Proposed Roads and Access Roads

Consultation Meetings

June 2012
Background

- Clarification needed on applicability of Proposed and Access Roads into the IRR Inventory
- Assignment given to IRRPCC Fall 2010
  - Work product developed and provided to BIA and FHWA in St. Paul, MN week of 6/27/11.
  - Consensus recommendations reached in Sacramento, CA on March 1, 2012
- BIA and FHWA, along with DOI Solicitor and FHWA Office of Chief Counsel will utilize the consensus recommendations for a policy implementation.
Background

- Implementation Schedule
  - Consultation Meetings – June and July 2012
  - Review comments received – August 2012
  - Consider recommendations from consultations and issue Policy Memorandum to BIA Regions and FHWA – October 2012
  - Tribes review current inventory and provide required documentation - by March 2013
  - FY 13 inventory updated and used for FY 14 RNDF
PROPOSED ROADS
Proposed Roads

• Definition:
  • A proposed road or facility is any road/facility that will serve public transportation needs, meets the eligibility requirements of the IRR Program, and does not currently exist. 25 CFR 170.443.

• Requirements
  • In order to have a proposed road placed on the IRR inventory and begin generating funding, a Tribe must submit the following to BIA-DOT/FHWA Quality Assurance Team (QA Team) for consideration:
Proposed Roads - Requirements

- A Tribal Resolution identifying support for the facility and its placement on the IRR Inventory;
  - Refer to June 15, 2006 BIA Policy on Minimum Attachments (Ragsdale Memo)

- A copy of the Tribe’s Long Range Transportation Plan (LRTP) containing:
  - A description of the current land use and identification of land ownership within the proposed road’s corridor; and
  - A description of need and outcomes for the project/facility including a description of the project’s termini; and
  - The funding sources identified for the project.
Proposed Roads – Requirements

- If the landowner is a public authority, documentation indicating that the proposed road has been identified in their LRTP, Statewide Transportation Improvement Program approved by FHWA, or other published transportation planning documents.
  - Important commitment of project support by public authority
- A certification that a public involvement process was held and documentation showing that the proposed road was an agenda item or public notice for the public involvement process (25 CFR 170.413).
Proposed Roads - Requirements

• Documentation that the proposed road/project is feasible from a cost, environmental, and engineering perspective. At a minimum, the following documentation must be submitted –
  - **Cost Feasibility** – Including the calculated costs of the project’s design, construction, operation, and post-construction maintenance, as well as identifying the funding sources and supporting documentation that will be used to fulfill these requirements. A Tribe’s total funding requirements of previously identified and approved proposed roads will be considered in the determination of this factor.
  - **Environmental Feasibility** – Identifying the degree to which the proposed alternative is considered preferable from an environmental perspective and provide preliminary environmental and archeological reviews, and identifying potential environmental impacts.
  - **Engineering Feasibility** – Identifying the proposed road’s functional classification and the benefits that will be provided to the traveling public upon completion.
Proposed Roads - Requirements

- FHWA’s “Procedural Guidelines for Highway Feasibility Studies,” **should** be used as a guide for feasibility considerations (1).


Proposed Roads

**IRR Funding Generation**

- Proposed roads/facilities approved for inclusion in the IRR Inventory will only generate the Cost to Construct (CTC) component of the Relative Need Distribution Factor Formula used to determine tribal shares for the IRR Program. A Vehicle Miles Traveled (VMT) component will not be calculated or included.

**Quality Assurance Team**

- A Quality Assurance (QA) Team composed of FHWA and BIADOT representatives will be established to review all proposed road applications and documentation. The QA Team will have the authority to request additional information and determine feasibility/acceptance so as to ensure compliance with the policy.

