

XV. Other Federal Transportation Grants and Programs

A. Overview. In addition to the programs available under the Tribal Transportation Program, there are other transportation programs from FHWA, the U.S. Department of Transportation (DOT), and the Department of Defense (DoD) that Tribes can apply to for assistance and/or funding. This chapter highlights some of these programs.

B. DoD Innovative Readiness Training (IRT). The IRT program of the Department of Defense (DoD) can provide military personnel and equipment for construction of transportation and other infrastructure projects in the United States and its territories.

Federally recognized Tribes, Federal agencies, and regional, State, and local governments are eligible to apply to this program for military assistance to construct a project.

The IRT program's goals include:

- Provide hands-on, real-world training to improve readiness and mission-essential skills of military personnel in challenging environments.
- Strengthen partnerships between the military and others;
- Strengthen and build new partnerships with culturally diverse groups of people, including those in remote areas;
- Innovative use and management of resources needed for delivery of a project;
- Use of military contributions and community resources to multiply their value and cost savings for a selected project.

1. Guidelines/Procedures.

- A more complete set of guidelines and procedures for the IRT program is at <http://irt.defense.gov/FAQs>. Some of the significant requirements are:
 - The project must be “shovel ready” at the time an application to IRT is submitted. The applicant is responsible for insuring that all the following items are completed and approved by the appropriate parties at the time an IRT application is submitted: NEPA and environmental clearance documents, design PS&E, right-of-way acquisition, and environmental permits.
 - The applicant (the Tribe) is responsible for providing construction materials,
- How to apply for the IRT is described at https://lmiirtprod.service-now.com/irt?id=app_form&sys_id=5a38f7e9db709b00e83270c08c96199a
- Additional information on applying to the IRT program is at <https://irt.defense.gov/Projects/>

2. References/Resources.

- Main website at <http://irt.defense.gov/>
- Additional information at https://lmiirtprod.service-now.com/irt?id=non_dod_learn_more
- Frequently Asked Questions are at <http://irt.defense.gov/FAQs/>

3. Statutory/Regulatory Requirements.

- 10 U.S. Code Section 2012, Support and services for eligible organizations and activities outside DoD at <https://www.gpo.gov/fdsys/granule/USCODE-2010-title10/USCODE-2010-title10-subtitleA-partIII-chap101-sec2012>

- DoD Directive 1100.20, Support and Services for Eligible Organizations and Activities Outside the Department of Defense, dated April 12, 2004 at <http://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodd/110020p.pdf>

C. Federal Lands Access Program (FLAP). This program improves transportation facilities that provide access to Federal Lands.

1. Statutory/Regulatory Requirements.

- 23 U.S. Code § 204 - Federal lands access program
- **Program Match Requirements (23 USC § 120):**
 - The match % amount required is different for each state.
 - Non-Federal funds are required for the match, except that Tribal Transportation Program (TTP) tribal shares a Tribe receives are eligible for the match.
 - In kind services (labor), right-of-way, construction materials, or labor/equipment time valued at fair market value.
 - Toll Credits (23 USC § 120(i))
- FLAP funds cannot be used as non-Federal match for other programs.

2. References/Resources.

FLAP Fact Sheet at <http://www.fhwa.dot.gov/fastact/factsheets/fedlandsaccessfs.cfm>

3. Guidelines/Procedures.

- **Eligible Projects.** Projects must be on transportation facilities owned or maintained by States, counties, boroughs, local governments, or Tribes. The transportation facility must provide access to Federal lands.
- **Eligible Project costs.**
 - Construction and reconstruction of public highways, roads, bridges, trails;
 - Transportation planning, research, engineering (design), preventive maintenance, rehabilitation, restoration, construction, and reconstruction of an eligible facility located on, adjacent to, or provides access to, Federal land;
 - Adjacent vehicular parking areas;
 - Acquisition of necessary scenic easements and scenic or historic sites;
 - Provisions for pedestrians and bicycles;
 - Environmental mitigation in or adjacent to Federal land to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity;
 - Construction and reconstruction of roadside rest areas, including sanitary and water facilities;
 - Other appropriate public transportation facilities, as determined by the Secretary;
 - Operation and maintenance of transit facilities.
- **How to Apply:** Tribes should contact their TC when considering applying for funding from this program. When a Tribe is developing their application for FLAP funding for a project, they should work closely with the appropriate Federal Land Management Agency (FLMA) that the proposed project provides access to.
- **Project Selection:** The Project Selection Team evaluates and selects projects. The Project Selection Team includes representatives from the Federal Highway Administration, Alaska Department of Transportation, Alaska Municipal League, U.S. Forest Service, National Park

Service, U.S. Fish and Wildlife Service, Bureau of Land Management, and the U.S Army Corp of Engineers.

