### § 170.301 Can a tribe use IRR Program funds to leverage other funds or pay back loans?

(a) A tribe can use IRR Program funds to leverage other funds.

(b) A tribe can use IRR Program funds to pay back loans or other finance instruments for a project that:

(1) The tribe paid for in advance of the current year using non-IRR Program funds; and

(2) Was included in FHWA-approved IRRTIP.

### § 170.302 Can BIA regional offices borrow IRR Program funds from each other?

Yes. A BIA Regional office, in consultation with tribes, may enter into agreements to borrow IRR Program funds to assist another BIA regional office in financing the completion of an IRR project. These funds must be repaid within the next fiscal year. These agreements cannot be executed during the last year of a transportation authorization act unless Congress has authorized IRR Program funds for the next year.

### § 170.303 Can a tribe apply for loans or credit from a State infrastructure bank?

Yes. Upon the request of a tribe, BIA region will provide necessary documentation to a State infrastructure bank to facilitate obtaining loans and other forms of credit for an IRR project. A state infrastructure bank is a state or multi-state fund that can offer loans and other forms of credit to help project sponsors, such as tribes, pay for transportation projects.

APPENDIX A TO SUBPART C—IRR HIGH PRIORITY PROJECT SCORING MATRIX

| Score | 10 | 5 | 3 | 1 | 0 |
|---|---|---|---|---|---|
| Accident and fatality rate for candidate route [1]. | Severe ................ | X ......................... | Moderate ............ | Minimal ................ | No accidents. |
| Years since last IRR construction project completed. | Never ................... | Last project more than 10 years ago. | Last project 5–9 years ago. | Last project within last 1 to 4 years. | Currently has project. |
| Readiness to Proceed to Construction or IRRBP Design Need. | PS&E Complete and approved. | Bridge Replacement PS&E development Project. | Bridge Rehabilitation PS&E development Project. | Non-bridge PS & E development Project. | X. |
| Percentage of Project matched by other funds. | X ......................... | 80 percent or more by other funds. | 20–79 percent by other funds. | 1–19 percent ........ | No other funds. |
| Amount of funds requested [2] | X ......................... | 250,000 or less .. | 250,001–500,000 | 500,001–750,000 | Over 750,000. |
| Geographic isolation ............ | No external access to community. | Substandard Primary access to community. | Substandard Secondary access to community. | Substandard access to tribal facility. | X. |
| All weather access for: ........<br>—Employment<br>—Commerce<br>—Health<br>—Safety<br>—Educational Resources<br>—Housing | Addresses all 6 elements. | Addresses 4 or 5 elements. | Addresses 3 elements. | Addresses 2 elements. | Addresses 1 element. |

[1] National Highway Traffic Safety Board standards.
[2] Total funds requested, including preliminary engineering, construction, and construction engineering.

APPENDIX B TO SUBPART C—POPULATION ADJUSTMENT FACTOR

1. The Population Adjustment Factor allows for participation in the IRR Program by all tribes. This component of the funding formula creates a special calculation of funding which is available in accordance with the TTAM each fiscal year for a tribe based on the population range within which the tribe is included. The following table shows how BIA develops the PAF.

| Population range | Distribution factor* | Number of tribes** | Funding amount per tribe |
|---|---|---|---|
| Less than 25 ...................................................................................... | 1 | $N_1$ ...................... | MBA*** × 1 |

| Population range | Distribution factor* | Number of tribes** | Funding amount per tribe |
|---|---|---|---|
| 25–100 | 3.5 | $N_2$ | MBA × 3.5 |
| 101–1000 | 5.0 | $N_3$ | MBA × 5.0 |
| 1001–10,000 | 6.5 | $N_4$ | MBA × 6.5 |
| 10,001+ | 8 | $N_5$ | MBA × 8 |

*Multiplier used to determine the PAF funding for the population ranges. For example, if $1000 is available for the first population range (less than 25), then the second population range (25–100) will receive $3,500 or 3.5 times the amount available to the first population range.

**The number of tribes changes yearly.

***The Minimum Base Allocation (MBA) is the dollar value to be multiplied by the distribution factor for each population range to determine the distribution of the PAF.

2. The following example shows how the PAF applies to a total IRR Program authorization for the allocation year of $375 million. The five steps to calculate the Population Adjustment Factor are applied as follows:

Step 1. For each population range, multiply the Distribution Factor by the total number of tribes identified in the population range to determine the Step Factor;

Step 2. Add the Step Factors determined in Step 1 above to derive a Total Step Factor;

Step 3. Calculate the $A = IRR Program authorization available in the allocation year by taking the Total IRR Program authorization for the allocation year ($375M for this example) minus the appropriate statutory and regulatory set-asides, as well as other takedowns ($25M for this example)

$375M − $25M = $350M;

Step 4. Derive a Minimum Base Allocation by taking 12½ per cent of the difference (from Step 3) and dividing it by the Total Step Factor. The mathematical equation for the Base Allocation is as follows:

$$MBA = \left( \frac{12\tfrac{1}{2}\% \times (\$A - \$275M)}{\left(N_1 + 3.5N_2 + 5N_3 + 6.5N_4 + 8N_5\right)} \right)$$

MBA = Minimum Base Allocation
Distribution Factors = 1, 3.5, 5, 6.5, and 8
$A = IRR Program Authorization Available in the Allocation Year
$275M = Base Reference Amount

n = The nth Population Range
1 . . . 5 = Population Ranges 1 through 5
$N_n$ = Number of tribes in the nth Population Range

For the example above, the formula yields:

$$MBA = \frac{12\tfrac{1}{2}\% \times (\$350M - \$275M)}{17 + 3.5(66) + 5(309) + 6.5(137) + 8(29)} = \frac{\$9,375,000}{2,915.50} = \$3,215.57$$

Step 5. Calculate Population Adjustment Factor within each Population Range by multiplying the Distribution Factor for the Population Range by the Minimum Base Allocation.

The mathematical equation for the Population Adjustment Factor calculation is as follows:

$PAF_n = DF_n \times MBA$

Where:

PAF = Population Adjustment Factor

DF = Distribution Factor
n = The nth Population Range
MBA = Minimum Base Allocation

For example, for $DF_1$ = 1.00; $PAF_1$ = 1 × $3,215.57 = $3,215.57

For example, for $DF_3$ = 5.00; $PAF_3$ = 5 × $3,215.57 = $16,077.86

The following table illustrates the results of the above calculations for all population ranges:

| Population range (step) | # of tribes | Distribution factor | Step factor | Tribal PAF per population range | Total funding per step |
|---|---|---|---|---|---|
| Less than 25 ............................................. | 17 | 1 | 17 | $3,215.57 | $54,664.72 |
| 25–100 ..................................................... | 66 | 3.5 | 231 | 11,254.50 | 742,797.12 |
| 101–1000 .................................................. | 309 | 5 | 1545 | 16,077.36 | 4,968,058.65 |
| 1001–10,000 ............................................ | 137 | 6.5 | 890.50 | 20,901.22 | 2,863,466.82 |
| 10,001 + .................................................. | 29 | 8 | 232 | 25,724.58 | 746,012.69 |
| Totals ........................................... | .................... | Total Step Factor = 2,915.50 | | ........................ | 9,375,000 |

APPENDIX C TO SUBPART C—RELATIVE NEED DISTRIBUTION FACTOR

The Relative Need Distribution Factor (RNDF) is a mathematical formula for distributing the IRR Program construction funds using the following three factors: Cost to Construct (CTC), Vehicle Miles Traveled (VMT), and Population (POP).

1. WHAT IS THE FORMULA FOR THE RNDF?

The Relative Need Distribution Factor is as follows:

$$A = \alpha \times \{CTC \div Total\ C\} + \beta \times \{VMT \div Total\ VMT\} + \delta \times \{POP \div Total\ POP\}$$

Where:

A = percent Relative Need for an individual tribe

CTC = Total Cost to Construct calculated for an individual tribe

Total C = Total Cost to Construct calculated for all tribes shown in the IRR Inventory

VMT = Total vehicle miles traveled for all routes in the IRR Inventory for a given tribe

Total VMT = Total vehicle miles traveled for all routes for all tribes in the IRR Inventory

POP = Population of an individual tribe

Total POP = Total population for all tribes

$\alpha$, $\beta$, $\delta$, = 0.50, 0.30, 0.20 respectively = Coefficients reflecting relative weight given to each formula factor

*Example:* Tribe X has the following data:

CTC = $51,583,000 .............................................................................................. Total CTC = $10,654,171,742
VMT = 45,680 ...................................................................................................... Total VMT = 10,605,298
POP = 4,637 ........................................................................................................ Total POP = 1,010,236

A = 0.50 [CTC ÷ Total CTC] + 0.30[VMT ÷ Total VMT] + 0.20[ POP ÷ Total POP]

A = 0.50 [51,583,000 ÷ 10,654,171,742] + 0.30 [45,680 ÷ 10,605,298] + 0.20 [4,637 ÷ 1,010,236]

A = 0.00242 + 0.00129 + 0.00092

A = 0.00463 or 0.463 percent

If IRR Program construction funds available for the fiscal year are $226,065,139

Then the allocation amount would be: $226,065,139 × 0.00463 = $1,046,682.

2. How Does BIA Estimate Construction Costs?

The methodology for calculating the Cost to Construct is explained in Appendix D of this subpart.

3. What Is the Cost to Construct for an Individual Tribe?

The Cost to Construct for an individual tribe is the sum of all eligible and approved project costs from the tribe's IRR Inventory.

4. What Is the Cost to Construct Component in the RNDF?

The Cost to Construct component is the total estimated cost of a tribe's transportation projects as a percentage of the total estimated cost nationally of all tribes' transportation facilities. Costs are derived from the IRR inventory of eligible IRR transportation facilities developed and approved by

BIA and tribal governments through Long-Range Transportation Planning.

5. May the Cost to Construct Component of the RNDF Be Modified?

Yes, BIA and FHWA, with input and recommendations provided by the IRR Program Coordinating Committee, may consider revisions to the data elements used in calculating the Cost to Construct component.

6. What Is the Source of the Construction Cost Used To Generate the CTC?

(a) The construction cost will be derived from the average of the following three project bid tabulation sources:

(1) Tribal bid tabulations or local BIA bid tabulations;

(2) State bid tabulations for the region of the State in which the tribe's project will be constructed;