**Applicability to Existing Proposed Roads**

- The guidance identified above also applies to the proposed roads currently existing in the IRR Inventory. In order to continue to generate funding (or not be changed to a CN=3), the required documentation for those roads must be provided to the QA team for review and approval by March 15, 2013. A determination of eligibility will be made for these roads prior to the calculation of the FY 14 tribal shares.
Proposed Roads

Additional LRTP REQUIREMENTS:

• In order for a proposed Indian Reservation Transportation Facility to be included in the inventory, the following information must be included in the Long Range Transportation Plan (LRTP):
  
  • 1. Description of current land use and ownership status within the proposed road corridor and identification of potentially impacted landowners and resource agencies;
  
  • 2. Description of the Tribal Transportation need and goal for the proposed transportation facility, including the land use at the terminus of the facility;
  
  • 3. Identifying potential sources of funds:
    • a. To construct the proposed transportation facility; and,
    • b. To maintain the proposed transportation facility upon completion of construction
  
  • 4. For the purpose of contributing to the formula, the proposed facility will be limited to the 20 year horizon (as per 25 CFR Part 170.410(b)).
Access Roads
Access Roads - Definition

- Contained in 23 USC 202(G) with further identification in 23 USC 202(G)(ii)(V) and 23 USC 202(G)(iii).
- (G) National tribal transportation facility inventory.
  - (ii) Transportation facilities included in the inventory. - For purposes of identifying the tribal transportation system and determining the relative transportation needs among Indian tribes, the Secretary shall include, at a minimum, transportation facilities that are eligible for assistance under the Indian reservation roads program that a tribe has requested, including facilities that - .....  
  - (V) are primary access routes proposed by tribal governments, including roads between villages, roads to landfills, roads to drinking water sources, roads to natural resources identified for economic development, and roads that provide access to intermodal termini, such as airports, harbors, or boat landings.
- (iii) Limitation on primary access routes. - For purposes of this subparagraph, a proposed primary access route is the shortest practicable route connecting 2 points of the proposed route.
Question brought to IRRPCC

- How should access to or from the various types of tribal land be considered?
- To what extent (length) should Access Roads generate funding in the formula?
IRRCC full Committee
Adopted
March 1st, 2012

Access road definitions for the purpose of generating funding.

Does the section intersect or abut a federally recognized tribal boundary?

YES

- Access is defined as the distance from the boundary extending to the intersection of an equal or greater functional classification but no more than 15 miles.

- If the section intersects or abuts an ANSCA village corporation transportation service area.

NO

- If the section intersects or abuts a tribally owned trust or fee parcel located outside of an incorporated municipal boundary.

- If the section is outside of an ANSCA village corporation and located within a developed Alaska Native Village with a population more than 50% Alaska Native/American Indian.

- If the section intersects or abuts a tribally owned trust or fee parcel located inside of an incorporated municipal boundary.

- If the section intersects or abuts a tribally owned trust or fee parcel located outside of an incorporated municipal boundary.

- If the section is outside of an ANSCA village corporation and located within a developed Alaska Native Village with a population more than 50% Alaska Native/American Indian.
IRRCC full Committee
Adopted March 1st, 2012

Section Description

Access road definitions for the purpose of generating funding.

The section intersects or abuts a federally recognized tribal boundary

Access is defined as the distance from the boundary extending to the intersection of an equal or greater functional classification but no more than 15 miles

The section intersects or abuts an ANCSA village corporation service area.

Access is defined as the distance from the ANCSA village corporation transportation service area extending to the intersection of an equal or greater functional classification but no more than 15 miles

The section is outside of an ANCSA village corporation and located within a developed Alaska Native Village with a population more than 50% Alaska Native/American Indian

Access is defined as the distance 5 miles outside of the developed area of the Alaska Native Village extending to the intersection of an equal or greater functional classification but no more than 15 miles

The section intersects or abuts a tribally owned trust or fee parcel located outside of an incorporated municipal boundary

Access is defined as the distance 5 miles outside of the tribally owned trust or fee parcel boundary extending to the intersection of an equal or greater functional classification but no more than 15 miles

The section intersects or abuts a tribally owned trust or fee parcel located inside of an incorporated municipal boundary

Access is defined as the distance from the tribally owned trust or fee parcel boundary extending to the intersection of an equal or greater functional classification but no more than 15 miles
Access Roads – Applicability to Existing Inventory

The final guidance and submittal requirements will also apply to the primary access roads that are already included in the IRR Inventory.