D. BUILD Discretionary Grants, replaces the TIGER Program. The “Better Utilizing Investments to Leverage Development” (BUILD) Transportation Discretionary Grants program is administered by the U.S. Department of Transportation (USDOT). BUILD Grants may fund preliminary engineering, construction, and construction engineering of transportation projects. BUILD Grants are awarded for road, transit, port and rail projects that contribute to certain national objectives.

Tribes are eligible to submit applications for a BUILD Grant, to compete with others also applying. The USDOT then competitively selects and funds BUILD Grants.

1. Statutory/Regulatory Requirements.

- Title XII of the American Recovery and Reinvestment Act of 2009 (the “Recovery Act”)
- The Consolidated Appropriations Act, 2018 (Pub. L. 115-141, March 23, 2018)

2. Guidelines/Procedures.

- For funding of **construction** of a project in **Urban** areas (as designated by the U.S. Census Bureau), the **minimum BUILD Transportation Discretionary Grant size is \$5 million and the maximum is \$25 million.**
- For funding of **construction** of a project in **Rural** areas (which are those areas not designated as Urban areas), the **minimum BUILD Transportation Discretionary Grant size is \$1 million.**
- For funding of the planning and design of a project, there is no minimum grant size required.
- No match is required for a BUILD Grant. However, it is recommended that funding from other sources, such as the TTP, Federal-Aid programs, State, and local sources, be combined with BUILD Grant funding to fund a project.
- The BUILD Grant funding is reimbursable; that is, the Tribe will need to have other funds available to spend on the project before the BUILD Grant program reimburses the Tribe for those moneys spent.

3. References and Resources.

<https://www.transportation.gov/BUILDgrants>

E. Nationally Significant Federal Lands and Tribal Projects Program. This program provides competitive grants to Tribes, Federal Land Management Agencies, and state and local governments for the construction, reconstruction, and rehabilitation of nationally significant projects on Federal lands or Tribal areas.

1. Statutory/Regulatory Requirements.

- Public Law 114-94, Fixing *America’s Surface Transportation Act* (FAST Act) § 1123
- The Consolidated Appropriations Act, 2018 (Pub. L. 115-141, March 23, 2018)

2. Guidelines/Procedures.

- Project eligibility requirements:
 - Has an estimated cost of at least \$25 million. Priority consideration will be given to projects with an estimated cost of at least \$50 million). [FAST Act § 1123(c)]
 - Must be a single, geographically continuous project;

- Must be on a Federal lands transportation facility, Federal lands access transportation facility or tribal transportation facility, as defined in 23 U.S.C. 101. The facility is not required to be listed in the national tribal transportation facility inventory [23 U.S.C. 202(b)] or the national Federal lands transportation facility inventory [23 U.S.C. 203(c)];
- Has a completed and approved National Environmental Policy Act (NEPA) document, (i.e. a record of decision, finding of no significant impact, or categorical exclusion determination).
- Eligible project costs:
 - A grant received under this program can only be used for project construction, reconstruction, and rehabilitation. Costs associated with project design are not eligible. (FAST Act § 1123(d)).
- Program Match Requirements:
 - A minimum of 10% match is required, using non-Federal funds. Any Federal funds provided under sources other than Title 23 and 49, may be used for the non-Federal share (FAST Act § 1123(g));
 - Tribal shares provided to Tribes under the TTP may not be used towards the 10% match, because these are Title 23 funds.

3. References/Resources.

- Nationally Significant Federal Lands and Tribal Projects Program Fact Sheet at <https://www.fhwa.dot.gov/fastact/factsheets/nsfltpfs.cfm>

F. Infrastructure for Rebuilding America (INFRA), replaces the FASTLANE Program. **INFRA** projects are nationally and regionally significant highway, rail, port, and intermodal freight projects. **INFRA** grants may be used to fund a variety of components of an infrastructure project. However, USDOT is specifically focused on projects in which the local sponsor is significantly invested and is positioned to proceed rapidly to construction.

