

## VI. Allowable Uses of Program Funds

**Overview.** Program funds are Federal funds that may only be expended on allowable expenditures. The program funds also come with conditions. The allowable expenditures are broken into two broad activity categories: (1) Planning and Design activities, and (2) Construction and Improvement activities. The Allowable Uses of IRR Program Funds are set out at Appendix A to Subpart B of 25 CFR 170. **The most common allowable expenditures are:**

### 1. Planning and Design activities –

- Transportation Planning, highway and transit safety planning, programming, studies and activities
- Indirect general and Administration costs, which includes a onetime start-up cost. Start-up cost includes, but is not limited to, computers, office furniture and equipment, and software. Costs should be reflected in a budget and must be reasonable and in accordance with OMB Circular A-87.
- Environmental studies, evaluations, and compliance activities
- Planning and design of mitigation of damage to wildlife, habitat and ecosystems caused by a transportation project
- Architectural and landscape engineering services including lighting
- Engineering design
- Inspection of bridges and structures
- Highway and transit safety planning, programming, studies and activities
- Public meetings and public involvement activities
- Tribal employment rights ordinance (TERO) fees
- See Appendix A to Subpart B of 25 CFR 170 for complete list of allowable uses of program funds

### 2. Construction and Improvement activities –

- Construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements
- Highway bridges and structures under 20 feet in length
- Road sealing and chip seals
- ADA pedestrian facilities improvements , construction of pedestrian walkways and bicycle transportation facilities
- Seasonal transportation routes, including snowmobile trails, ice roads, overland winter roads
- Mitigation activities required by Tribal state or Federal regulatory agencies and 42 U.S.C. 4321 *et seq.*, The National Environmental Policy Act (NEPA) (see Appendix A to Subpart B of 25 CFR 170 for other environmental related allowable costs.
- Tribal employment rights ordinance (TERO) fees
- Road Maintenance, as authorized under SAFETEA-LU section 1119(i); (not more than 25 percent of the funds allocated to a Tribe may be expended for the purpose of maintenance, excluding road sealing, which shall not be subject to any limitation).
- Development and negotiation of Tribal-State road maintenance agreements authorized under section 1119(k) of SAFETEA-LU
- Equipment Purchase (requires a written notification to and approval by the FHWA or the BIA with justification and back-up documentation showing that it is more economical to purchase than to lease)

**Conditions on IRR Funds.** The amount of IRR allocation funds have certain conditions placed on them. They are:

- Planning – Up to 2% of total fiscal year IRR Program funds as shown on RFA (23 U.S.C. 204(j); Up to 100% of their IRR Program Funds (25 CFR 170.403) if identified as a priority on TTIP; Up to \$35,000 or 5% of IRR Program Construction funds, whichever is greater (25 CFR 170.404). Note: If a Tribe exceeds this threshold, then the amount over the threshold will be subtracted from the Tribe's cost to construct factor for the following year.
- Preliminary Engineering – Any amount of total fiscal year Tribes IRR allocation minus any amounts from other areas (25 CFR 170.454 to 463).
- Construction – Up to 100% of total fiscal year Tribes IRR allocation minus any amounts from other area (25 CFR 170.470 and Appendix A to subpart D).
- Construction Engineering – Up to 100% of total fiscal year Tribes IRR allocation year minus any amounts from other areas.
- Transit – Up to 100% of total fiscal year Tribes IRR allocation minus any amounts from other areas (25 CFR 170.148 to 152).
- Maintenance – Up to 25% of total fiscal year IRR Tribal allocation (23 U.S.C. 204(b)(c); 25 CFR 179 Subpart G).