

**§ 170.427**

**25 CFR Ch. I (4-1-06 Edition)**

(d) Within 10 working days of receiving the approved IRR TIP and IRR Program funds, BIA enters the projects into the Federal finance system.

**§ 170.427 How may an IRR TIP be amended?**

(a) A tribe may amend the IRR TIP by changing its TTIP on or before July 15 and submitting the changed TTIP to BIA for inclusion in the IRR TIP. BIA's regional office will review all submitted information with the tribe and provide a written response (approving, denying, or requesting additional information) within 45 days. If the proposed IRR TIP amendment contains a project not listed on the current approved IRR TIP, BIA must submit the proposed amendment to FHWA for final approval.

(b) BIA may amend the IRR TIP:

(1) To add or delete projects or reflect significant changes in scope at any time if requested by the tribe; and

(2) To reduce funding or reschedule a project after consulting with the affected tribe and obtaining its consent, if practical.

(c) The Secretary may not reduce funding for or reschedule a project that is the subject of a negotiated agreement, except under the terms of the agreement.

(d) BIA amends the IRR TIP using the same public involvement process used to develop the original IRR TIP.

**§ 170.428 How is the State Transportation Improvement Program related to the IRR TIP?**

The annual update of the IRR TIP for each State in a BIA regional office's service area should be coordinated with the State transportation agencies. This will ensure that approved IRR TIP updates and amendments are included with the STIP.

**PUBLIC HEARINGS**

**§ 170.435 How does BIA or the tribe determine the need for a public hearing?**

The tribe, or BIA after consultation with the appropriate tribe and other involved agencies, determines whether or not a public hearing is needed for an IRR TIP, long-range transportation

plan or project. A public hearing must be held if a project:

(a) Is a new route or facility;

(b) Would significantly change the layout or function of connecting or related roads or streets;

(c) Would cause a substantial adverse effect on adjacent property; or

(d) Is controversial or expected to be controversial in nature.

**§ 170.436 How are public hearings for IRR planning and projects funded?**

(a) Public hearings for IRR planning are funded as follows:

(1) Public hearings for TTIPS and long-range transportation plans conducted by tribes are funded using the funds defined in title 23 U.S.C. 204(j) or IRR Program construction funds; and

(2) Public hearings for a tribe's long-range transportation plan conducted by BIA at the tribe's request are funded using the tribes' funds as defined in title 23 U.S.C. 204(j) or IRR Program construction funds.

(b) Public hearings for IRR projects conducted by either tribes or BIA are funded using IRR Program construction funds.

**§ 170.437 How must BIA or a tribe inform the public when no hearing is held?**

(a) When no public hearing for an IRR project is scheduled, either the tribe or BIA must give adequate notice to the public before project activities are scheduled to begin. The notice should include:

(1) Project location;

(2) Type of improvement planned;

(3) Dates and schedule for work;

(4) Name and address where more information is available; and

(5) Provisions for requesting a hearing.

(b) If the work is not to be performed by the tribe, BIA must send a copy of the notice to the affected tribe.

**§ 170.438 How must BIA or a tribe inform the public when a hearing is held?**

When BIA or a tribe holds a hearing under this part, it must notify the public of the hearing by publishing a notice.

(a) The public hearing notice is a document containing:

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(1) Date, time, and place of the hearing;

(2) Planning activities or project location;

(3) Proposed work to be done, activities to be conducted, etc.;

(4) Where preliminary plans, designs or specifications may be reviewed; and

(5) How and where to get more information.

(b) BIA or the tribe must publish the notice:

(1) By posting and/or publishing the notice at least 30 days before the public hearing. A second notice for a hearing is optional; and,

(2) By sending a courtesy copy of the notice to the affected tribe(s) and BIA Regional Office.

### § 170.439 How is a public hearing conducted?

(a) *Who conducts the hearing.* A tribal or Federal official is appointed to preside over the public hearing. The official presiding over the hearing must maintain a free and open discussion of the issues.

(b) *Record of hearing.* The presiding official is responsible for compiling the official record of the hearing. A record of a hearing is a summary of oral testimony and all written statements submitted at the hearing. Additional written comments made or provided at the hearing, or within 5 working days of the hearing, will be made a part of the record.

(c) *Hearing process.* (1) The presiding official explains the purpose of the hearing and provides an agenda;

(2) The presiding official solicits public comments from the audience on the merits of IRR projects and activities; and

(3) The presiding official informs the hearing audience of the appropriate procedures for a proposed IRR project or activity, that may include, but are not limited to:

(i) Project development activities;

(ii) Rights-of-way acquisition;

(iii) Environmental and archeological clearance;

(iv) Relocation of utilities and relocation services;

(v) Authorized payments allowed by the Uniform Relocation and Real Prop-

erty Acquisition Policies Act, 42 U.S.C. 4601 *et seq.*, as amended;

(vi) Draft transportation plan; and

(vii) The scope of the project and its effect on traffic during and after construction.

(d) *Availability of information.* Appropriate maps, plats, project plans and specifications will be available at the hearing for public review. Appropriate officials are present to answer questions.

(e) *Opportunity for comment.* Comments are received as follows:

(1) Oral statement at the hearing;

(2) Written statement submitted at the hearing;

(3) Written statement sent to the address noted in the hearing notice within 5 working days following the public hearing.

### § 170.440 How can the public learn the results of a public hearing?

Results of a public hearing are available as follows:

(a) Within 20 working days of the completion of the public hearing, the presiding official issues a hearing statement summarizing the results of the public hearing and the determination of needed further action.

(b) The presiding official posts the hearing statement at the hearing site. The public may request a copy. The hearing statement outlines appeal procedures.

### § 170.441 Can a decision resulting from a hearing be appealed?

Yes. A decision resulting from the public hearing may be appealed pursuant to 25 CFR part 2.

## IRR INVENTORY

### § 170.442 What is the IRR Inventory?

(a) The IRR Inventory is a comprehensive database of all transportation facilities eligible for IRR Program funding by tribe, reservation, BIA agency and region, Congressional district, State, and county. Other specific information collected and maintained under the IRR Program includes classification, route number, bridge number, current and future traffic volumes, maintenance responsibility, and ownership.