1. Statutory/Regulatory Requirements.

- 23 U.S.C. §117

2. Guidelines/ Procedures.

- **Match requirements.** A grant under the **INFRA** program may be used for up to 60% of eligible project costs. An additional 20% of eligible project costs may be funded with other Federal assistance. The remaining 20% of eligible project costs may be funded with TTP Tribal shares and non-Federal funding.
- **Project size and grant amounts:**
 - **“Small” projects.** Minimum project size is \$8.33 million. The **INFRA** grant is \$5 million minimum;
 - **“Large” projects.** Minimum project size is \$100 million. The **INFRA** grant is \$25 million minimum. In some States, the minimum project size may be smaller than \$100 million. The Notice of Funding Opportunity (NOFO) will provide a list of those States and their minimum project size.

- **Eligible Projects.** For a project to be eligible, it must satisfy at least one of the following requirements 1 through 5:
 1. Highway freight project on the National Highway Freight Network (23 U.S.C.X. 167);
 2. A highway or bridge project on the National Highway System (NHS), including:
 - A project to add capacity to the Interstate system to improve mobility; or
 - A project in a national scenic area;
 3. A freight project that is either intermodal or rail;
 4. A freight project within the boundaries of a public or private freight rail, water (including ports), or intermodal facility and:
 - That is a surface transportation infrastructure project necessary to facilitate direct intermodal interchange, transfer, or access into or out of the facility; and
 - Significantly improves freight movement on the National Highway Freight Network.
 5. A railway-highway grade crossing or grade separation project.
- **Eligible Project Costs.** Funding received under a INFRA grant may be used for these costs associated with the approved project:
 - Development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering, design, other preconstruction activities, and public-private partnership assessments.
 - Construction, reconstruction, rehabilitation, acquisition of property (including land related to the project and improvements to the land), environmental mitigation, construction contingencies, equipment acquisition, and operational improvements directly related to system performance.

3. References/Resources.

- See the INFRA website at <https://www.transportation.gov/buildamerica/infragrants>
- A Tribe applies directly for a INFRA grant to <http://www.Grants.gov> in response to the NOFO.
- **The Transportation Infrastructure Finance and Innovation Act (TIFIA) Program.** INFRA grant recipients may use INFRA funds to pay the subsidy and administrative costs necessary to receive TIFIA.

G. Federal Funds for a Tribe's Transit Program. See 25 CFR 170.132 for a list of programs.

H. Federal Transit Administration (FTA) Programs. The FTA provides funding to Tribes for public transit systems. Examples of eligible activities include: capital projects; operating costs of equipment and facilities for use in public transportation; and the acquisition of public transportation services, including service agreements with private providers of public transportation services.

1. **Tribal Transit Program funding.** Tribes may receive funding from the Tribal Transit Program in the following ways:
 - a. **Discretionary Program.** Tribes may apply for these funds in response to a Notice of Federal Funding (NOFA) issued by the Government. Grants are available annually on a competitive basis. A 10 percent local match is required under the Discretionary Program, unless a tribe can demonstrate financial hardship. A Tribe may use its TTP tribal shares towards the required local match. However, there is no local match required for planning grants awarded under this program.

Tribes interested in applying should respond to the requirements and information in the Notice of Federal Funding (NOFA) that is issued by the Government. The TC is available to provide guidance and assistance in the application process.

The following is the list of eligible projects:

- i. Planning projects— there is a \$25,000 cap.
- ii. Capital projects—this includes start-up, replacement or expansion services.
- iii. Operating assistance— this includes start-up and new systems. It also includes systems that can prove they operate public transportation and either did not receive any formula funding or only Tier 3 funding in FY2013. General operating assistance is no longer eligible (except in limited circumstances in FY 2013).

b. Formula Allocation Program. Under the FAST Act, the Tribal Transit Program (TTP) distributes annual funding by a formula to eligible Tribes to provide public transportation on tribal lands. There is no local match required under the formula program. Formula factors include vehicle revenue miles and the number of low-income individuals residing on tribal lands.

2. Rural Transit Formula (“5311”) Program. This program provides federal funds for rural transit systems, including tribal transit systems in rural areas.

- Program is administered by each State;
- However, the option is available for Tribe to have FTA manage the Grant after it is awarded to a Tribe by the State;
- Who manages the Grant (the State or FTA) will be designated on the State TIP (the “STIP”).

