

U.S. affiliate, except a U.S. banking affiliate or U.S. bank holding company affiliate (including all of the subsidiaries and units of the bank holding company), exceeding an exemption level of \$30 million. A long form, BE-15(LF), must be filed by each nonbank majority-owned U.S. affiliate (a "majority-owned" U.S. affiliate is one in which the combined direct and indirect ownership interests of all foreign parents of the U.S. affiliate exceed 50 percent) for which at least one of the three items-total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for U.S. income taxes-exceeds \$125 million (positive or negative), unless the nonbank majority-owned U.S. affiliate is selected to file a BE-15(EZ) form. A short form, BE-15(SF), must be filed by each nonbank majority-owned U.S. affiliate for which at least one of the three items-total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for U.S. income taxes-exceeds \$30 million but no one item exceeds \$125 million (positive or negative), and by each nonbank minority-owned U.S. affiliate (a "minority-owned" U.S. affiliate is one in which the combined direct and indirect ownership interest of all foreign parents of the U.S. affiliate is 50 percent or less) for which at least one of the three items-total assets, sales or gross operating revenues excluding sales taxes, or net income after provision for U.S. income taxes-exceeds \$30 million (positive or negative), unless the nonbank U.S. affiliate is selected to file a BE-15(EZ) form. A BE-15(EZ) form must be filed by each nonbank U.S. affiliate that is selected to file this form in lieu of filing the BE-15(LF) or BE-15(SF). A BE-15 Supplement C (Exemption Claim) must be filed by each nonbank U.S. affiliate to claim exemption from filing a BE-15(LF), BE-15(SF), or BE-15(EZ). Following an initial filing, the BE-15 Supplement C is not required annually from those nonbank U.S. affiliates that meet the stated exemption criteria from year to year.

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### 25 CFR Part 170

RIN 1076-AE50

#### Partial Distribution of Fiscal Year 2004 Indian Reservation Roads Funds

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Final rule.

**SUMMARY:** We are issuing a rule requiring that we immediately distribute \$25 million of fiscal year 2004 Indian Reservation Roads (IRR) funds to projects on or near Indian reservations using the relative need formula. This partial distribution reflects the funds the Federal Highway Administration has allocated to the Department of the Interior and is based on funding appropriated by a continuing resolution and the Surface Transportation Extension Act of 2003 in effect until February 29, 2004. We are using the Federal Highway Administration (FHWA) Price Trends report for the relative need formula distribution process, with appropriate modifications to address non-reporting States. This distribution will allow an immediate allocation of funds based on an existing formula, final allocations will be dependent on a final authorization of highway trust funds and a fiscal year 2004 appropriations.

**EFFECTIVE DATE:** December 10, 2003. Section 170.4b expires September 30, 2004.

**FOR FURTHER INFORMATION CONTACT:** LeRoy Gishi, Chief, Division of Transportation, Tribal Services, Bureau of Indian Affairs, 1849 C Street, NW., MS-4058-MIB, Washington, DC 20240. Mr. Gishi may also be reached at (202) 208-4359 (phone) or (202) 208-4696 (fax).

#### SUPPLEMENTARY INFORMATION:

##### Background

*Where Can I Find General Background Information on the Indian Reservation Roads (IRR) Program, the Relative Need Formula, the Federal Highway Administration (FHWA) Price Trends Report, and the Transportation Equity Act for the 21st Century (TEA-21) Negotiated Rulemaking Process?*

The background information on the IRR program, the relative need formula, the FHWA Price Trends Report, and the TEA-21 Negotiated Rulemaking process is detailed in the **Federal Register** notice dated February 15, 2000 (65 FR 7431).

#### *Why Are You Publishing This Rule?*

We are publishing this rule to distribute \$25 million of fiscal year 2004 IRR Program funds. This rule sets no precedent for the final rule to be published as required by Section 1115 of TEA-21.

#### *Where Can I Find Information on the Distribution of Fiscal Year 2003 IRR Program Funds?*

You can find this information in the **Federal Register** notice dated June 5, 2003 (68 FR 33625).

