

## II. Tribal Transportation Program (TTP)

### 2.1 Overview

The Tribal Transportation Program (TTP) is an important resource of a Tribe's overall infrastructure investment strategy. It is a nationally based Federal program, with a number of requirements and responsibilities that each Tribe needs to fully understand as a partner in the process.

**A. Statutory/Regulatory Requirements.** In administering its Tribal Transportation Program, a Tribal government is required to comply with the provisions of Title 23 of the United States Code, 25 CFR 170, and Public Law 114-94, *Fixing America's Surface Transportation Act* (FAST Act). A Tribal government is also required to comply with the terms of its most current executed TTP Program Agreement with FHWA. See 25 CFR §§170.170.2 through 170.4 for policies and requirements that apply to the TTP.

Federal law gives hiring and training preferences, to the greatest extent feasible, to Indians for all work performed under the Tribal transportation program (25 CFR §§ 170.911-170.914). Under 25 U.S.C. § 5307(b), Indian organizations and Indian-owned economic enterprises are entitled to a preference, to the greatest extent feasible, in the award of contracts, subcontracts, and sub-grants for all work performed under the TTP.

The following is a list of regulations related to the implementation and oversight of the Tribal Transportation Program:

- 25 CFR § 170 – Tribal Transportation Program at [https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title25/25cfr170\\_main\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title25/25cfr170_main_02.tpl)
- 23 U.S.C. § 202 – Tribal Transportation Program
- 23 CFR § 625 – Design Standards for Highways
- 23 CFR § 630 – Preconstruction Procedures
- 23 CFR § 650 – Bridges, Structures, and Hydraulics
- 23 CFR § 661 – Indian Reservation Road Bridge Program
- 23 CFR § 710 – Right-of-Way
- 23 CFR § 771 – Environmental Impact and Related Procedures
- 29 CFR § 1910 – Occupational Safety and Health Standards
- 25 U.S.C. § 5307(b)
- BIA NEPA policy
- Government Performance and Results Act

**B. Federal Agencies which carry out the TTP.** Federal agencies must work cooperatively together in a government-to-government relationship with Tribes in order to carry out the requirements of the Tribal Transportation Program (TTP). Below is a short description of the Federal agencies which carry out the TTP with Tribes.

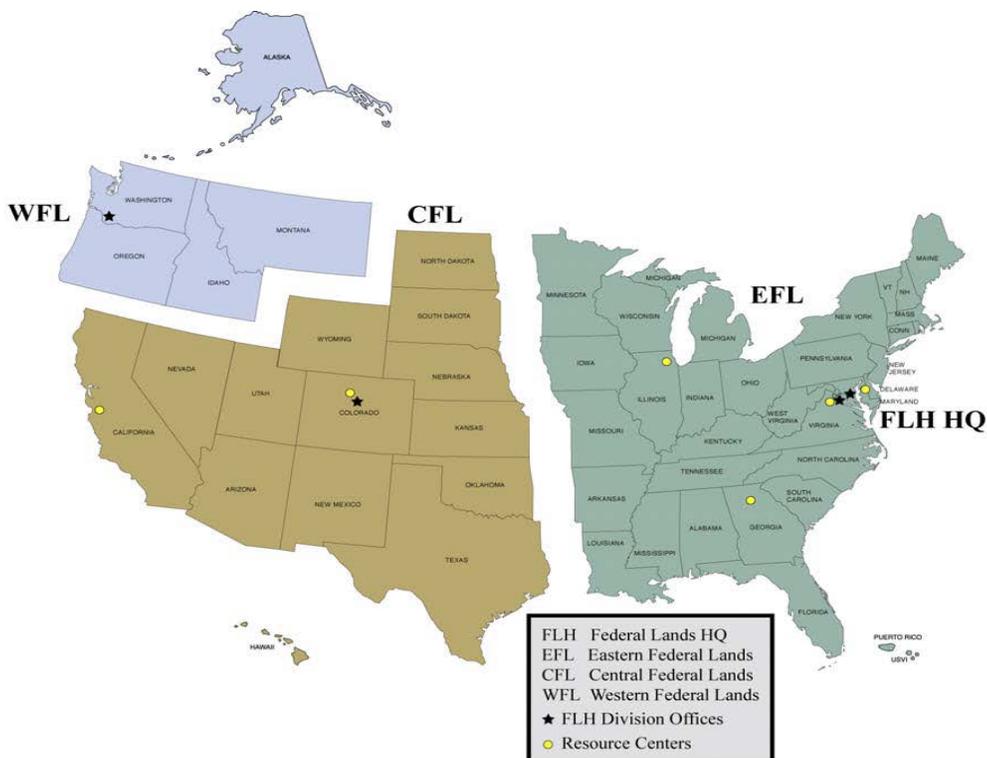
**1. Federal Highway Administration (FHWA).** The FHWA has the broad responsibility of ensuring that America's roads and highways continue to be the safest and most technologically up-to-date. Although State, local, and Tribal governments own most of the Nation's highways, FHWA provides financial and technical support to them for constructing, improving, and preserving the highway system. The FHWA's annual budget is funded by fuel and motor vehicle excise taxes. The budget is primarily divided between two programs: (1) Federal-aid funding to State and local governments; and (2) Federal Lands Highways (FLH) funding for the Tribal Transportation Program (TTP) and for transportation systems in National Parks, National Forests, Indian lands, and other land under Federal stewardship.

- a. **Federal-aid Program.** There are 52 Federal-aid division offices (one in each State, the District of Columbia, and Puerto Rico), located in the same city as the State Department of Transportation, usually the State capital. Federal-aid division offices provide Federal-aid program delivery and technical assistance to partners and customers in the highway transportation industry.
- b. **Federal Lands Highways (FLH).** The FLH Office of Tribal Transportation (OTT) is operated by FLH Headquarters (FHWA-FLH-HQ) in Washington DC, and includes the OTT Team in various locations across the USA. The OTT Team has Tribal Coordinators (TCs), environmental specialists, and planner(s) assigned to work with Tribes who have a FHWA Tribal Transportation Program Agreement (TTPA).

Another part of FLH includes the three FLH Divisions: Eastern, Central, and Western, providing engineering related services (design, environmental, contract advertisement and award, and construction management), and engineering technology information to Federal, state, and local agencies/governments, and Tribes. The three FLH Divisions are:

- **Eastern Federal Lands Highway Division (EFLHD)** located in Sterling, Virginia serves the eastern United States, Puerto Rico, and the Virgin Islands.
- **Central Federal Lands Highway Division (CFLHD)** located in Lakewood, Colorado serves the central United States, Hawaii, and American Samoa.
- **Western Federal Lands Highway Division (WFLHD)** located in Vancouver, Washington serves the northwestern United States and Alaska.

FHWA contact information and other TTP related information is at <http://flh.fhwa.dot.gov/programs/ttp/contact.htm>



**Figure 2.1: Locations of the three FLH Divisions’ service areas**

2. **Bureau of Indian Affairs (BIA).** The BIA is an agency of the United States Department of the Interior (DOI), under the Assistant Secretary of Indian Affairs, with the primary responsibility for the administration and management of approximately 66 million acres of land held in trust by the United States for American Indians, Indian Tribes, and Alaska Natives. The BIA is organized into 12 Regions, each with a TTP component that provides engineering, construction, and road maintenance services for roads on or leading to Reservations and Tribal lands or villages. See **Figure 2.2** for a map of the BIA Regions.

**The BIA Division of Transportation (BIADOT)** is the Division of BIA overseeing the road maintenance and road construction programs for the Tribal Transportation Program (TTP). BIADOT has two central offices (Washington, DC and Albuquerque, NM) that are responsible for policy coordination and budgeting. Staff members at BIADOT support the BIA Tribal Transportation Program.

BIA contact information and other TTP related information is at

<https://www.bia.gov/bia/ois/division-transportation>



**Figure 2.2: Locations of BIA Regional Offices and boundaries**

- C. **TTP Coordinating Committee** (See 25 CFR §§ 170.135 through 170.137). The TTP Coordinating Committee consists of 24 Tribal representatives (two from each BIA Region), and two non-voting Federal representatives (from FHWA and BIA). The principal duties of the Committee are:
- Provides input and recommendations to BIA and FHWA in developing TTP regulations, policies and procedures; and
  - Supplements government-to-government consultation by coordinating with and obtaining input from Tribes, BIA, and FHWA.
- D. **Tribal Technical Assistance Program (TTAP).** See 25 CFR § 170.138 and the TTAP website at <https://ttap-center.org/>

## 2.2. Allowable Uses of Tribal Transportation Program (TTP) Funds

- A. TTP Funding - Overview.** The calculation and distribution of annual TTP funding shares to individual Tribes is described in 25 CFR §§ 170.200 through 170.205.

A Tribe can appeal the calculation of its TTP funding share by following the process described in 25 CFR §170.226.

- B. Allowable Uses of TTP Funds.** Tribal Transportation Program (TTP) funds are Federal funds that Tribes can spend only on certain allowable activities. See 25 CFR §§ 170.111, 170.112. Also, TTP funds provided to Tribes can only be spent on eligible projects and activities identified in an FHWA-approved TIP (see 25 CFR § 170.204).

A complete list of allowable uses of TTP funds is located in 25 CFR 170 Appendix A to Subpart B, 25 CFR 170 Subpart G, and 25 CFR Part 170 Appendix to Subpart G. Eligible uses of TTP funds for a Tribe's transit program are described in 25 CFR §§ 170.132-134.

