

## Bureau of Indian Affairs, Interior

## § 170.442

(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.

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(b) Elements of the inventory are used in the Relative Need Distribution Factor. BIA or tribes can also use the inventory to assist in transportation and project planning, justify expenditures, identify transportation needs, maintain existing IRR transportation facilities, and develop management systems.

### **§ 170.443 How can a tribe list a proposed transportation facility in the IRR Inventory?**

A proposed IRR transportation facility is any transportation facility, including a highway bridge, that will serve public transportation needs, is eligible for construction under the IRR Program and does not currently exist. To be included in the IRR inventory, a proposed transportation facility must:

- (a) Be supported by a tribal resolution or other official tribal authorization;
- (b) Address documented transportation needs as developed by and identified in tribal transportation planning efforts, such as the long-range transportation plan;
- (c) Be eligible for IRR Program funding; and
- (d) Be open to the public when built.

### **§ 170.444 How is the IRR Inventory updated?**

The IRR Inventory data for a tribe is updated on an annual basis as follows:

- (a) Each BIA Regional Office provides the tribes in its region copies of the IRR Inventory by November 1st of each year;
- (b) The tribe reviews the data and submits changes (together with a strip map of each change) to the BIA Regional Office along with authorizing resolutions or similar official authorization by March 15;
- (c) The BIA Regional Office reviews each tribe's submission for errors or omissions and provides the tribe with its revised inventory by May 15;
- (d) The tribe must correct any errors or omissions by June 15;
- (e) Each BIA Regional Office certifies its data and enters the data into the IRR Inventory by July 15;
- (f) BIA provides each tribe with copies of the Relative Need Distribution

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Factor distribution percentages by August 15; and

(g) BIADOT approves submissions from BIA Regional Offices before they are included in the National IRR Inventory.

### **§ 170.445 What is a strip map?**

A strip map is a graphic representation of a section of road or other transportation facility being added to or modified in the IRR Inventory. Each strip map submitted with an IRR Inventory change must:

- (a) Define the facility's location with respect to State, county, tribal, and congressional boundaries;
- (b) Define the overall dimensions of the facility and the accompanying inventory data;
- (c) Include a table that provides the IRR Inventory information about the transportation facility.

### ENVIRONMENTAL AND ARCHEOLOGICAL REQUIREMENTS

### **§ 170.450 What archeological and environmental requirements must the IRR Program meet?**

- (a) The archeological and environmental requirements with which BIA must comply on the IRR Program are contained in Appendix A to this subpart.
- (b) The archeological and environmental requirements for tribes that enter into self-determination contracts or self-governance agreements for the IRR Program are in 25 CFR 900.125 and 1000.243.

### **§ 170.451 Can IRR Program funds be used for archeological and environmental compliance?**

Yes. For approved IRR projects, IRR Program funds can be used for environmental and archeological work consistent with 25 CFR 900.125(c)(6) and (c)(8) and 25 CFR 1000.243(b) and applicable tribal laws for:

- (a) Road and bridge rights-of-way;
- (b) Borrow pits and aggregate pits associated with IRR activities staging areas;
- (c) Limited mitigation outside of the construction limits as necessary to address the direct impacts of the construction activity as determined in the