

Tribal Transportation Program Coordinating Committee

May 7, 2015

The Honorable Kevin Washburn
Assistant Secretary – Indian Affairs
Bureau of Indian Affairs
U.S. Department of the Interior
1849 C Street, N.W.
Washington, DC 20240

Robert Arnold
Acting Associate Administrator
Federal Lands Highway
Federal Highway Administration
1200 New Jersey Avenue, S.E.
Washington, DC 20500

RE: Tribal Transportation Program Coordinating Committee (TTPCC) FY14 Annual
Report and Recommendations

Dear Assistant Secretary Washburn and
Acting Associate Administrator Mr. Arnold:

I am writing on behalf of the Tribal Transportation Program Coordinating Committee (Committee). The Committee was established in 2004 with the publication of the regulations governing the Tribal Transportation Program (TTP).¹ See 25 CFR § 170.155. Under the regulation, the Committee's responsibilities include reviewing issues of importance to the TTP and providing input or recommendations to the Secretaries of the Interior and Transportation. All of our meetings are open to the public and we are committed to holding our meetings at locations throughout Indian Country.

The Assistant Secretary – Indian Affairs has supported these efforts over the past 18 months by approving meetings that have been held at the Gila River Indian Community in Arizona, Anchorage, Alaska, Albuquerque, New Mexico, and Washington, D.C.² Unfortunately, due to the Memorandum of May 12, 2014, from Brian R. Bezio, Acting Chief Financial Officer, Federal Lands Highway (Memorandum), banning FHWA activities at tribal conference facilities co-located with tribal gaming operations, FHWA representatives have advised the Committee that we cannot convene a meeting in such locations.

While we are all aware of the unfortunate situation that occurred in Las Vegas a few years ago, our view is that the policy should be revised to exclude meetings of this Committee. First, from a practical perspective, the policy serves to exclude an important swath of the most modern and well-managed meeting facilities available across the nation. Additionally, excluding these facilities increases our costs for things such as rental cars, for example, if we cannot accommodate our membership at hotels connected to the meeting venues. Moreover, both the Department of the Interior and Internal Revenue Service view tribal gaming operations separately from hotels, restaurants and meeting facilities.³

¹ When the regulations were published in 2004, the TTP was known as the "Indian Reservation Roads Program. Section 1119 of "Moving Ahead for Progress in the 21st Century," (MAP-21), P.L. 112-141 (July 6, 2012), changed the name to the "Tribal Transportation Program."

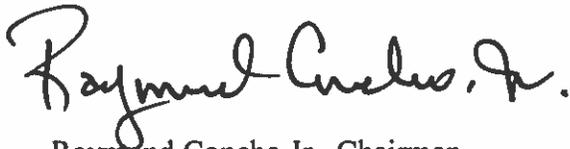
² These locations represent four of the Bureau of Indian Affairs' twelve (12) Regions, including Western (Arizona), Alaska (Anchorage), Southwest (Albuquerque), and Eastern (Washington, D.C.).

³ For example, under the Indian Gaming Regulatory Act, tribal-state gaming compacts are restricted to regulating only spaces that are "directly related to the operation of gaming activities," and the Secretary has determined that

Most importantly, we believe that the policy does not comply with the Department of the Interior's "Buy Indian" regulations. These regulations and other policies direct the Department – the joint administrator of the TTP – to try to purchase competitively priced goods and services in, or from, Indian Country whenever possible. Beyond the obvious convenience for tribal members who wish to attend our meetings, we also believe that we can reduce our meeting costs by using tribally-operated facilities.

We are therefore requesting an immediate waiver of the Memorandum's restrictions for Committee meetings, including attendance by FHWA employees that are responsible for oversight and other responsibilities involving the TTP. Additionally, the Committee encourages FHWA to revisit the Memorandum to allow FHWA to return to doing business with tribally-owned hotel and meeting facilities throughout Indian Country.

Sincerely,

A handwritten signature in black ink, reading "Raymond Concho Jr." in a cursive script.

Raymond Concho Jr., Chairman
Tribal Transportation Program Coordinating Committee

cc: Members of the TTPCC
Ms. Sarah Walters, Counselor to the AS-IA
LeRoy Gishi, Division Chief, BIA, Division of Transportation
Robert Sparrow, Director, Tribal Transportation Program

hotels and conference centers are therefore subject only to tribal regulation. Additionally, Section 10 of IRS Notice 2009-51, discussing the use of tax-exempt bonds to finance construction of hotels, convention centers and other tribally-owned facilities, provided "Safe Harbor" language, stating that: "As a safe harbor, a structure will be treated as a separate building if it has an independent foundation, independent outer walls and an independent roof. Connections (e.g., doorways, covered walkways or other enclosed common area connections) between two adjacent independent walls of separate buildings may be disregarded as long as such connections do not affect the structural independence of either wall."