Allowable activities that Tribes can use TTP funds for are broken into two broad categories: (1) planning and design activities, and (2) construction and maintenance activities. Also, the allowable activities are subject to spending limits listed below in section C.

### The most common allowable activities for Tribes to spend TTP funds on are:

#### 1. Planning and Design Activities:

- Indirect general and administrative costs include, but are not limited to, computers, software, office furniture, and other equipment needed to administer the TTP. See the section on [Indirect Cost](#) in Chapter IV - TTP Reporting Responsibilities.
- Transportation-related planning and programming activities (including but not limited to roadway, trails, transit, and safety planning and programming, and planning for tourism and recreational travel).
- Identification and evaluation of accident prone locations.
- Planning and design of Tribal Transportation Facilities.
- Engineering support studies (i.e. geotechnical, hydraulic, etc.)
- Environmental studies, evaluations, and compliance activities.
- Planning and design of mitigation for impacts to environmental resources (i.e. wildlife and their habitat, wetlands, cultural resources, water quality, air quality, etc.).
- Architectural and landscape engineering services including lighting.
- Inspection of bridges and structures.
- Public meetings and public involvement activities.
- Tribal employment rights ordinance (TERO) fees.

#### 2. Construction and Maintenance activities:

- Construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements of TTP facilities (i.e. roads, trails, bridges, structures, pedestrian and bicycle facilities, transit facilities, ferry facilities, rest areas, parking areas, etc.).
- Contract support costs (see 25 CFR § 170.607).
- Road sealing and chip sealing.
- Americans with Disabilities Act (ADA) improvements.

- Seasonal transportation routes including, but not limited to, snowmobile trails, ice roads, and overland winter roads (also see 25 CFR § 170.117).
  - 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 25 CFR Part 170 Appendix A to Subpart B for other environmental related allowable costs.
  - Tribal employment rights ordinance (TERO) fees.
  - Maintenance of TTP facilities identified in the National Tribal Transportation Facility Inventory (NTTFI) (25 CFR § 170.805). Not more than 25% or \$500,000, whichever is greater, of the TTP funds allocated to a Tribe may be expended for the purpose of maintenance. This funding limit does not apply to road sealing (25 CFR § 170.800(c)). See [Chapter XII - Maintenance of Transportation Facilities](#).
  - Development and negotiation of Tribal-State road maintenance agreements.
  - Purchasing, leasing or rental of construction and/or maintenance equipment. See [Chapter XI - Construction and Construction Engineering](#) and [Chapter XII - Maintenance of Transportation Facilities](#).
- C. Spending Limits on TTP Funds.** The amounts of TTP funds that Tribes can spend on particular TTP activities have limits placed on them. The spending limits are:
- Planning – Up to 100% of Tribe’s TTP funds (25 CFR § 170.403) if identified as a priority on the FHWA-approved TTIP.
  - Preliminary Engineering – Up to 100% of Tribe’s total fiscal year TTP allocation minus any amounts from other areas (25 CFR § 170.138).
  - Construction – Up to 100% of Tribe’s total fiscal year TTP allocation minus any amounts from other areas (25 CFR 170 Appendix A to Subpart B).
  - Construction Engineering – Up to 100% of Tribe’s total fiscal year TTP allocation minus any amounts from other areas (25 CFR 170 Appendix A to Subpart B).
  - Transit – Up to 100% of Tribe’s total fiscal year TTP allocation minus any amounts from other areas (25 CFR 170 Appendix A to Subpart B).
  - Maintenance (including purchase of maintenance equipment) – Up to 25% or \$500,000, whichever is greater, of Tribe’s total fiscal year TTP Tribal allocation (23 U.S.C. § (a)(8), and 25 CFR § 170.800). See [Chapter XII - Maintenance of Transportation Facilities](#).
- D. Other Requirements on Use of TTP Funds.** See [Section C. Funding in Chapter III, Tribal Transportation Program Agreement \(TTPA\)](#) and CFR §§ 170.117 through 170.230.
- E. How can a Tribe Determine if a New Use of Funds is Allowable?** A Tribe can propose to FHWA or BIA a new use of TTP funds that is not listed in 25 CFR 170. See 25 CFR § 170.113 for the process to follow.
- F. TTP Coordinating Committee Recommendations** (see 25 CFR § 170 (a)(33)). The TTP Coordinating Committee may recommend other activities not listed in 25 CFR § 170 to become an allowable use of TTP funds. These recommendations must be approved by the appropriate Secretary (of Interior or Transportation) to become an allowable use of TTP funds.
- G. Requirements on Tribe’s Management of NTTFI Facilities.** See 25 CFR §§ 170.114 through 170.117.