

to the tribes for their approved IRR projects and activities under 23 U.S.C. 202(d)(2). The IRR Program construction funds are allocated pro rata according to the tribes' relative need percentage from the Funding Formula.

(a) The IRR Program construction funds will be distributed in accordance with the BIA procedures for self-governance tribes that negotiate IRR construction projects into their AFA, and distributed to BIA Regional Offices for all other tribes.

(b) In order for a tribe's IRR Program allocation to be expended on a construction project, the project must be included in an FHWA-approved Transportation Improvement Program (TIP).

IRR HIGH PRIORITY PROJECT (IRRHPP)

§ 170.205 What is an IRR High Priority Project (IRRHPP)?

(a) The IRRHPP is a special funding pool that can be used:

(1) By a tribe whose annual allocation is insufficient to complete its highest priority project;

(2) By a governmental subdivision of a tribe that is authorized to administer the tribe's IRR Program funding and whose annual allocation is insufficient to complete its highest priority project; or

(3) By any tribe for an emergency/disaster on any IRR transportation facility.

(b) Eligible applicants may have only one IRRHPP application pending at any time. This includes emergency/disaster applications.

(c) IRRHPP funds cannot be used for transportation planning, research, routine maintenance activities, and items listed in § 170.116.

§ 170.206 How is an emergency/disaster defined?

(a) An emergency/disaster is damage to an IRR transportation facility that:

(1) Renders the facility impassable or unusable; and

(2) Is caused by either a natural disaster over a widespread area or catastrophic failure from an external cause.

(b) Some examples of natural disasters are: floods, droughts, earthquakes, tornadoes, landslides, avalanches, and severe storms.

(c) An example of a catastrophic failure is the collapse of a highway bridge after being struck by a barge, truck, or landslide.

§ 170.207 What is the intent of IRRHPP emergency/disaster funding?

The intent of IRRHPP emergency/disaster funding is to provide funding for a project that contains eligible work and would be approved for FHWA-ERFO Program funding except that the disaster dollar threshold for eligibility in the FHWA-ERFO program has not been met. Applicants are encouraged to apply for FHWA-ERFO Program funding if the project meets the requirements of the program.

§ 170.208 What funding is available for IRRHPP?

The IRRHPP funding level (see chart in § 170.200) for the year is:

(a) Authorization Amount up to \$275 million—5 percent of the pool of funds designated as "Remaining funding available for distribution"; plus

(b) Authorization Amount over \$275 million—12.5 percent the amount above \$275 million after appropriate statutory and regulatory set-asides, as well as other takedowns.

§ 170.209 How will IRRHPP applications be ranked and funded?

(a) BIADOT and the Federal Lands Highway (FLH) Program office will determine eligibility and fund IRRHPP applications subject to availability of funds and the following criteria:

(1) Existence of safety hazards with documented fatality and injury accidents;

(2) Number of years since the tribe's last IRR Program construction project completed;

(3) Readiness to proceed to construction or IRRBP design need;

(4) Percentage of project cost matched by other non-IRR Program funds (projects with a greater percentage of other matched funds rank ahead of lesser matches);

(5) Amount of funds requested (smaller requests receive greater priority);

(6) Challenges caused by geographic isolation; and

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(7) All weather access for: employment, commerce, health, safety, educational resources, and housing.

(b) Funding is limited to the estimated cost of repairing damage to the IRR transportation facility up to a maximum of \$1 million per application.

(c) A project submitted as an emergency/disaster must be at least 10 percent of a tribe's relative need distribution.

(d) BIA's regional roads engineer or the tribe, if it has plans, specifications, and estimates (PS&E) approval authority will certify the cost estimate in approving the plans, specifications, and estimates for the IRRHPP.

(e) The Project Scoring Matrix is found in appendix A to subpart C.

§ 170.210 How may a tribe apply for IRRHPP?

A tribe may apply for IRRHPP funds by submitting a complete application to BIADOT. The application must include:

(a) Project scope of work (deliverables, budget breakdown, timeline);

(b) Amount of IRRHPP funds requested;

(c) Project information addressing ranking criteria identified in §170.209, or the nature of the emergency/disaster;

(d) Documentation that the project meets the definition of an IRR transportation facility and is in the IRR Inventory;

(e) Documentation of official tribal action requesting the IRRHPP project; and

(f) Documentation from the tribe providing authority for BIA to place the project on an IRRHPP TIP if the project is selected and approved.

§ 170.211 What is the IRRHPP Funding Priority List?

The IRRHPP Funding Priority List (FPL) is the ranked IRRHPPs approved for funding under §170.209.

(a) The number of projects on the FPL is limited by the amount of IRRHPP funds available at the beginning of the fiscal year.

(b) BIA will place all projects on the FPL on an IRRHPP TIP and forward them to FHWA for approval.

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§ 170.212 What is the timeline for IRRHPPs?

(a) BIA will accept IRRHPP applications until December 31 each year for projects during the following year. BIA processes IRRHPP applications as shown in the following table:

By . . .	BIA will . . .
(1) January 31	Notify all applicants and Regions in writing of acceptance of applications.
(2) March 31 ...	Coordinate with FLH to rank all accepted applications in accordance with Appendix A to Subpart C, develop the FPL, and return unaccepted applications to the applicant with an explanation of the deficiencies.
(3) April 15	Notify all accepted applicants of the projects included on the FPL.
(4) May 15	Distribute funds to BIA Regions or in accordance with procedures of the Office of Self-Governance for selected IRRHPP.

(b) If total funding for accepted projects does not equal the total funds available for IRRHPP, the remaining funds will be redistributed by the Relative Need Distribution Factor in accordance with Appendix C to subpart C.

(c) All IRRHPP funds must be obligated on or before August 15. If it is anticipated that these funds cannot be obligated by the end of the fiscal year, IRRHPP funds assigned to an approved project must be returned to FHWA by August 1. BIA will redistribute these funds the following fiscal year to those approved projects. (See §170.213.)

§ 170.213 How long are IRRHPP funds available for a project?

Any project not under contract for construction within 3 fiscal years of its initial listing on an FPL will forfeit its unexpended funding. Applicants may request, in writing, a one-time, 1-year extension of this deadline from BIA. Upon completion of an IRRHPP, funds that are reserved but not expended are to be recovered and returned to the IRRHPP funding pool.

§ 170.214 How does award of an emergency/disaster project affect projects on the FPL?

(a) A tribe may submit an emergency/disaster project any time during the fiscal year. BIA considers these projects a priority and funds them as follows: