Reauthorization and the IRR Program

2005 ITA Conference
Las Vegas, NV
December 7, 2005
Topics

• Reauthorization
• FLH and IRR Funding
• 2006 DOT Appropriations Bill
• IRR Program Changes
• Other Programs and Opportunities
Reauthorization

• Highway Bill (SAFETEA-LU)
  – passed by Congress on July 29.
  – Signed by the President on August 13
• **FINAL BILL**
  - FY05 – $300,000,000
  - FY06 – $330,000,000
  - FY07 – $370,000,000
  - FY08 – $410,000,000
  - FY09 – $450,000,000
  - Total $1,860,000,000

  Including FY 04
  - TOTAL – $2,135,000,000
How are Federal Highway programs funded?

• Not simple cash

• **Contract Authority** and **Limitation** required
  
  – **Contract Authority** provided through highway authorizations
    
    • Typically multi-year
    • FY05 - FY09 provided by SAFETEA-LU
  
  – **Limitation** through DOT Appropriations
    
    • Annual
    • Signed by President on Nov 30
Funding for Indian Reservation Roads Program (situation thru Nov. 30)

**AUTHORITY**
HIGHWAY AUTHORIZATIONS
Multiple Year Extensions

Full Year Provided Through Sept 30, 2006 (IRR) $330 million

**LIMITATION**
DOT APPROPRIATIONS BILLS
Annual Continuing Resolutions

Continuing Resolution (2) Total of 74 days Through November 13 (IRR) $67 million

Limitation Controlled
FY 06 DOT Approps Bill

- Includes
  - 2.75% Takedown to all
  - $2 Billion Takedown to States Only
  - $95.2 Million for PLH-D. Applications due 1/20/06.

Earmarks include tribal related projects in:

- Arizona
- California
- New Mexico
- North Dakota
- South Dakota
- Utah
- Washington
FY 06 IRR PROGRAM FUNDING

FY 06 IRR PROGRAM
$330,000,000

AUTHORIZATION
AMOUNT UP TO $275 MILLION
$275,000,000

AUTHORIZATION
AMOUNT OVER $275 MILLION
$55,000,000

STATUATORY AND
REGULATORY SET ASIDES
($7,562,500)
($40,115,625)
($47,678,125)

2.75% Takedown
($1,512,500)

15% Obligation Limitation
($8,023,125)

SUBTOTAL
$227,321,875

OTHER TAKEDOWNS
($23,670,000)

SUBTOTAL
$45,464,375

TRANS. PLANNING
23 USC 204(J)
($4,546,438)
($909,288)

($5,455,725)

REMAINING FUNDING AVAILABLE FOR DISTRIBUTION
$199,105,438

IRRHPP FUNDING
$15,524,658

RNDF
$222,566,481

REMAINING FUNDING AVAILABLE FOR DISTRIBUTION
$44,555,088

POPULATION ADJ FACTOR
$5,569,386
IRR Program Changes
Tribal governments may approve road and bridge construction PS&Es and commence construction if it:

- Provides assurance in the contract or agreement that the construction will meet or exceed applicable health and safety standards;
- Obtains the advance review of the PS&E from a state-licensed civil engineer. Engineer must certify that the PS&E meets or exceeds the applicable health and safety standards; and
- Provides a copy of certification to the Asst Secretary for Indian Affairs or Deputy Asst Secretary for Tribal Gov’t Affairs (DOT)
BIA Administrative Expenses

- FY06 - $20,000,000
- FY07 - $22,000,000
- FY08 - $24,500,000
- FY09 - $27,000,000

- Funds are to be used by the Secretary of the Interior for PM&O and project-related administrative expenses.
Contracts and Agreements with Tribes

- All funds made available to an Indian tribal government under this chapter for a highway, road, bridge, parkway or transit facility or project on or providing access to a reservation shall be made available on request of the tribal government to the tribal government in accordance with ISDEAA for use in carrying out contracts and agreements for planning, design, engineering, construction.
Contracts and Agreements with Tribes

- Paid without regard to organizational level
- Consortia are eligible to participate
- Authorizes DOT Secretary to enter into funding agreements
- Amount a tribe receives equals:
  - funding that the tribe would otherwise receive in accordance with the formula, plus
  - an amount as determined by the Secretary as the amount that BIA would withhold for project administration.
Contracts and Agreements with Tribes

• Eligibility
  – Financial stability and management capability during the preceding three fiscal years
    • No uncorrected significant and material audit exceptions in their annual audit. This is conclusive evidence.