#### *How Will the Secretary Distribute \$25 Million of Fiscal Year 2004 IRR Program Funds?*

Upon publication of this rule, the Secretary will distribute only \$25 million of fiscal year 2004 IRR program funds based on the current relative need formula used in fiscal years 2000, 2001, 2002 and in the first distribution in fiscal year 2003. We are using the latest indices from the FHWA Price Trends Report with appropriate modifications for non-reporting States in the relative need formula distribution process.

#### **Regulatory Planning and Review (Executive Order 12866)**

Under the criteria in Executive Order 12866, this rule is not a significant regulatory action because it will not have an annual effect of more than \$100 million on the economy. The total amount currently available for distribution of fiscal year 2004 IRR program funds is approximately \$145 million and we are distributing only \$25 million under this rule. Congress has authorized these funds and FHWA has already allocated them to BIA. The cost to the government of distributing the IRR program funds, especially under the relative need formula with which the tribal governments and tribal organizations and the BIA are already familiar, is negligible. The distribution of fiscal year 2004 IRR program funds does not require tribal governments and tribal organizations to expend any of their own funds. This rule is consistent with the policies and practices that currently guide our distribution of IRR program funds. This rule continues to adopt the relative need formula that we have used since 1993, adjusting the FHWA Price Trends Report indices for states that do not have current data reports. This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another Federal agency. The FHWA has transferred the IRR program funds to us and fully expects the BIA to distribute the funds according to a funding formula approved by the

Secretary. This rule does not alter the budgetary effects on any tribes from any previous or any future distribution of IRR program funds and does not alter entitlement, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule does not raise novel legal or policy issues. It is based on the relative need formula in use since 1993. We are changing determination of relative need only by appropriately modifying the FHWA Price Trend Report indices for states that did not report data for the FHWA Price Trends Report, just as we did for the partial distributions for fiscal years 2000, 2001, 2002 and 2003 IRR Program funds. Approximately 350 road and bridge construction projects are at various phases that depend on this fiscal year's IRR program funds. Leaving these ongoing projects unfunded will create undue hardship on tribes and tribal members. Lack of funding would also pose safety threats by leaving partially constructed road and bridge projects to jeopardize the health and safety of the traveling public. Thus, the benefits of this rule far outweigh the costs. This rule is consistent with the policies and practices that currently guide our distribution of IRR Program funds.

#### **Regulatory Flexibility Act**

A Regulatory Flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is not required for this rule because it applies only to tribal governments, not State and local governments.

#### **Small Business Regulatory Enforcement Fairness Act (SBREFA)**

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act, because it does not have an annual effect on the economy of \$100 million or more. We are distributing only \$25 million under this rule. Congress has authorized these funds and FHWA has already allocated them to BIA. The cost to the government of distributing the IRR Program funds, especially under the relative need formula with which tribal governments, tribal organizations, and the BIA are already familiar, is negligible. The distribution of the IRR Program funds does not require tribal governments and tribal organizations to expend any of their own funds. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Actions under this rule will distribute Federal funds to projects for transportation planning,

road and bridge construction, and road improvements. This rule does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign based enterprises. In fact, actions under this rule will provide a beneficial effect on employment through funding for construction jobs.

#### **Unfunded Mandates Reform Act**

Under the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*), this rule will not significantly or uniquely affect small governments, or the private sector. A Small Government Agency Plan is not required. This rule will not produce a federal mandate that may result in an expenditure by State, local, or tribal governments of \$100 million or greater in any year. The effect of this rule is to immediately provide \$25 million of fiscal year 2004 IRR Program funds for ongoing IRR activities and construction projects.

#### **Takings Implications (Executive Order 12630)**

With respect to Executive Order 12630, the rule does not have significant takings implications since it involves no transfer of title to any property. A takings implication assessment is not required.

#### **Federalism (Executive Order 13132)**

With respect to Executive Order 13132, the rule does not have significant Federalism implications to warrant the preparation of a Federalism Assessment. This rule should not affect the relationship between state governments and the Federal government because this rule concerns administration of a fund dedicated to IRR projects on or near Indian reservations that has no effect on Federal funding of state roads. Therefore, the rule has no Federalism effects within the meaning of Executive Order 13132.

#### **Civil Justice Reform (Executive Order 12988)**

This rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988. This rule contains no drafting errors or ambiguity and is clearly written to minimize litigation, provide clear standards, simplify procedures, and reduce burden. This rule does not preempt any statute. Under The Transportation Equity Act for the 21st Century negotiated rulemaking, we have published a proposed rule and funding formula which is currently being finalized. A final funding formula for

fiscal year 2004 will be published in 2004. The rule is not retroactive with respect to any funding from any previous fiscal year (or prospective to funding from any future fiscal year), but applies only to \$25 million of fiscal year 2004 IRR Program funding.

#### **Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because this rule does not impose record keeping or information collection requirements or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 501 *et seq.* We already have all of the necessary information to implement this rule.

#### **National Environmental Policy Act**

This rule is categorically excluded from the preparation of an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, because its environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and the road projects funded as a result of this rule will be subject later to the National Environmental Policy Act process, either collectively or case-by-case. Further, no extraordinary circumstances exist to require preparation of an environmental assessment or environmental impact statement.

#### **Consultation and Coordination With Indian Tribal Governments (Executive Order 13175)**

Pursuant to Executive Order 13175 of November 6, 2000, "Consultation and Coordination with Indian Tribal Governments," we have consulted with tribal representatives throughout the negotiated rulemaking process. We have evaluated any potential effects on federally recognized Indian tribes and have determined that there are no potential adverse effects and have determined that this rule preserves the integrity and consistency of the relative need formula process we have used since 1993 to distribute IRR Program funds. We are making a change from previous years (which we also made for fiscal years 2000, 2001, 2002 and 2003 IRR Program funds (see **Federal Register** notices at 65 FR 37697, 66 FR 17073, 67 FR 44355 and 68 FR 33625 ) to modify the FHWA Price Trends Report indices for non-reporting states which do not have current price trends data reports. The yearly FHWA Report is used as part of the process to determine the cost-to-

improve portion of the relative need formula. Consultation with tribal governments and tribal organizations is ongoing as part of the TEA-21 negotiated rulemaking process.

#### List of Subjects in 25 CFR Part 170

Highways and Roads, Indians-lands.

■ In order to distribute part of fiscal year 2004 IRR Program funds immediately we are amending part 170 in chapter I of title 25 of the Code of Federal Regulations as follows.

#### PART 170—ROADS OF THE BUREAU OF INDIAN AFFAIRS

■ 1. The authority citation for part 170 continues to read as follows:

**Authority:** 36 Stat. 861; 78 Stat. 241, 253, 257; 45 Stat. 750 (25 U.S.C. 47; 42 U.S.C. 2000e(b), 2000e-2(i); 23 U.S.C. 101(a), 202, 204), unless otherwise noted.

■ 2. Revise § 170.4b to read as follows:

#### § 170.4b What formula will BIA use to distribute \$25 million of fiscal year 2004 Indian Reservation Roads Program funds?

On December 10, 2003, we will distribute \$25 million of fiscal year 2004 IRR Program funds authorized under the Surface Transportation Extension Act of 2003, Pub. L. 108-88. We will distribute the funds to Indian Reservation Roads projects on or near Indian reservations using the relative need formula established and approved in January 1993. The formula has been modified to account for non-reporting States by inserting the latest data reported for those states for use in the relative need formula process.

Dated: November 25, 2003.

**Aurene Martin,**

*Principal Deputy Assistant Secretary—Indian Affairs.*

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## DEPARTMENT OF THE TREASURY

### Office of the Secretary

#### 31 CFR Parts 1 and 323

#### Privacy Act of 1974; Implementation

**AGENCY:** Bureau of the Public Debt, Treasury.

**ACTION:** Final rule.

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, as amended, the Department of the Treasury exempts a Bureau of the Public Debt system of records entitled “Treasury/BPD.009—U.S. Treasury Securities Fraud Information System”

from certain provisions of the Privacy Act.

**EFFECTIVE DATE:** December 5, 2003.

**FOR FURTHER INFORMATION CONTACT:** For information about Public Debt’s anti-money laundering and fraud suppression program, contact the Fraud Inquiry Line at 304-480-8555. The phone line is administered by the Office of the Chief Counsel, Bureau of the Public Debt. For information about this document, contact the Office of the Chief Counsel, Bureau of the Public Debt, at 304-480-8692 or by e-mail at [chcounsel@bpd.treas.gov](mailto:chcounsel@bpd.treas.gov). Copies of this rule can be downloaded from the public Web site at <http://www.publicdebt.treas.gov>.

**SUPPLEMENTARY INFORMATION:** The Department of the Treasury published a system notice for “Treasury/BPD.009—U.S. Treasury Securities Fraud Information System” in its entirety at 68 FR 34486-34489 (June 9, 2003). We did not receive any comments on the notice. The system of records became effective July 21, 2003.

We issued a proposed rule exempting the system of records from certain provisions of the Privacy Act of 1974, as amended, at 68 FR 36955-36957 (June 20, 2003). Under 5 U.S.C. 552a(k)(2), the head of an agency may promulgate rules to exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, as amended, if the system is investigatory material compiled for law enforcement purposes. The system of records contains investigatory material compiled for law enforcement purposes.

The provisions of the Privacy Act from which exemption is claimed pursuant to 5 U.S.C. 552a(k)(2) are: 5 U.S.C. 552a(c)(3) (Accounting of certain disclosures available to the individual), (d)(1)-(4) (Access to records), (e)(1) (Maintenance of information to accomplish purposes authorized by statute or executive order only), (e)(4)(G) (Publication of procedures for notification), (e)(4)(H) (Publication of procedures for access and contest), (e)(4)(I) (Publication of sources of records), and (f) (Rules for notification, access and contest) to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(k)(2) as material compiled for law enforcement purposes.

In an unrelated change, the proposed rule clarified the privacy interests afforded to close survivors of a deceased securities holder. Public Debt protected the privacy interests of securities holders by regulation long before the passage of the Privacy Act of 1974. We proposed to amend part 323 to comport

with exemption 6 of the Freedom of Information Act which permits us to withhold all information about individuals in “personnel and medical files and similar files” when the disclosure of such information “would constitute a clearly unwarranted invasion of personal privacy.” Although the right to privacy of a deceased securities holder extinguishes upon death, the exemption will protect the deceased person’s family-related privacy interests in certain cases.

The proposed rule requested that public comments be sent to the Disclosure Officer, Administrative Resource Center, Bureau of the Public Debt, no later than July 21, 2003. We did not receive comments on the proposed rule. Accordingly, the Department of the Treasury is hereby giving notice that the system of records entitled “Treasury/BPD.009—U.S. Treasury Securities Fraud Information System.”, is exempt from certain provisions of the Privacy Act.

As required by Executive Order 12866, it has been determined that this final rule is not a “significant regulatory action,” and therefore, does not require a Regulatory Impact Analysis.

The regulation will not have a substantial direct effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, the Department of the Treasury and Public Debt certify that these regulations will not significantly affect a substantial number of small entities. The final rule imposes no duties or obligations on small entities.

In accordance with the provisions of the Paperwork Reduction Act of 1995, the Department of the Treasury and Public Debt have determined that this final rule would not impose new record keeping, application, reporting, or other types of information collection requirements.

#### List of Subjects

31 CFR Part 1

Privacy.

31 CFR Part 323

Freedom of Information Act, Privacy.

■ Accordingly, for the reasons stated in the preamble, 31 CFR part 1, is amended as follows:

■ 1. The authority citation for part 1 continues to read as follows: