance and restoration of existing recreational trails;
- (9) Development and rehabilitation of trailside and trailhead facilities and trail linkage for recreational trails;
- (10) Purchase and lease of recreational trail construction and maintenance equipment;
- (11) Safety considerations for trail intersections;
- (12) Landscaping and scenic enhancement (see 23 U.S.C. 319);
- (13) Bicycle Transportation and pedestrian walkways (see 23 U.S.C. 217); and
- (14) Trail access roads.

(b) The items listed in paragraph (a) of this section are not the only activi-

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ties that are eligible for recreation, tourism, and trails funding. The funding criteria may vary with the specific requirements of the programs.

(c) Tribes may use IRR Program funds for any activity that is eligible for Federal funding under any provision of title 23 U.S.C.

§ 170.138 Can roads be built in roadless and wild areas?

Under 25 CFR part 265 no roads can be built in roadless and wild areas on Indian reservations.

HIGHWAY SAFETY FUNCTIONS

§ 170.141 What Federal funds are available for a tribe's highway safety activities?

Federal funds available for a tribe's highway safety activities include, but are not limited to, the following which may be amended, repealed, or added to:

- (a) The tribes' IRR Program allocations under 23 U.S.C. 204;
- (b) Highway Safety Program funds under 23 U.S.C. 402;
- (c) Occupant protection program funds under 23 U.S.C. 405;
- (d) Alcohol traffic safety program funds under 23 U.S.C. 408;
- (e) Alcohol-impaired driver countermeasures under 23 U.S.C. 410;
- (f) Funding for highway safety activities from the U.S. Department of Health and Human Services (HHS);
- (g) Indian Highway Safety Program 25 CFR 181; and
- (h) Other funding that Congress may authorize and appropriate.

§ 170.142 How can tribes obtain funds to perform highway safety projects?

There are two methods to obtain National Highway Traffic Safety Administration (NHTSA) and other FHWA safety funds for highway safety projects:

(a) FHWA provides safety funds to BIA under 23 U.S.C. 402. BIA annually solicits proposals from tribes for use of these funds. Proposals are processed under 25 CFR part 181. Tribes may obtain a contract or agreement under ISDEAA for these projects.

(b) FHWA provides funds to the States under 23 U.S.C. 402, 405, 408, and 410. States annually solicit proposals