

§ 170.423

(e) May include non-IRR projects for inclusion into the State Transportation Improvement Program (STIP).

§ 170.423 How are projects placed on the IRRTIP?

(a) BIA selects projects from the TTIP or tribal priority list for inclusion on the IRRTIP as follows:

(1) The tribal government develops a list of detailed tasks and information for each project from the tribal priority list or TTIP;

(2) BIA includes this project information in its region-wide control schedule without change, unless the funding required exceeds the amount available to the tribe;

(3) BIA must include projects that are scheduled in the next 3 to 5 years; and

(4) BIA develops the IRRTIP after consulting with the tribes and taking their priorities into account.

(b) A tribe that does not generate enough annual funding under the IRR Program funding formula to complete a project may either:

(1) Submit its tribal priority list to the appropriate BIA Region, which will develop the region-wide control schedule after consulting with the tribe and taking its priorities into account; or

(2) Enter a consortium of tribes and delegate authority to the consortium to develop the TTIP and tribal control schedule;

(3) Enter into agreement with other tribes to permit completion of the project; or

(4) Apply for IRRHPP funding under subpart C.

(c) In order to get a project on the IRRTIP, tribes may seek flexible financing alternatives as described in subpart C.

§ 170.424 How does the public participate in developing the IRRTIP?

Public involvement is required in the development of the IRRTIP.

(a) BIA or the tribe must publish a notice in local and tribal newspapers when the draft tribal or IRRTIP is complete. In the absence of local public newspapers, the tribe or BIA may post notices under local acceptable practices. The notice must indicate where a copy can be obtained, contact person

for questions, where comments may be submitted, and the deadline for submitting comments.

(b) BIA or the tribe may hold public meetings at which the public may comment orally or in writing.

(c) BIA, the tribe, the State transportation agency or MPO may conduct public involvement activities.

§ 170.425 How does BIA update the IRRTIP?

The IRRTIP annual update allows incorporation of transportation projects planned for the next 3 to 5 years. Each BIA regional office updates the IRRTIP for each State in its service area to reflect changes in the TTIPs or tribal project listings.

(a) During the first quarter of the fiscal year each BIA Regional Office notifies tribes of the update and provides projected IRR Program funding amounts and a copy of the previous year's regional IRRTIP.

(b) The tribe reviews any new transportation planning information, priority lists, and TTIP and forwards an updated TTIP or project listing to BIA Regional Office on or before July 15.

(c) The BIA regional office reviews all submitted information with the tribes. BIA adds agreed-upon updates, including previously approved amendments (see § 170.427), to the IRRTIP so that the Secretaries can approve the new updated IRRTIP before the start of the next fiscal year.

§ 170.426 What is the approval process for the IRRTIP?

The approval process for the IRRTIP is:

(a) The BIA Regional Office forwards the IRRTIP to the Secretaries for review and approval;

(b) Federal Lands Highway Office will provide copies of the approved IRRTIP to the FHWA division office for transmittal to the State transportation agency for inclusion in the State Transportation Improvement Program (STIP). The approved IRRTIP will be returned to BIA;

(c) BIA sends copies of the approved IRRTIP to BIA Regional Offices and tribal governments; and

(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: