



Peer Exchanges

Planning for a Better Tomorrow

FHWA/FTA
Transportation Planning Capacity Building

Transportation Planning Capacity Building Program

– Peer Exchange Report –

“Key Considerations in Metropolitan and Statewide Tribal Consultation”

Location: Reno, Nevada

Date: May 28-29, 2008

Exchange Host Agency: Inter-Tribal Transportation Association

Exchange Participants: Wisconsin Department of Transportation (WisDOT)
New Mexico Department of Transportation (NMDOT)
Navajo Nation
Pima Association of Governments (PAG) (Tucson, Arizona, Metropolitan Planning Organization [MPO])
Pascua Yaqui Tribe
Thurston Regional Planning Council (TRPC) (Olympia, Washington, MPO)
Nisqually Tribe
San Diego Association of Governments (SANDAG) (San Diego, California, MPO)
Federal Highway Administration (FHWA), Office of Planning
U.S. Department of Transportation (DOT), Volpe National Transportation Systems Center (Volpe Center)

Introduction

This report summarizes proceedings from a one-and-a-half-day Peer Exchange on “Best Practices in Tribal Consultation,” supported by the Federal Highway Administration (FHWA) and the Federal Transit Administration’s (FTA) [Transportation Planning Capacity Building \(TPCB\)](#) Program. The event was hosted in coordination with the [Inter-Tribal Transportation Association’s](#) mid-year conference in Reno, Nevada.

The goal of the peer exchange was to improve tribal consultation efforts in the statewide and metropolitan planning processes by providing tribal liaisons at Metropolitan Planning Organizations (MPOs) and state departments of transportation, and staff from tribal governments the opportunity to discuss and share ideas related to the [Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users’](#) (SAFETEA-LU) tribal consultation requirements. To do so, peers were asked to identify and discuss key considerations for agencies wanting to improve their own consultation practices.

TPCB Program staff from the FHWA Office of Planning and U.S. DOT Volpe Center attended the event to facilitate discussions, as well as to document proceedings. The resulting report contains the following sections:

- I. **Background on Tribal Consultation**
- II. **Key Findings for Designing Effective Tribal Consultation Processes**
- III. **Summary of Peer Presentations on Tribal Consultation**
 - A. MPO Perspective from San Diego, California
 - B. Tribal and MPO Perspective from Tucson, Arizona
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I. Background on Tribal Consultation

The current Federal transportation bill, the [Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users](#) (SAFETEA-LU), requires that state departments of transportation and MPOs **consult** with tribal governments in their planning jurisdictions during key transportation planning activities and decision-making processes, such as the development of:

- Long-range Statewide Transportation Plans (LRTPs)
- Long-range Metropolitan Transportation Plans (MTPs)
- Statewide Transportation Improvement Programs (STIPs)
- Transportation Improvement Programs (TIPs)

How the consultation is addressed and carried out, however, is left to the discretion of individual MPOs and state departments of transportation. SAFETEA-LU's only requirement is that these consultation processes be jointly developed with input from the Indian tribal governments who will participate in them. This presents technical, procedural, and jurisdictional, challenges for the states and MPOs required to initiate consultation processes, as well as for tribes in their efforts to participate.

Historically, tribal consultation was conducted mostly at the project level through regulatory triggers in the National Environmental Policy Act (NEPA) and Section 106 of the Historic Preservation Act. Through these efforts, state departments of transportation and tribes built relationships and consultation processes in response to environmental regulations and cultural preservation considerations on an as-needed project to project basis. Since the Intermodal Surface Transportation Efficiency Act (ISTEA), however, the consultation relationship has been expanded to include the entire transportation planning process. The consultation process requires that states and MPOs include and consult tribal governments in their planning areas in the overall transportation planning process; yet, tribal governments and their staff may not be fully versed with the Federal transportation planning requirements. Additionally, tribes may not have the technical planning capacity on staff that state departments of transportation and MPOs do or be able to achieve the same degree of sophistication and detail that MPOs and state departments of transportation do in this process. Tribal consultation requires the engagement of new participants such as tribal planners or tribal board members, many of whom may not be familiar with the Federal transportation planning processes required for state departments of transportation and MPOs and with the formation of new working relationships outside the tribe. Thus, the tribal consultation component within state departments of transportation and MPOs' transportation planning process presents new challenges and opportunities for both tribes and agencies to learn from and work through together.

What is the current state of the practice, and which agencies are pushing the envelope to innovate and lead in establishing effective tribal consultation processes? These are the key questions organizers and peers wanted to explore in this peer exchange. Through information exchange and facilitated discussion, it was hoped that participants would generate both broad take away ideas and concrete examples to help improve and further their tribal consultation and planning efforts at the state and regional levels.

II. Key Findings for Designing Effective Tribal Consultation Processes

A number of key considerations emerged from peer exchange presentations and discussions that agencies should take into account when developing their tribal consultation processes. Many of these considerations are cross-cutting issues that pertain to both the metropolitan and statewide planning processes, but some considerations will have more specific relevance for only MPOs or state departments of transportation individually.

Important Considerations for Designing Effective Tribal Consultation Processes

- **Relationships** – The fundamental importance of relationship building between tribal governments and agencies could not have been stated more clearly at the event. Relationships are the foundation for trust on which an effective consultation process may be developed, and the mechanisms that give agencies and tribes the assurance and flexibility to work cooperatively through issues on which they do not initially see eye-to-eye. Relationship building is a step-by-step process requiring the sustained commitment of resources (human and material) over time by both sides. Once the communication and contact is established, continuous engagement is needed to nurture relationships and find meaningful ways of managing and maintaining them. Agencies need to be able to commit the time required for this process and then to stick with it. This requires sensitivity and understanding on all sides, rooted in respect despite any differences in opinion that may inevitably arise.
 - *Example of “best practice” in Metropolitan Tribal Consultation:* The Tucson, Arizona, MPO flies the flags of tribes in its planning jurisdiction alongside the U.S. and Arizona State flags when board meetings are in session. Though it may appear a simple gesture

on the surface, tribal representatives at the exchange noted the tremendous symbolic value this had for tribal leaders in the Tucson area in terms of welcoming their presence and affirming their participation in the planning process. Feeling welcomed and wanted as a partner and collaborator helped establish and build the close working relationships between tribal and MPO staff and leadership that now exist.

- *Example of “best practice” in Statewide Tribal Consultation:* When the Nisqually Indian Tribe of western Washington State held a ribbon cutting for their new community trail that had been built with a small state grant (i.e., \$130,000), state department of transportation staff came out to support the ceremonies, participate in a blessing by tribal elders, listen to speeches, and even volunteer in planting native plants along stretches of the trail. Tribal staff explained that this extra effort to participate and volunteer, despite the project’s relatively small scale, helped build trust and good faith and cemented a stronger working relationship between the Tribe and the state department of transportation.
- **Education** – Education on technical, institutional, procedural, and cultural issues and processes is needed on both the agency side and the tribal side. Tribal governments face chronic resource shortages (i.e., understaffed and underfunded) and may need educational support from regional, state, and Federal agencies to better understand the technical aspects and to meet procedural requirements of Federal transportation planning and programming. State and regional agencies have approached transportation planning as a purely technical process and may need “cultural competency” training to better understand how tribal governments approach the planning process and transportation issues they face. State and regional agencies also may not understand the government-to-government relationship or other institutional barriers and challenges that impact how tribes participate in a regional or state transportation planning process. Education needs to flow in both directions – ideally all parties are able to teach but also learn from one another’s experiences and expertise. Approaching the education process through active learning (i.e., providing stakeholders the opportunity to meet, discuss, question, and engage one another in person) is a more effective strategy than passively reading materials and information.
 - *Example of “best practice” in Statewide Tribal Consultation:* The Wisconsin state department of transportation (WisDOT) developed a 2-day cultural competency training to educate its employees about Native American history, tribal sovereignty, and the jurisdictional issues tribal governments face, as well as explain how to conduct and implement WisDOT business with tribes. WisDOT staff felt the training created a valuable context for improved communication because it deepened staff’s knowledge and awareness of issues and challenges tribes have faced historically, as well as those that are still in place.
 - *Example of “best practice” in Metropolitan Tribal Consultation:* The Pascua Yaqui Tribe of southern Arizona prepared an application to compete for Federal Transportation Enhancements (TE) funds from the state three times without success. After these unsuccessful attempts, tribal staff invested time to better understand the MPO process and MPO staff provided extra assistance to explain how to best navigate the application process and compete successfully for TE funds. Today, the Tribe is in the design phase of a project after successfully competing and being awarded TE funds.
- **Representation** – Representation is a critical issue for establishing the legitimacy of any consultation process and has to take place at the appropriate levels, both policy and technical. Understanding which agency or tribal staff and leaders should be invited to consultation meetings, committee hearings, or other key opportunities for engagement is critical to successful representation. The rules of representation must be clear to everyone involved. In other words, when do specific representatives of agencies and tribes need to attend meetings and why? At both the MPO and state department of transportation level, there are always more meetings than resource-strapped tribal staff are able to attend, so it’s important to be clear about the purpose of meetings and their priority in order to identify the most important and meaningful opportunities for

engagement and participation. Another important component of effective representation is making sure that meeting attendees have the right authority to speak for the tribe or agency they are representing. A key question is “In what capacity are participants being engaged?” Are they contributors alone? Advisors? Collaborators? Decision-makers? Understanding these roles and responsibilities is another element to ensure more effective representation by tribal and agency participants. These are all critical issues to take into consideration in developing an effective consultation process.¹ At a minimum, respectful and equitable treatment of all parties is required to ensure that representation arrangements have legitimacy.

- *Example of “best practice” in Metropolitan Tribal Consultation:* Some MPOs are now inviting tribal governments to formally join their boards and/or policy committees and subcommittees either as advisors or as members with full decision-making powers. In San Diego, an intertribal council, the Southern California Tribal Chairmen’s Association (SCTCA) serves as an advisory member of the MPO Board and Policy Advisory Committee but does not vote on decisions. On the other end of the spectrum, the MPOs in Olympia, Washington, and Tucson, Arizona, welcome tribes as full members. The MPO in Albuquerque, New Mexico, extends full membership for tribes a step further; it has found input from tribes to be so valuable that it invited full board membership and voting authority to tribal representatives without even requiring tribes to pay annual dues (as most MPO members do).²
- *Example of “best practice” in Statewide Tribal Consultation:* New Mexico’s six-member State Transportation Commission (STC) is a powerful body that meets quarterly in one of the six sub-districts of the state to set policy governing the NMDOT. In early 2008, New Mexico’s Governor Richardson appointed a tribal member to be one of the six commissioners, and meetings of the STC are being held on tribal lands.
- **Leadership** – Champions are needed at multiple levels (management, elected representatives, and staff) to come together and provide the leadership for change. Leadership at the top of MPOs, state departments of transportation, and tribal hierarchies (both elected officials and senior management) is needed to create the institutional mechanisms (legally or procedurally) that make tribal consultation and collaboration effective. But it also needs to rise up at the staff level of agencies and tribes and be supported and prioritized by showing up to meetings and following through on commitments to show that consultation and coordination are valued efforts.
 - *Example of “best practice” in Statewide Tribal Consultation:* In 2004, Governor James Doyle, Jr., of Wisconsin issued his [Executive Order 39](#), which invigorated the state’s tribal consultation process and directed agencies to “recognize the unique legal relationship between the State of Wisconsin and Indian Tribes, respect fundamental principles that establish and maintain this relationship and accord tribal governments the same respect accorded other governments.”
 - *Example of “best practice” in Metropolitan Tribal Consultation:* The San Diego MPO hosted a summit with tribal leaders in 2002 to assess needs and determine the future direction of consultation. Tribal leaders attended the summit and organized a request that the MPO create a “tribal liaison position” to support greater incorporation of tribal coordination and consultation into its operating procedures, which the MPO did.
- **Shared Goals / Shared Outcomes** – Agencies and tribes should take a step back and look at the big picture. What is the comprehensive framework of Federal, state, and regional policies

¹ These questions are especially important for MPOs to consider in developing a consultation process, because MPO decision-making is so driven by committees and Board decisions. As MPOs collaborate more and more closely with Tribal governments in their planning regions, some are choosing to open Board membership and committee decision-making power to Tribes. This is an opportunity that does not exist at the state DOT level, and one that provides particularly compelling questions about how “representation” is appropriately defined and implemented.

² Usually jurisdictions must pay annual dues to be members of an MPO, based on population or similar indicators.

related to transportation and where/how can tribal governments fit in? State agencies/MPOs and tribal governments do have a common goal, which is to improve communities' quality of life through improved transportation access and mobility. But what is their strategy for working together to meet those goals? Is it within the existing framework or by developing new frameworks to better serve common goals and objectives? It is critical that all parties see the value of establishing shared outcomes in order to keep goals realistic and achievable. As with relationship building, this is a step-by-step process. Look back and find ways of building on past successes, even if simple or small, as a base or template for future partnerships and coordination.

- *Example of “best practice” in Statewide Tribal Consultation:* The U.S. 491 corridor enhancement is a joint project of the NM DOT and the Navajo Nation whose shared goals are improving safety and mobility along the 90-mile stretch of highway between Gallup, New Mexico, and Shiprock, New Mexico, and supporting economic development in Navajo communities abutting the improvements. The \$250 million project will expand the route from two to four lanes and add 200 safety turnouts. It will also adopt a Navajo Preference” for project-related employment and contracting and create an outreach and training center to support Navajo high school and college students in pursuing transportation careers.
- *Example of “best practice” in Metropolitan Tribal Consultation:* In 2006, staff at the MPO for the Olympia, Washington, region worked with the new tribal members of its board to write a diversity statement (<http://www.trpc.org/resources/diversitystatement.pdf>) to lay a framework for collaborating and involving tribes in its regional planning efforts. This helped to address sensitivity to cultural differences and ensured that a shared vision for inclusion of the tribes in decision-making existed upfront.
- **Communication / Accessing Information** – Language can be both a real and perceived barrier in developing effective working relationships between agencies and tribes. Translating U.S. policy jargon and legal code into everyday language is a challenge, especially when many of the tribal staff and leaders may not have a legal, administrative, or technical background³.

High staff turnover and limited resources in tribal planning departments are chronic problems that make it difficult (even for those who speak English as a first language) to build tribes' internal institutional knowledge of Federal transportation policies and regulations. Such a knowledge base is crucial to access and compete for much needed funds. Successful consultation includes state departments of transportation and MPOs stepping in as mentors and partners with, or interpreters for, tribes in this regard, assisting them in accessing eligible funding programs and working with them to fill out appropriate applications. Federal agencies could also provide support in this regard by creating user-friendly summaries and how-to guides for tribal staff (who may not have extensive background or training in transportation planning) on programs and Federal aid funding opportunities available to tribes.

- *Example of “best practice” in Metropolitan Tribal Consultation:* The SANDAG submitted a successful “environmental justice planning grant” to its state department of transportation in partnership with an intertribal transportation agency, the Reservation Transportation Authority (RTA), and is now working with the RTA to develop a business plan for the first Tribal Transportation Management Association in California.
- *Example of “best practice” in Statewide Tribal Consultation:* A number of state departments of transportation (i.e., New Mexico, Wisconsin, and Washington) have dedicated “tribal liaison” positions to provide technical assistance and policy guidance for

³ It is worth noting that indigenous languages may be based in oral traditions with little or no history of written speech, or have multiple dialects, which would require additional considerations for developing effective communication mechanisms.

tribes, improve coordination and collaboration on projects, and establish and facilitate planning consultation processes.

- **Creativity** – Agencies and tribal staff facing resource constraints have to get creative and learn to “think outside the box” if they want to make the best use of their limited resources. Consultation provides opportunities to work collaboratively with others to leverage scarce resources and develop and implement innovative, low-cost programs.
 - *Example of “best practice” in Metropolitan Tribal Consultation:* The Transportation Art by Youth program, a collaboration between the Tucson, Arizona, MPO and the Pascua Yaqui Tribe, has been one of the most successful outcomes of their expanded tribal consultation process in recent years. The program, which provides funding and summer employment for tribal youth to make murals of culturally important tribal heritage stories and other public art installations along transportation corridors and new projects, is relatively low cost, but the support and level of engagement that has been generated in the community as a result has been a major point of pride for both parties.
 - *Example of “best practice” in Statewide Tribal Consultation:* In Wisconsin, the WisDOT has coordinated with casinos to establish shuttle services for employees at the Lac Court Orielle Tribe. Sharing resources has enabled improved access to employment for tribal members at a relatively low cost.

III. Summary of Discussions with Peer Presenters

The following sections summarize information shared by peer presenters during the exchange.

A: MPO Perspective: Tribal Consultation in the San Diego, California Region

Jane Clough-Riquelme, Tribal Liaison and Director of Environmental Justice/Title VI, SANDAG

The San Diego Association of Governments (SANDAG) is the regional MPO responsible for short- and long-range transportation planning in San Diego County. San Diego County has more Tribes located within its boundaries than any other county in the United States. Seventeen tribal governments⁴ have jurisdiction over 18 reservations covering 116,000 acres of land, about 4 percent of the county’s total area.

Tribal nations have a long history of exclusion from communities in the San Diego region. Many have lived in isolated poverty for generations with little access to the infrastructure necessary for development. Tribal governments face a number of regional planning challenges, many related to transportation, as reservations are typically located in remote areas outside of incorporated cities. For example:

- *Inadequate access* to and from the reservations, which results in a lack of employment opportunities, as well as insufficient health, social and cultural services.
- *Growing traffic and mobility demands* due to economic growth from increased gaming and related development, which provides jobs and stimulates the regional economy but is accompanied by increasing traffic, rising job and housing accessibility issues, and the need for additional resources such as water and energy. For example, although only about 6,000 people live in tribal lands in San Diego County, nearly 14,000 employees commute onto and off of tribal lands each day.

For these reasons, Ms. Clough-Riquelme argued that tribal governments should be participants in the regional transportation planning process. SANDAG’s tribal consultation process makes this possible.

⁴ The 17 Tribes in San Diego County represent four ethnic/cultural groups, the Kumeyaay, Luiseño, Cahuilla, and Cupeño peoples.

SANDAG has been developing a government-to-government framework to enhance consultation, collaboration, and cooperation in the regional planning process with the tribal nations in their planning area. Given the flexibility to create its own consultation policies, SANDAG has used the notions of “timely” and “meaningful” from Federal guidance to shape the development of its process. SANDAG initiated this process in 2002 when tribal leaders were invited for the first time to a summit on tribal transportation issues in the region. At the summit, tribal leaders asked SANDAG to commit resources to consultation and include tribal government relations in its work plan. As part of an agency re-organization in 2003, SANDAG created a Borders Committee as one of its five policy advisory committees, composed of elected officials from the SANDAG Board of Directors, responsible for developing relationships with neighboring governments, including tribal nations surrounded by San Diego County, adjacent counties, and Mexico. The following year, SANDAG incorporated tribal consultation into its public participation policy and created a tribal liaison staff position in its Department of Land Use and Transportation Planning. That same year, the California’s State Department of Transportation (CalTrans) awarded an environmental justice planning grant to the RTA to strengthen the involvement of tribes in regional transportation planning. With these changes in 2004, SANDAG began to move beyond tribal consultation as a means of outreach, towards a model of consultation as real collaboration and involvement of tribes in regional transportation planning.

One of the first steps taken to strengthen the new partnership with tribal leaders was to expand SANDAG’s Borders Committee, which had representatives from Mexico and other neighboring jurisdictions serving as advisory members, by extending the same courtesy to a tribal leader from the SCTCA. Based on dialogue within that Committee, the SCTCA and SANDAG jointly planned a second, more in-depth Regional Tribal Summit in 2006, which coincided with the early development of SANDAG’s update process for the Regional Transportation Plan (RTP). The Summit was a collaborative effort, with parties working together to develop the agenda and meeting protocols. Hosted by the Pala Band of Mission Indians, it drew over 200 participants from local governments, state and Federal agencies, and non-governmental agencies. Thirteen of the 17 tribes in San Diego County participated with chairs and tribal council members and staff in attendance (*see photo below*).

Members of the SCTCA and SANDAG Boards, including Chairs, and the Board of the RTA pose for a photograph at the 2006 San Diego Regional Tribal Summit.



A year prior to the Summit, Caltrans and SANDAG had performed a transportation needs assessment with tribes in the region using surveys to establish baseline information on the status of the existing system, tribal knowledge of transportation planning processes, and to create an inventory of additional needs.⁵ Tribal transportation managers and staff from all public agencies influencing tribal transportation

⁵ The 2005 Tribal Transportation Needs Assessment also provided a baseline that could be used outside the Tribal Summit for expressing Tribal concerns to Caltrans, SANDAG, and the County for follow-up.

issues in the region⁶ met for a technical workshop to analyze the survey results prior to the policy summit and developed a set of possible actions/strategies that could be implemented to improve tribal transportation programs in the region. Some were “just do it” kinds of staff level actions while others would require support from policymakers. The outcome of the technical workshop provided the basis for policy-level discussions and development of action steps between elected officials from San Diego and the tribal nations during the day-long summit. This provided tribal governments the opportunity to air issues face-to-face that they had struggled with for years, voicing these issues directly to the SANDAG Board of Directors and other agencies with authority to make changes. Through discussion, elected officials and tribal leaders were able to assess the strengths and weaknesses of existing relationships and identify top issues of concern. Using electronically based polling techniques, they were also able to prioritize those issues and begin to identify transportation strategies of mutual interest. The top five priority issues generated from the Summit are listed in Table I below. Although the degree of support for these issues varied between tribal leaders and SANDAG Board members, they agreed to work together on developing collective strategies to address the top five overall policy concerns.

Table I: Top Five Issues of Concern Resulting from 2006 Regional Tribal Summit

Top 5 Issues of Concern	Percentage Voting Yes		
	Tribal Governments	SANDAG Board Members	Overall
Tribal Governments should be voting members of SANDAG Board	69%	23%	48%
Indian Reservation Roads inventory should be updated	62%	54%	58%
Advocate for new transportation funding for the region	62%	54%	55%
Leverage funding for transportation projects	31%	62%	48%
Conduct more tribal-related corridor studies	56%	46%	55%

Another major outcome of the Summit was the creation of the Interagency Technical Working Group on Tribal Transportation Issues. The Working Group is a permanent part of the SANDAG structure that meets quarterly and reports to the Borders and Transportation Committees to support further collaboration between SANDAG and tribal nations in the region. The Working Group helps tribes stay informed of Federal, state, and regional activities that affect them and provides a mechanism to develop transportation projects in partnership with those agencies rather than in isolation. The Working Group’s first collaborative planning project with SANDAG staff was a Tribal Transit Feasibility Study undertaken in 2006-2007. One outcome of the study was for SANDAG to work with the RTA to help expand its mission to include transportation demand management (TDM) and make it a partner with SANDAG’s in-house, pre-existing TDM program, RideLink. Another was for SANDAG to use the recommendations of the study to assist tribes applying for FTA’s Tribal Transit Program. The study provided the technical basis for the tribes to go on to apply for the FTA Tribal Transit Program. With the RTA acting as fiscal agent, the tribes in San Diego applied for and received a grant from this new program in SAFETEA-LU. The Working Group also serves as the project advisory group for the development of a new initiative for RTA to develop its institutional capacity to become the first ever tribal Transportation Management Association (TMA) in partnership with SANDAG’s RideLink TDM program

