

Seminole Nation of Oklahoma

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03/10/09

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Mr. LeRoy Gishi, Chief
Division of Transportation
1849 C Street, NW. Mail Stop 4512 MIB
Washington, DC 20240

OMB Control Number 1076-0161

Dear Mr. Gishi,

The Seminole Nation of Oklahoma has reviewed 25 CFR Section 170 in response to the Notice of Proposed Renewal of Information Collection published in the Federal Register and offers the following.

It is difficult to identify what specific information the Bureau of Indian Affairs is referring to even if one reads the "Brief Description of collection." The 25CFR sections referred to in the Notice of Proposed Renewal of Information Collection published in the Federal Register are general at best. The use of the word "Some" indicates the list is incomplete and therefore it is up to the reader to ferret out all the information currently being collected.

That being said, this response is in the same order as the "Brief Description of collection" listed in the Notice of Proposed Renewal of Information Collection published in the Federal Register.

The information required in §170.210 (d) is asking for existing information and should not be required for application. The documentation that the project meets the definition of an IRR facility and is in the IRR inventory is moot. The definition of an IRRHPP in §170.205 implies that it can only be used on an existing IRR road and excludes items listed in §170.116.

The information required in §170.210 (e) & (f) is redundant and should be a single requirement. The documentation by the first official tribal action requesting the IRRHPP project should be enough to have the project evaluated and automatically placed on the IRRHPP TIP if selected and approved. A tribe would not ask for a project unless they wanted it to be funded and built.

The information required in §170.443 (c) is not necessary for a proposed facility. If the facility is accepted into the IRR Inventory, it is eligible for funding because it is an allowable use of IRR Program Funds per Appendix A to Subpart B. Asking if the project is eligible is like saying it is not an allowable use of funds and the project is requested as an exception.

The information required in §170.411 is entirely voluntary as the word "may" is used. The data required is at the discretion of the Tribe for collection and the Region for acceptance but is different in each Tribe or Region. If one interprets that the condition is "may," one can conclude that the tribal priority list is all that is required (§170.402). §170.402(b) is entirely voluntary as the word "may" is used in section (b). §170.401 is a BIA "must" clause that duplicates what is desired in §170.402(b) for the tribal role in planning.

The information required in §170.412 is developed by agreement between the tribe and BIA. This varies from region to region but needs to be identified, standardized and administered uniformly.

§170.420 asks for a priority list and an authorizing tribal document. §170.421 requires slightly more programming thought and information collection but would seem appropriate if the allocation is large enough to warrant the effort.

§170.437 and §170.439 are sections that provide direction about what information is presented at a public hearing or what is required when no hearing is held. This information is necessary for the public and the record.

As to the information required for use in the Relative Need Distribution Formula (RNF), all CTC, VMT and POP information is necessary and quantifiable.

The BIA requested our comments on "this" collection concerning the following.

(a) The necessity of "this" information collection for the proper performance of the functions of the agency, including whether the information will have practical utility;

The only information needed for the allocation of funding is what is required in the Relative Need Distribution Formula. Information desired for the inventory data base could be reduced. The items requested are different between regions due to politics or physical roadway characteristics. Not all collected information has practical utility. The utility of the information may need to be further evaluated by an agreed committee since the information collected is not completely listed in the CFR.

The practical utility of the information required in §170.412 for planning is developed by agreement between the tribe and BIA. This varies from region to region but should be simplified, standardized and applied uniformly or listed in the CFR.

Each region asks for terrain, road geometric, right of way, surface treatment, photographs and other data that is more important during the design phase, not so much during the planning phase. There are some sixty plus bits of information listed for the Road Inventory Field Data System (RIFDS) on Form 5704. Only the Average Daily Traffic (ADT) Length of Section and the Cost to Construct percent (CTC %) eligible is important to the Relative Need Distribution Formula.

The CTC requires 55 elements of information in the 5704 form concerning identifying numbers, roadway geometrics, condition, traffic counts, alignment, terrain, right of way, cost of improvement, accountability (ownership) and inventory status. We believe this information is nice to have but not all this detail is necessary to arrive at an estimated cost to construct. It is also time consuming and costly to collect.

ADT and length are straight forward for the RNF but the CTC requires many additional data elements. This cost is sensitive to both location of material and location of construction. If we say that each table in Appendix D to Subpart C requires one piece of data after evaluating several bits of information contained in the tables.

1. Table 1 requires a look at 130 bits of information to determine an adequate standard
2. Table 2 requires a look at 22 bits of information to determine an ADT
3. Table 3 requires a look at 48 bits of information to determine a future surface type
4. Table 4 requires a look at 24 bits of information to determine the percent of grade and drain cost required
5. Table 5 requires a look at 28 bits of information to determine the percent of aggregate surface cost required
6. Table 6 requires a look at 28 bits of information to determine the percent of pavement surface cost required
7. Table 7 requires a look at 32 bits of information to determine the percent of incidental construction cost required, and
8. Table 8 requires a look at 10 bits of information to determine the percent of additional incidental construction cost

This amounts to 322 bits of information to evaluate and then categorize for every segment of inventory listed by a tribe in order to determine the CTC. All this information is considered excessive for planning purposes.

We suggest that the cost per mile for the conglomerate of roads constructed over a three to five year period with an inflation adjustment would be adequate to provide a number for the CTC. All road types can be reduced to cost per lane mile and averaged for a particular area. Each tribe would then have its own CTC as determined from historical data in their immediate area. As a planning figure, this result can be considered adequate. The cost of surveys, design, environmental and biological assessments, cultural resource inventory and compliance (archeology), and attaining right of way is not covered in the CTC but is an expense drawn from the allocation and should to be added as some percent of the construction cost.

This Nation suggests that a CTC per lane mile for roads in each region or for each tribe based on prior jobs (real costs plus an inflation factor) would lend itself to a viable and easier number to calculate and use for the CTC in the RNF. We believe this would save time and money in estimating the CTC and that there is enough history at this point in time to arrive at a reasonable CTC for each region or tribe.

(b) The accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used;

The collection of information, including the validity of the methodology and assumptions used can only be evaluated by those who know "all of the methodology and assumptions used". We offer comment that the information we submit and the time spent submitting it far exceeds the highest estimated time per response that BIA claims. Just imagine the time and effort expended for the information collection and the evaluation required as

mentioned in (a) above that is required for every section of every segment of inventory submitted.

(c) Ways we could enhance the quality, utility and clarity of the information to be collected;

This could be accomplished by developing and providing a published list of information required. If information is developed by agreement between different BIA regions and tribes as written in §170.412, the results for each region will be different. If the list of information required was published in the CFR, all parties would be subject to the same requirements and there would be less discussion about differences concerning the quality, utility and clarity of the information.

(d) Ways we could minimize the burden of the collection of the information on the respondents, such as through the use of automated collection techniques or other forms of information technology.

One way to minimize the burden of the collection of the information (Form 5704) on the respondents is to realize the effort can be contracted using IRR funds per §170.401 or §170.402.

The automated collection techniques or other forms of information technology effort can be developed by putting together Information Technology staff to brainstorm a solution. What we offer is that automated data collection still requires staff and equipment (dollars) to accomplish input of the raw data and the maintenance of those files. Automated collection techniques do not abrogate the physical collection of data.

We appreciate the efforts of the Bureau of Indian Affairs and hope our comments will be incorporated into the proposed renewal of information collection requirements. Should you have any questions about these comments, please contact Mr. Chris Cutler, P.E. of our Transportation Department at 405-257-7294.

Sincerely,



Enoch Kelly Haney
Principal Chief
Seminole Nation of Oklahoma