



(a) A statutorily determined percentage to a tribal transportation planning program (under 23 U.S.C. 204(j)); and

(b) The remainder to a pool of funds designated as "Remaining funding available for distribution." This "Remaining funding available for distribution" pool is further allocated as follows:

(1) 5 percent to a discretionary pool for IRR High Priority Projects (IRRHPP); and

(2) 95 percent to pool for distribution by the following Relative Need Distribution Factor (RNDF) as defined in §170.223:

(50 percent Cost to Construct + 30 percent Vehicle Miles Traveled + 20 percent Population)

(3) If the annual authorization is greater than \$275 million, then the amount above \$275 million, after appropriate statutory and regulatory set-asides, as well as other takedowns are applied, will be allocated as follows:

(i) 12.5 percent to the IRRHPP (§170.205);

(ii) 12.5 percent to the Population Adjustment Factor (PAF) (§170.220); and

(iii) 75 percent to the RNDF (§170.223).

§ 170.201 How does BIA allocate and distribute tribal transportation planning funds?

Upon request of a tribal government and approval by the BIA Regional Office, BIA allocates tribal transportation planning funds described in §170.403 pro rata according to the tribes' relative need percentage from the RNDF described in §170.223. The tribal transportation planning funds will be distributed in accordance with the BIA procedures for self-governance tribes that negotiate tribal transportation planning in their annual funding agreements and to BIA Regional Offices for all other tribes.

§ 170.202 Does the Relative Need Distribution Factor allocate funding among tribes?

Yes. The RNDF determines the amount of funding available to allocate

to the tribes for their approved IRR projects and activities under 23 U.S.C. 202(d)(2). The IRR Program construction funds are allocated pro rata according to the tribes' relative need percentage from the Funding Formula.

(a) The IRR Program construction funds will be distributed in accordance with the BIA procedures for self-governance tribes that negotiate IRR construction projects into their AFA, and distributed to BIA Regional Offices for all other tribes.

(b) In order for a tribe's IRR Program allocation to be expended on a construction project, the project must be included in an FHWA-approved Transportation Improvement Program (TIP).

IRR HIGH PRIORITY PROJECT (IRRHPP)

§ 170.205 What is an IRR High Priority Project (IRRHPP)?

(a) The IRRHPP is a special funding pool that can be used:

(1) By a tribe whose annual allocation is insufficient to complete its highest priority project;

(2) By a governmental subdivision of a tribe that is authorized to administer the tribe's IRR Program funding and whose annual allocation is insufficient to complete its highest priority project; or

(3) By any tribe for an emergency/disaster on any IRR transportation facility.

(b) Eligible applicants may have only one IRRHPP application pending at any time. This includes emergency/disaster applications.

(c) IRRHPP funds cannot be used for transportation planning, research, routine maintenance activities, and items listed in § 170.116.

§ 170.206 How is an emergency/disaster defined?

(a) An emergency/disaster is damage to an IRR transportation facility that:

(1) Renders the facility impassable or unusable; and

(2) Is caused by either a natural disaster over a widespread area or catastrophic failure from an external cause.

(b) Some examples of natural disasters are: floods, droughts, earthquakes, tornadoes, landslides, avalanches, and severe storms.

(c) An example of a catastrophic failure is the collapse of a highway bridge after being struck by a barge, truck, or landslide.

§ 170.207 What is the intent of IRRHPP emergency/disaster funding?

The intent of IRRHPP emergency/disaster funding is to provide funding for a project that contains eligible work and would be approved for FHWA-ERFO Program funding except that the disaster dollar threshold for eligibility in the FHWA-ERFO program has not been met. Applicants are encouraged to apply for FHWA-ERFO Program funding if the project meets the requirements of the program.

§ 170.208 What funding is available for IRRHPP?

The IRRHPP funding level (see chart in § 170.200) for the year is:

(a) Authorization Amount up to \$275 million—5 percent of the pool of funds designated as "Remaining funding available for distribution"; plus

(b) Authorization Amount over \$275 million—12.5 percent the amount above \$275 million after appropriate statutory and regulatory set-asides, as well as other takedowns.

§ 170.209 How will IRRHPP applications be ranked and funded?

(a) BIADOT and the Federal Lands Highway (FLH) Program office will determine eligibility and fund IRRHPP applications subject to availability of funds and the following criteria:

(1) Existence of safety hazards with documented fatality and injury accidents;

(2) Number of years since the tribe's last IRR Program construction project completed;

(3) Readiness to proceed to construction or IRRBP design need;

(4) Percentage of project cost matched by other non-IRR Program funds (projects with a greater percentage of other matched funds rank ahead of lesser matches);

(5) Amount of funds requested (smaller requests receive greater priority);

(6) Challenges caused by geographic isolation; and