§ 170.227

RELATIVE NEED DISTRIBUTION FACTOR

§ 170.223 What is the Relative Need Distribution Factor (RNDF)?

The Relative Need Distribution Factor (RNDF) is a mathematical formula used for distributing the IRR Program construction funds. The RNDF is derived from a combination of the cost to construct, vehicle miles traveled, and population. Appendix C to subpart C explains how the RNDF is derived and applied.

IRR INVENTORY AND LONG-RANGE TRANSPORTATION PLANNING (LRTP)

§ 170.225 How does the LRTP process relate to the IRR Inventory?

The LRTP process (see subpart D) is a uniform process that identifies the transportation needs and priorities of the tribes. The IRR Inventory is derived from transportation facilities identified through LRTP. It is also a means for identifying projects for the IRRHPP Program.

§ 170.226 How will this part affect the IRR Inventory?

The IRR Inventory defined in this part will expand the IRR Inventory for funding purposes to include:

(a) All roads, highway bridges, and other eligible transportation facilities that were previously approved in the BIA Road System in 1992 and each following year;

(b) All Indian reservation roads constructed using Highway Trust funds since 1983;

(c) All designated IRR routes (25 CFR 170.442–170.444);

(d) Non-road transportation related facilities; and

(e) Other applicable IRR transportation facilities.

§ 170.227 How does BIA develop and use the IRR Inventory?

The IRR Inventory as defined in §170.442 identifies the transportation need by providing the data that BIA uses to generate the Cost to Construct (CTC) and Vehicle Miles Traveled (VMT) components of RNDF. The IRR Inventory is developed through the LRTP process, as described in §§170.410 through 170.415. BIA Regional offices
§ 170.228 Are all facilities included in the IRR Inventory used to calculate CTC?

No. Projects/facilities proposed to receive construction funds on an approved IRRTIP are not eligible for future inclusion in the calculation of the CTC portion of the formula for a period of 5 years thereafter.

§ 170.231 May a tribe challenge the data BIA uses in the RNDF?

(a) A tribe may submit a request to the BIA Regional Director to revise the data for the tribe that BIA uses in the RNDF. The request must include the tribe's data and written support for its contention that the tribal data is more accurate than BIA's.

(b) A tribe may submit a data correction request at any time. In order to impact the distribution in a given fiscal year, a data correction request must be approved, or any subsequent appeals resolved, by June 1 of the prior fiscal year.

(c) The BIA Regional Director must respond within 30 days of receiving a data correction request under this section.

1) Unless the BIA Regional Director determines that the existing BIA data is more accurate, the BIA Regional Director must approve the tribe's data correction request and accept the tribe's corrected data.

2) If the BIA Regional Director disapproves the tribe's request, the decision must include a detailed written explanation of the reasons for the disapproval, copies of any supporting documentation (other than the tribe's request) that the BIA Regional Director relied upon in reaching the decision, and notice of the tribe's right to appeal the decision.

3) If the BIA Regional Director does not approve the tribe's request within 30 days of receiving the request, the request must be deemed disapproved.

§ 170.232 How does a tribe appeal a disapproval from the BIA Regional Director?

(a) Within 30 days of receiving a disapproval, or within 30 days of a disapproval by non-action of the BIA Regional Director, a tribe may file a written notice of appeal to the Director, Bureau of Indian Affairs, with a copy provided to the BIA Regional Director; and

(b) Within 30 days of receiving an appeal, the Director, Bureau of Indian Affairs must issue a written decision upholding or reversing the BIA Regional Director's disapproval. This decision must include a detailed written explanation of the reasons for the disapproval, copies of any supporting documentation that the Director, Bureau of Indian Affairs relied upon in reaching the decision (other than the tribe's request or notice of appeal), and notice of the tribe's right to appeal the decision to the Interior Board of Indian Appeals under 25 CFR part 2.

§ 170.300 May tribes use flexible financing to finance IRR transportation projects?

Yes. Tribes may use flexible financing in the same manner as States to finance IRR transportation projects, unless otherwise prohibited by law.

(a) Tribes may issue bonds or enter into other debt financing instruments under 23 U.S.C. 122 with the expectation of payment of IRR Program funds to satisfy the instruments.

(b) Under 23 U.S.C. 183, the Secretary of Transportation may enter into an agreement for secured loans or lines of credit for IRR projects meeting the requirements contained in 23 U.S.C. 182. Tribes or BIA may service Federal credit instruments. The secured loans or lines of credit must be paid from tolls, user fees, or other dedicated revenue sources.

(c) Tribes may use IRR Program funds as collateral for loans or bonds to finance IRR projects. Upon the request of a tribe, a BIA region will provide necessary documentation to banks and other financial institutions.