3. Statutory/Regulatory Requirements.

- 49 USC § 5311, formula grants for rural areas at:
<http://www.law.cornell.edu/uscode/text/49/5311>
- Public Law 114-94, Fixing *America’s Surface Transportation Act* (FAST Act) § 3007

4. References and Resources.

- Federal Transit Administration, Tribal Transit Program at:
http://www.fta.dot.gov/grants/15926_3553.html
- List of FTA Regional Tribal Liaisons at http://www.fta.dot.gov/12305_15845.html
- Federal Transit Administration (FTA) list of Regional Offices and the States they serve at:
http://www.fta.dot.gov/12317_1119.html
- How to apply for an FTA Discretionary Grant at <http://www.fta.dot.gov/grants/13070.html>
- Notices of FTA Funding Availability (NOFA) on the FTA website at
<http://www.fta.dot.gov/grants/13077.html>
- Formula Grants for Rural Areas: Program Guidance and Application Instructions at
[http://www.fta.dot.gov/documents/FTA_Circular_9040_1Gwith_index_-_Final_Revised_-_vm_10-15-14\(1\).pdf](http://www.fta.dot.gov/documents/FTA_Circular_9040_1Gwith_index_-_Final_Revised_-_vm_10-15-14(1).pdf)
- National Transit Database (NTD) website at <https://www.transit.dot.gov/ntd>
- How to Apply for a Reporting ID in the National Transit Database at:
<https://www.transit.dot.gov/ntd/how-apply-reporting-id>
- “*Developing, Enhancing, and Sustaining Tribal Transit Services: A Guidebook*” (TCRP Report 154) at: <http://www.trb.org/main/blurbs/166797.aspx>
- *FHWA Tribal Transportation Best Practices Guidebook* at:
https://www.fhwa.dot.gov/planning/processes/tribal/case_studies/bestpractices_guidebk.cfm
- National Rural Transit Assistance Program (RTAP) at: <http://www.nationalrtap.org/>

I. Federal-aid Programs. This section highlights a few of the Federal-aid programs found in the Guide to Federal-aid Programs and Projects at <http://www.fhwa.dot.gov/federalaid/projects.cfm>

The statutes governing the Federal-aid Highway Program are found in 23 U.S.C.

- 1. Emergency Relief for Federally Owned (ERFO).** Serious damage by a natural disaster over a wide area, or by a catastrophic failure, can possibly be reimbursed by the Emergency Relief for Federally Owned (ERFO) program. This program is applicable to federally owned roads, and also to roads that are on the National Tribal Transportation Facility Inventory (NTTFI), even if they are not federally owned. Reimbursement for expenses will require documentation of time sheets and equipment hours, positive findings that procedures have been followed in a timely manner, documentation of damaged site inspection, and the Program of Projects (POP) approval by FHWA.

The Federal share for the repair of Tribal Transportation Facilities, Federal Lands Transportation Facilities, and Public Roads on Federal Lands is 100 percent under the ERFO Program. ERFO funds are not to duplicate assistance under another Federal program or compensation from insurance, cost share, or any other source.

- a. Statutory/Regulatory Requirements.** 23 USC §§ 120 and 125.

- b. Role of Tribal Governments.** See the Applicant responsibilities in chapter 5 of the ERFO Disaster Assistance Manual at <https://flh.fhwa.dot.gov/programs/erfo/documents/erfo-2015.pdf>

- c. References/Resources.**

- FLH ERFO website at <http://flh.fhwa.dot.gov/programs/erfo/>
- ERFO Disaster Assistance Manual at <https://flh.fhwa.dot.gov/programs/erfo/documents/erfo-2015.pdf>
- For questions on the administration of the nationwide ERFO Program, contact Mr. Sergio Mayorga, ERFO Program Manager at (202) 366-9491.

- 2. Additional Federal-aid Programs.** Information on additional Federal-aid programs is located at <http://www.fhwa.dot.gov/fastact/factsheets/>

These programs include:

- Congestion Mitigation and Air Quality Improvement Program
- Highway Safety Improvement Program
- Metropolitan Planning
- National Highway Freight Program
- National Highway Performance Program
- Railway-Highway Crossings Program
- Surface Transportation Block Grant Program
- Transportation Alternatives

J. Sources of Tribal Transportation Training and Education Opportunities.

See 25 CFR 170 Appendix B to Subpart B