

**Bureau of Indian Affairs, Interior**

**§ 170.136**

**TOLL, FERRY AND AIRPORT FACILITIES**

**§ 170.130 How can tribes use Federal highway funds for toll and ferry facilities?**

(a) A tribe can use Federal-aid highway funds, including IRR Program funds, to study, design, construct, and operate toll highways, bridges, and tunnels, as well as ferry boats and ferry terminal facilities. The following table shows how a tribe can initiate construction of these facilities.

To initiate construction of a . . .	A tribe must . . .
(1) Toll highway, bridge, or tunnel.	(i) Meet and follow the requirements set forth in 23 U.S.C. 129; and (ii) If IRR Program funds are used, enter into a self-tunnel governance agreement or self-determination contract with the Secretary of the Interior.
(2) Ferry boat or ferry terminal.	Meet and follow the requirements set forth in 23 U.S.C. 129(c).

(b) A tribe can use IRR Program funds to fund 100 percent of the conversion or construction of a toll facility.

(c) If a tribe obtains non-IRR Program Federal funding for the conversion or construction of a toll facility, these funds will cover a maximum of 80 percent of the project cost. In this case, the tribe may use IRR Program funds for the required 20 percent local match.

**§ 170.131 How can a tribe find out more about designing and operating a toll facility?**

Information on designing and operating a toll highway, bridge or tunnel is available from the International Bridge, Tunnel and Turnpike Association. The Association publishes a variety of reports, statistics, and analyses. The Web site is located at <http://www.ibtta.org>. Information is also available from FHWA.

**§ 170.132 When can a tribe use IRR Program funds for airport facilities?**

(a) A tribe can use IRR Program funds for construction of airport and heliport access roads, if the access roads are open to the public.

(b) A tribe cannot use IRR Program funds to construct or improve runways, airports or heliports. Funds for these uses are available under the Airport

Improvement Program (AIP) from the Federal Aviation Administration (FAA). (See FAA Advisory Circular No. 150/5370-10A.)

**RECREATION, TOURISM AND TRAILS**

**§ 170.135 Can a tribe use Federal funds for its recreation, tourism, and trails program?**

Yes. A tribe, tribal organization, tribal consortium, or BIA may use IRR Program funds for recreation, tourism, and trails programs if the programs are included in the IRR/TIP. Additionally, the following Federal programs for recreation, tourism, and trails are possible sources of Federal funding:

- (a) IRR Program (23 U.S.C. 204);
- (b) Surface Transportation Program—Transportation Enhancement (23 U.S.C. 133);
- (c) National Scenic Byway Program (23 U.S.C. 162);
- (d) Recreational Trails Program (23 U.S.C. 206);
- (e) National Highway System (23 U.S.C. 104);
- (f) Public Lands Discretionary Program (23 U.S.C. 204);
- (g) Other funding from other Federal departments; and
- (h) Other funding that Congress may authorize and appropriate.

**§ 170.136 How can a tribe obtain funds?**

(a) To receive funding for programs that serve recreation, tourism, and trails' goals, a tribe should:

- (1) Identify a program meeting the eligibility guidelines for the funds and have it ready for development; and
- (2) Have a viable project ready for improvement or construction, including necessary permits.

(b) FHWA provides Federal funds to the States for recreation, tourism, and trails under 23 U.S.C. 104, 133, 162, 204, and 206. States solicit proposals from tribes and local governments in their transportation planning process. A tribe may ask:

- (1) To administer these programs under the State's locally administered project program; or
- (2) That for projects that are otherwise contractible under Public Law 93-638 (25 U.S.C. 450 *et seq.*), that the State return the funds to FHWA and have