• Assumption of Powers, Functions and Duties
  – Tribe assumes all powers, functions and duties (that are not inherently Federal or cannot be transferred) that the Secretary of Interior would have performed.
IRR Inventory

- National Tribal Transportation Facility Inventory
  - The Secretary, in cooperation with the Secretary of the Interior, shall complete a comprehensive national inventory of transportation facilities that are eligible for assistance under the IRR Program.

- Completed with 2 years
IRR Inventory

- As a minimum, include all transportation facilities eligible for assistance under the IRR Program that a tribe has requested, including those:
  - in BIA system inventory from 1992 on;
  - constructed or reconstructed with Highway Trust Funds (other than mass transit) since 1983;
  - owned by an Indian tribal government;
IRR Inventory

• (Cont)
  - that are community streets or bridges within the exterior boundary of an Indian reservation, Alaska Native village, or other recognized Indian community (including former reservations on OK)
  - that are primary access routes (between villages, or roads to landfills, drinking water sources, natural resources, or inter-model termini)

• Report to Congress within 90 days of completion
A tribe may now use up to 25% of its share of IRR Program funds for maintenance.
- Road sealing not subject to limitation
BIA retains primary responsibility
Funds supplement the DOI BIA road maintenance funds
IRR Bridge Program

- An additional $14 million/year provided for FY05 – FY09.
  - Total = $70 million additional to program
  - FY06 – net amount is ~ $11.6 million

- Planning, design, engineering, pre-construction, construction, and inspection are now eligible.

- Bridge must be structurally deficient or functionally obsolete to be eligible.
IRR Bridge Program

• Approval of PS&E *
  – Tribes may approve the bridge PS&E in accordance with “this title”.

• Funding
  – Subject to availability
    • Planning/design – upon request from tribe
    • CN/CE – After approval of PS&E

• 23 CFR 661 Update
Other Provisions

• Establishes a DOT Deputy Assistant Secretary for Tribal Government Affairs
  – To plan, coordinate, and implement the DOT policy and programs serving Indian tribes and coordinate tribal transportation programs within the department
Stewardship and Oversight

• Section 1904
  – Secretary shall establish an oversight program to monitor the effective and efficient use of the funds authorized to carry out Title 23.
Exclusion of Final Rule

• Section 1939
  – IRR Program Final Rule will not apply to the following Alaska villages or projects:
    • Craig – Point St. Nicholas Road
    • Cordova – Eyak, Shepard Point Rd
    • Hydaburg – Community Street improvements
    • Healy Lake – Cummings Road
  – Secretary shall pay from amounts made available under 202(d) in FY06 for the Federal share of these projects.
Other Programs
Public Transportation on Indian Reservations

- Transit funds provided for program
  - $8 million in FY06
  - $10 million in FY07
  - $12 million in FY08
  - $15 million in FY09
  (Total = $45 million)

November 30 Federal Register Notice
- Comments due by 12/30/05

- FTA Requesting comments on criteria and factors they should use to select tribes and allocate funds.
Other FLH Programs

- **PLH-D**
  - $95.2 million/year (FY05 – FY09)
  - Historically earmarked
  - Funding available this FY

- **Emergency Relief**
  - $100 Million/year plus whatever is necessary
Other Programs

• **High Priority Program**
  – Over 5100 projects
  – Available at 20% per year for 5 years
  – Local match required

• **Project Flexibility (Section 1935)**
  – On certain projects, allows State to use funds allocated for certain projects under the HPP program on another project within that state.
Other Programs

• **Safety** (Sec. 2002)
  - 11 different DOT Safety programs
    • BIA shall establish a simplified process for applications for grants for Indian tribes under this chapter

• **Scenic Byway Program** (Sec. 1802)
  - Tribes can nominate a Scenic Byway
    • Tribe must be responsible to maintain safety and quality of roads that are nominated
FHWA/FLH Priorities

- Make funding available to BIA for distribution
- Develop the team, processes, and guidance necessary to effectively and efficiently work with those tribes who opt to work directly with FLH;
- Update existing regulations;
- Conduct the national inventory update;
- Conduct IRR/tribal specific roll-outs.

This will require cooperation and partnering with tribes, BIA, and other Federal Agencies.
Roll-out Meetings

• Series of IRR/tribal specific roll-outs
  – Starting this Winter
  – Numerous locations
  – Emphasis on SAFETEA-LU, changes to IRR program, Planning, Transit, Other programs, Inventory, etc.

• 8 Additional FLH Planning roll-outs
  – Date and location TBD
Additional Information

- TTAP Centers
- Federal Register
- FHWA website
Questions?

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