

§ 170.930

TRIBAL TRANSPORTATION DEPARTMENTS

§ 170.930 What is a tribal transportation department?

A tribal transportation department is a department, commission, board, or official of any tribal government charged by its laws with the responsibility for highway construction. Tribal governments, as sovereign nations, have inherent authority to establish their own transportation departments under their own tribal laws. Tribes may staff and organize transportation departments in any manner that best suits their needs. Tribes can receive technical assistance from Indian LTAP centers, BIA regional road engineers, or AASHTO to establish a tribal transportation department.

§ 170.931 Can tribes use IRR Program funds to pay tribal transportation department operating costs?

Yes. Tribes can use IRR Program funds to pay the cost of planning, administration, and performance of approved IRR Program activities (see appendix A, subpart B). Tribes can also use BIA road maintenance funds to pay the cost of planning, administration, and performance of maintenance activities under this part.

§ 170.932 Are there other funding sources for tribal transportation departments?

There are many sources of funds that may help support a tribal transportation department. The following are some examples of additional funding sources:

- (a) Tribal general funds;
- (b) Tribal Priority Allocation;
- (c) Tribal permits and license fees;
- (d) Tribal fuel tax;
- (e) Federal, State, private, and local transportation grants assistance;
- (f) Tribal Employment Rights Ordinance fees (TERO); and
- (g) Capacity building grants from Administration for Native Americans and other organizations.

§ 170.933 Can tribes regulate oversize or overweight vehicles?

Yes. Tribal governments can regulate travel on roads under their jurisdiction and establish a permitting process to regulate the travel of oversize or over-

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weight vehicles, in accordance with applicable Federal law. BIA may, with the consent of the affected tribe, establish a permitting process to regulate the travel of oversize or overweight vehicles on BIA-system roads.

RESOLVING DISPUTES

§ 170.934 Are alternative dispute resolution procedures available?

(a) Federal agencies should use mediation, conciliation, arbitration, and other techniques to resolve disputes brought by IRR Program beneficiaries. The goal of these alternative dispute resolution (ADR) procedures is to provide an inexpensive and expeditious forum to resolve disputes. Federal agencies should resolve disputes at the lowest possible staff level and in a consensual manner whenever possible.

(b) Except as required in 25 CFR part 900 and part 1000, tribes operating under a self-determination contract or self-governance agreement are entitled to use dispute resolution techniques prescribed in:

- (1) The ADR Act, 5 U.S.C. 571–583;
- (2) The Contract Disputes Act, 41 U.S.C. 601–613; and
- (3) The Indian Self-Determination and Education Assistance Act and the implementing regulations (including for non-construction the mediation and alternative dispute resolution options listed in 25 U.S.C. 4501 (model contract section (b)(12)).

§ 170.935 How does a direct service tribe begin the alternative dispute resolution process?

(a) To begin the ADR process, a direct service tribe must write to the BIA Regional Director or the Chief of BIA Division of Transportation. The letter must:

- (1) Ask to begin one of the alternative dispute resolution (ADR) procedures in the Administrative Dispute Resolution Act of 1996, 5 U.S.C. 571–583 (ADR Act); and
- (2) Explain the factual and legal basis for the dispute.

(b) ADR proceedings will be governed by procedures in the ADR Act and the implementing regulations.