• In order for those roads to remain in the inventory *(or not be changed to a CN=3)*, the required documentation (further discussed below) for those roads must be provided to the QA team for review and approval by March 15, 2013. A determination of eligibility will be made for these roads prior to the determination of the final FY 2014 tribal shares.
Access Roads – Fund Generation (Existing vs. Proposed)

• **Existing Access Roads:** If an existing road is submitted and approved for inclusion in the IRR Inventory, it will generate both the Cost to Construct (CTC) component and the Vehicle Miles Traveled (VMT) component of the Relative Need Distribution Factor (RNDF) Formula.

• **Proposed (non-existing) Access Roads:** If a non-existing or proposed road is submitted and approved for inclusion in the IRR Inventory, it will generate only the Cost to Construct (CTC) component of the RNDF Formula.
Access Roads – Submittal Requirements

- The submittal requirements for IRR roads are contained in 25 CFR 170.
  - All access roads are owned by others unless otherwise documented
  - In addition to the requirements identified in 25 CFR 170, a tribe must submit the following documentation in order to place the road on the inventory:
    - A completed Checklist for IRR Primary Access
CHECKLIST FOR IRR PRIMARY ACCESS ROAD SECTION THAT IS OUTSIDE OF FEDERALLY RECOGNIZED TRIBAL BOUNDARY OR FOR CASES WHERE TRIBES DO NOT HAVE A FEDERALLY RECOGNIZED TRIBAL BOUNDARY

Tribe or Native Village: ___________________________________________
IRR Route # __________________ Section #__________Section Length: ________
Region: _______________ Agency: _______________
☐ Long Range Transportation Plan Verification
☐ Supplemental Justification Provided in RIFDS

1. What is the purpose of adding this to the system?
__________________________________________________________
2. What access does the section provide?

- Road between village
- Road to landfill
- Road to drinking water sources
- Road to natural resources
- Road identified for economic development
- Road to provide access to intermodal termini
  - Airport
  - Harbor
  - Boat landing
  - Transit
  - Rail
- Housing cluster
- Cultural access
  - Subsistence
  - Sacred or Medicinal Site
- Employment access
- Commerce access
- Health access
- Safety access
- Educational resource access
- Other Tribal offices ____________________________
- Other ____________________________

Has documentation been provided verifying the above selection(s)?

☐ ☐ Yes ☐ No
3. Type of vehicles using access road? _______________________

4. BIA classification of section: ____________________________

5. Distance from the boundary to the destination: ______________

6. Public Authority Responsible for section of road: ______________
   - Public authority consent (MOA or Letter of Acknowledgement)

7. Which scenario from chart applies for this section?
   - a. The section intersects or abuts a federally recognized tribal boundary
      Access is defined as the distance from the boundary extending to the intersection of an equal or greater functional classification but no more than 15 miles
   - b. The section intersects or abuts an ANCSA village corporation service area
      Access is defined as the distance from the ANCSA village corporation transportation service area extending to the intersection of an equal or greater functional classification but no more than 15 miles
   - c. The section is outside of an ANCSA village corporation and located within a developed Alaska Native Village with a population more than 50% Alaska Native/American Indian
      Access is defined as the distance 5 miles outside of the developed area of the Alaska Native Village extending to the intersection of an equal or greater functional classification but no more than 15 miles
   - d. The section intersects or abuts a tribally owned trust or fee parcel located outside of an incorporated municipal boundary
      Access is defined as the distance 5 miles outside of the tribally owned trust or fee parcel boundary extending to the intersection of an equal or greater functional classification but no more than 15 miles
   - e. The section intersects or abuts a tribally owned trust or fee parcel located inside of an incorporated municipal boundary
      Access is defined as the distance from the tribally owned trust or fee parcel boundary extending to the intersection of an equal or greater functional classification but no more than 15 miles
Issues:

• IRRPCC recommendation does not specifically address roads within the 5 mile radius. It only makes recommendations on where an “access” road is to begin.

• **QUESTION:** If the 5-mile radius is implemented, what roads within that 5-mile radius are to be considered as “IRR Roads” and thus be allowed into the inventory and able to generate funding through the formula?

• **QUESTION:** Is every road that intersects the 5-mile radius considered an access road or must it be a primary access road to a facility identified in statute?
QUESTIONS?