

IV. TTP Reporting Responsibilities

A. Overview. Tribes that have a Tribal Transportation Program Agreement (TTPA) with FHWA are required to provide reports and documents, which describe the Tribe's TTP activities, income and expenditures. The reporting process is a cooperative effort between the Tribe and FHWA, and enables Tribes and the agencies to work together for the success of the Tribe's TTP.

Tribes report their TTP activities by submitting to FHWA the following reports and documents:

- TTP reports on a set schedule (see Section **D** below).
- The Tribe's TTIP (see [Chapter VI - Transportation Planning](#)).
- The final stamped Plans, Specifications and Estimate (PS&E) prior to project construction (see [Chapter VIII - Preliminary Engineering – Project Package](#)).
- The project construction closeout report (see [Chapter XI – Construction and Construction Engineering](#)).

In addition, single audits may be required (see Section **C** below).

FHWA personnel also perform the following activities to provide technical support to the Tribes, and to perform stewardship and oversight of the Tribes' TTP activities and projects:

- The TC performs on-site visits to Tribes for TTP stewardship and oversight, technical assistance and project review (see Section **B** below).
- FHWA performs Program Reviews of Tribes (see Section **E** below).

A Remedial Action Process (see [Section F](#) below for details) will be initiated by FHWA if a Tribe is late in submitting required reports and documents, or is non-responsive to information requests or fails to undertake remedial actions related to audit findings or unfavorable Program Reviews.

B. On-Site Visits to Tribes. The TC makes periodic visits to Tribes in order to provide:

- Stewardship and oversight of a Tribe's TTP, including the Tribe's management of their TTP budget and TTP projects.
- Technical assistance to the Tribe on elements the TTP (planning, design, environmental processes, construction functions, transportation safety, maintenance, and transportation funding opportunities).
- Project construction reviews (see [Chapter XI – Construction and Construction Engineering](#)).

The TC needs to complete the **Project Monitoring Checklist** (see [Appendix C - Exhibit 11.1](#)) for all on-site visits to Tribes. The Project Monitoring Checklist identifies the items and activities that will be reviewed and documented during each Tribal site visit.

During all on-site visits to Tribes, the TC should review with the Tribe the Tribe's records and documents relating to these areas:

- Semi-Annual Reports are current and on file;
- Tribal TIP (TTIP) is current, on file, and approved by FHWA; and
- TTP financial accounting records in the office are current, and using acceptable accounting procedures

TC evaluates the Internal Tribal office cooperation and communications (i.e., Finance and Transportation).

For all on-site visits to Tribes, the TC will also complete a trip report, using the format specified by FHWA, and provide a courtesy copy to the Tribe.

- C. Single Audits.** A Tribe must perform a single audit if it expends, in a Tribal fiscal year, more than \$750,000 total of Federal financial funds it has received from various Federal programs.

The Single Audit must be performed according to 2 CFR 200, Subpart F - Audit Requirements. The single audit is typically performed by an independent certified public accountant (CPA) and encompasses both financial and compliance operations of the Tribe. The Single Audit submittal shall include:

- A copy of the Tribe’s Single Audit for that year;
- Form SF-SAC;
- All the findings and discussions related to the Tribe’s DOT program and the Tribe’s other Federal programs; and
- The corrective action plans and implementation schedules that were developed for the material findings identified in the Audit.

The Tribe shall submit the above documents to the Federal Audit Clearing House (FAC), two copies to the Office of Audit & Evaluation, Office of the Asst. Secretary, Indian Affairs, DOI, one copy to each Federal funding agency that has an audit finding, and a copy to the TC (see P. L. 93-638 Section 450 c (F), and 2 CFR 200 subpart F (200.500)).

The TC may request from a Tribe the documentation required by FHWA to demonstrate that the Tribe is carrying out the corrective actions plans and implementation schedules developed for the TTP related material findings in the Audit.

Links and resources:

- 2 CFR 200, Subpart F - Audit Requirements located at <http://www.ecfr.gov/cgi-bin/text-idx?SID=97ebca48d0b9d506d9420348fe2f0ab1&node=pt2.1.200&rgn=div5#sp2.1.200.f>
- Federal Audit Clearinghouse (FAC) at <https://harvester.census.gov/facweb/default.aspx/>

- D. TTP Reports to be Submitted by Tribes.** Tribes develop and submit the following reports:

1. **Single Audits**, as applicable. See **Section C** above.
2. **Financial Report.**

Tribes must use the Tribal Transportation Program Online Reporting Tool (PORT) online reporting system to submit their Financial Report (see Article III, Section 1. G of the FHWA Tribal Transportation Program Agreement and 25 CFR § 170.240). The website explaining how PORT works is at <https://flh.fhwa.dot.gov/programs/ttp/port/>

The TC will provide Tribes with the internet links (“keychains”) to complete their Financial Report online using PORT. The Tribe must complete all the required fields of the online Financial Report. A copy of an online Financial Report is shown in Appendix C – **Exhibit 4.1**.

See **Section G** below in this chapter for explanation on how Tribes should calculate indirect costs.

3. **Progress Reports.**

These reports document the TTP work accomplished by the Tribe during a specified time period, any issues identified, and work to be accomplished.

Tribes must use the PORT online reporting system to submit their Progress Reports (see Article III, Section 1. G of the FHWA Tribal Transportation Program Agreement and 25 CFR § 170.240).

The TC will provide Tribes with the internet links (“keychains”) to complete their Progress Reports online using the PORT online reporting system. The Tribe must complete the online “**Report on Non-Construction Activities**” (see blank copy in Appendix C – **Exhibit 4.2**). The Tribe must

also use PORT to complete a separate online “**Report on Each Project**” for each one of the Tribe’s active TTP funded projects (see copy of report in Appendix C – [Exhibit 4.3](#)).

4. Reporting Schedule.

Tribes must submit the above audits and reports by the required due dates shown in the following table. The Tribe and FHWA may establish additional monitoring and reporting requirements while discussing the terms of the TTPA during the On-Boarding process (see [Chapter 3.1 - Tribal On-Boarding Process for TTPAs](#)) or as the result of an unfavorable Program Review.

Reporting Schedule for Tribes		
Report	Reporting Period	Due Date
Single Audit Report	Annual	When completed
Financial Report and Progress Reports (using the PORT online reporting system)	Oct 1 through March 31	Within 90 days of conclusion of reporting period (NLT June 30)
	Oct 1 through Sept 30	Within 90 days of conclusion of reporting period (NLT December 30)

E. Program Reviews. FHWA conducts formal Program Reviews of a Tribe’s Tribal Transportation Program (TTP) as needed based on risk management, in accordance with FHWA Program Review procedures. See 25 CFR § 170.703. FHWA must also conduct Program Reviews of a Tribe as requested by external sources. For example, FHWA is responsible for conducting Program Reviews as requested by the Office of the Inspector General (OIG).

During a Program Review, FHWA focuses on the Tribe's (1) financial tracking processes, (2) procurement processes, and (3) staffing. Tribes should be able to explain slips in project schedules and provide accurate records of program expenditures upon request. In addition to helping FHWA to monitor compliance with program requirements, these reviews allow FHWA to identify effective practices among Tribes, which they can share with other Tribes in the Tribal Transportation Program, and also their counterparts in FHWA and the BIA.

FHWA should generally conclude that the Program Review was favorable if the Tribe was able to answer project-related questions adequately, provide valid reasoning for project delays, and confirm that it used program funds properly. FHWA should conclude that the Program Review was unfavorable if there are unexplained project delays, discrepancies in funding information, or evidence that the Tribe is using program funding improperly (regardless of cause).

FHWA documents the Program Review in the Program Review Summary Report and submit it to the Tribe for its records. It is recommended that the Tribe file the Program Review Summary Report in its system of record. This documentation will assist the Tribe in preparing for its upcoming TTP reports submittal or its next Program Review.

F. Remedial Action Process (See Article V, Section 9 of the TTPA).

The following remedial actions will be undertaken by FHWA only after the TC or other TTP staff have exhausted less formal attempts (e.g. e-mails, phone calls, other communications) to resolve non-compliances, and only after approval from the FHWA Program Delivery Manager.

The actions are broken into two non-compliance categories: non-emergency and emergency.

1. ***Non-emergency*** remedial actions will be carried out when a Tribe is found to be non-compliant or non-responsive to the following required activities or program/project findings:

- Reporting on or providing to FHWA:
 - Annual Single Audit reports, including any single audit findings of material weaknesses or significant deficiencies as they relate to the TTP, or Semi-annual accomplishment and financial reports as required by Article III, Section 1.G of the TTPA;
 - Tribal approved project packages, including PS&Es and assurances that the construction will meet or exceed applicable health and safety standards per Article III, Section 1.C of the TTPA;
 - Final construction reports and as-built plans for final inspection in accordance with 25 CFR 170;
- Program Review findings that require the development and execution of corrective action plans; or
- Other FHWA TTP action requests regarding non-compliance with the TTPA including statutory or regulatory requirements.

For these cases, the TC shall draft and send a written notification to the Tribe (by certified mail if available). The TC will also scan the letter and e-mail it to the Tribe, with a cc to the FHWA Program Delivery Manager. The written notification will include:

- Identification of the deficiencies that have been found to be non-compliant;
- A request that a corrective action take place and that a certification of completion be provided back to FHWA within 60 days; and
- An offer to provide, if requested, technical assistance and advice to assist the Tribe in overcoming the identified deficiencies.

If the Tribe fails to correct the non-compliant deficiency identified in the initial notice, the TC shall draft and send a second written notice (signed by the FHWA Program Delivery Manager) to the Tribe, by certified mail if available. The TC will also scan the letter and e-mail it to the Tribe, with a cc to the FHWA Program Delivery Manager and the FHWA TTP Director. The notice will also:

- Remind the Tribe of its responsibility to address the deficiencies
- State all future TTP and other transportation related funding will be withheld from the Tribe until the deficiencies are remedied by the Tribe and accepted by FHWA; and
- State that if the deficiencies are not remedied within 30 days, the Tribe's TTPA will be reviewed for termination, in whole or in part in accordance with Article V, Section 9 of the TTPA.

If the deficiencies are not remedied within 30 days, the TC will collect all available evidence regarding the deficiencies. The TC, the FHWA Program Delivery Manager, and FHWA TTP Director and appropriate BIA representatives will review the evidence to help determine if the TTPA will be terminated. The FHWA TTP Director makes the final determination.

If termination of the TTPA is enacted, the TC will draft and send a third written notice (signed by the FHWA AA) to the Tribe, by certified mail if available, specifying termination of the TTPA. The TC will also scan the letter and e-mail it to the Tribe, with a cc to the FHWA Program Delivery Manager and FHWA TTP Director. The third notice will include:

- The date of termination and reassignment of the program stewardship and oversight to the BIA;
- The details and facts supporting the termination; and
- Instructions that explain the Tribe's right to dispute FHWA's determination, along with a reference to the dispute remedies available under Article II, Section 4 of the TTPA. If this occurs, FHWA shall suspend any decision to transfer funds to the Secretary of the Interior pending the outcome of the dispute.

2. **Emergency** remedial actions are those that FHWA will undertake when a Tribe fails to fulfill the requirements of the TTPA and this failure poses:
- Imminent jeopardy to public health and safety, including those identified as workzone/construction site safety threats; or
 - Imminent jeopardy to trust funds, trust lands, or interest in such lands.

For these cases, the TC shall draft and send a written notification to the Tribe, by certified mail if available. The TC will also scan the letter and e-mail it to the Tribe, with a cc to the FHWA Program Delivery Manager and FHWA TTP Director. The written notification will include:

- Identification of the imminent jeopardy deficiency that was found to be non-compliant;
- To the extent practicable, the specific corrective actions/measures that must be taken by the Tribe to eliminate the imminent jeopardy;
- A statement that the action be completed immediately and that within 5 days the Tribe must respond to the notice by a signed letter. The Tribe's letter must be delivered to the TC either by certified mail, telefax, or electronic mail. If sent by certified mail, the postmark date will be considered the date of response.
- A request that documentation certifying completion of the action be submitted back to the TC within 60 days; and
- An offer to provide technical assistance and advice to assist the Tribe in overcoming the identified deficiency.

If the Tribe fails to immediately correct the emergency deficiency identified in the initial notice or does not respond within 5 days, the TC shall draft and send a second written notice (signed by the FHWA Program Delivery Manager), by certified mail if available, reminding the Tribe of its responsibility to address the deficiency. The TC will also scan the letter and e-mail it to the Tribe, with a cc to the FHWA Program Delivery Manager and FHWA TTP Director. The notice will also state that:

- The corrective action must be carried out immediately;
- Within 5 days the Tribe must respond to the notice by a signed letter. The letter must be delivered to the TC either by certified mail, telefax, or electronic mail. If sent by certified mail, the postmark date will be considered the date of response; and
- All future TTP and other transportation related funding will be withheld from the Tribe until the deficiency is remedied by the Tribe and accepted by FHWA.

If the Tribe then continues its inaction, FHWA and BIA will reassume the program and carryout the actions required to mitigate the imminent jeopardy. The TC drafts and sends a Notice of Reassumption (signed by the FHWA TTP Director) to the Tribe, by certified mail if available. The TC will also scan the letter and e-mail it to the Tribe, with a cc to the FHWA Program Delivery Manager and FHWA TTP Director. The Notice will include:

- A statement of the reasons supporting the Reassumption;
- To the extent practical, a description of specific measures that FHWA will take to eliminate the imminent jeopardy;
- A statement that the Government's cost to mitigate the imminent jeopardy will be repaid by taking an equivalent amount from the Tribe's tribal share of TTP funds; and
- A statement that the Tribe's TTPA will be reviewed for termination, in whole or in part in accordance with Article V, Section 9 of the TTPA.

Upon satisfaction of the emergency and elimination of the imminent jeopardy, the TC will collect all available evidence regarding the deficiency. The TC, FHWA Program FHWA Delivery Manager, FHWA TTP Director and appropriate BIA representatives will review the evidence to help determine if the TTPA will be terminated. The FHWA TTP Director makes the final determination.

If termination is enacted, the TC will draft and send a third written notice (signed by the FHWA AA) to the Tribe, by certified mail if available, specifying termination of the TTPA. The TC will also scan the letter and e-mail it to the Tribe with a cc to the FHWA Program Delivery Manager and FHWA TTP Director. The third notice will include:

- The date of termination and reassignment of the program stewardship and oversight to the BIA;
- The details and facts supporting the termination; and
- Instructions that explain the Tribe's right to dispute FHWA's determination, along with a reference to the dispute remedies available under Article II, Section 4 of the TTPA. If this occurs, FHWA shall suspend any decision to transfer funds to the Secretary of the Interior pending the outcome of the dispute.

Note: In both non-emergency and emergency cases, the appropriate BIA Regional Office and the BIA Division of Transportation shall be copied on all correspondence relating to remedial actions.

G. Indirect Cost.

1. Definitions.

"Indirect cost" is the cost of Tribal operations that cannot be tied directly to a particular grant, program, contract, project function or activity. In theory, indirect costs like heat, light, accounting, and personnel could be charged directly if little meters could record the time spent on each individual funding source or program, such as the TTP. However, it is not possible or desirable to perform that kind of measurement. Therefore, indirect cost rates are used to fairly distribute those costs among the various programs that a Tribe administers.

"Program Administration costs" consist of:

- The TTP funded portion of the salaries and fringe benefits of Tribal Employees who perform administration, planning, maintenance, or construction work; and
- Travel and miscellaneous supplies directly related to the Tribal Transportation Program.

"Pass-through costs" consist of:

- TTP funds that the Tribe paid to contractors or subcontractors (through a contract);
- TTP funds that the Tribe paid to a City, County, State or Borough through an MOU or MOA that the Tribe has with that entity; and
- Cost of equipment and materials, paid directly by the Tribe, for construction or maintenance projects carried out by the Tribe.

2. How a Tribe Calculates its TTP Indirect Cost. A Tribe's TTP indirect cost is the total of the following two items:

- 1) The Tribe's **"Program Administration costs"** multiplied by the Interior Business Center (IBC) negotiated Indirect Cost Rate (ICR). If a Tribe has never received a negotiated indirect cost rate, then the Tribe may use an ICR of 10% (see 2 CFR 200.414 (f));
- 2) The Tribe's **"Pass-through costs"** multiplied by the Interior Business Center (IBC) negotiated Indirect Cost Rate (ICR) for pass-through costs. If there is no such negotiated rate, then Tribes may use an ICR of not more than 3% for pass-through costs.

3. Reporting the TTP Indirect Cost. A Tribe enters its TTP indirect cost when submitting its TTP reports where shown in the reporting forms.

4. Use of Indirect Cost Funds. The portion of its annual TTP funds that a Tribe calculates and sets aside as "indirect cost" should be used by the Tribe to help pay for the overall operation of the Tribal government, including costs such as utilities and other operating costs that can't be tied directly to the Tribal Transportation Program (TTP).