SANDAG has learned that a critical component of building an effective tribal consultation process is building a successful framework for government-to-government relationships that recognizes tribes as sovereign nations unto themselves. This is a major challenge for many MPOs, however, given that the U.S. Constitution does not give MPOs the authority to formally engage in government-to-government relationships. San Diego’s Regional Tribal Summit in 2006 was an important diplomatic milestone in this regard and can serve as a model for other MPOs seeking opportunities to improve their tribal consultation

⁶ This includes transit agencies, San Diego County, SANDAG, Caltrans, and the Bureau of Indian Affairs (BIA).

processes. It was the first time elected officials from tribes and local governments had ever sat down for a full day to discuss regional issues of mutual concern, and it resulted in the creation of mechanisms (e.g., the SCTCA as advisory member of SANDAG and establishment of the Working Group) for continued collaboration and government-to-government relations.

The ultimate success of the 2006 Tribal Summit and SANDAG’s ongoing tribal consultation process will be measured through the region’s ability to follow through on and sustain next steps in a meaningful way. Ms. Clough-Riquelme noted that this is a challenge, but progress is being made.

- In 2007 the SCTCA and SANDAG leadership achieved a major policy milestone by negotiating a formula for tribal representation, which had been the number one issue for tribes at the 2006 summit. The SCTCA now serves in an advisory capacity on the SANDAG Board and all Policy Advisory sub-Committees (PACs) including Transportation, Regional Planning, Public Safety, and Borders. Although tribes still do not have voting representation on the SANDAG Board and PACs, this was a significant step forward in that it gives tribal leadership a voice in crafting regional planning policy from the core of the process as it is unfolding.
- On a programmatic level, the working relationship between SANDAG and tribal partners has deepened since 2006 as well. SANDAG and staff from other public agencies in the Working Group are working together on several planning activities such as the development of a Tribal Transit Program and, through a Caltrans grant, the establishment of a tribally-owned and operated TMA to service the tribal enterprises in Southern California. Through the Working Group, collaborative strategic actions are being developed to pursue additional funding from various sources – something that has never happened in the past..

Although Ms. Clough-Riquelme noted that the development of SANDAG’s relationship with Tribes in its region may be unique because of the number of tribal nations involved, it may still provide useful lessons for other MPOs seeking to go from the “necessary to the optimal” with their consultation process. Key lessons learned include:

- The importance of government-to-government relations for regional planning
- The critical element of mutual institutional respect for moving forward
- Building a relationship based on solid action/results-oriented goals

B: MPO and Tribal Perspectives: Tribal Consultation in the Tucson, Arizona Region

John Liosotos, Transportation Planning Manager, Pima Association of Governments
Artemio Hoyos, Transportation Planner, Pascua Yaqui Tribe

The Pima Association of Governments (PAG) is the designated MPO responsible for transportation, environmental, and social services planning for Pima County (i.e., the Tucson region) in southern Arizona, an area approximately the size of the state of Connecticut that is home to nearly 900,000 people. Pima County contains five incorporated jurisdictions, two Native American tribal reservations, and a large, unincorporated (but urbanized) area. Approximately 85 percent of the county’s land is Federal, state, or Native American owned, and most of the population is clustered in the eastern half of the county.

Pima County is home to two Native American groups, the Pascua Yaqui Tribe and the Tohono O’odham Nation. The Pascua Yaqui Tribe has a trust land and fee land presence in the southwest area of metropolitan Tucson, but tribal members live in locations throughout Pima County as well as in the adjoining Pinal and Maricopa counties. The Pascua Yaqui Tribe has nearly 15,000 members in Arizona and Mexico; over 3,700 live on the reservation and approximately 7,700 in Pima County altogether. The Tohono O’odham Nation covers much of western Pima County, as



Above are the official insignias of the Pascua Yaqui Tribe and Tohono O’odham Nation.

well as portions of southwestern Pinal and southern Maricopa counties. Total tribal enrollment in Arizona is nearly 24,000 members and about 10,900 live on the Pima County portion of the Tohono O’odham Nation’s land. The reservation’s capital, Sells, is home to about 3,260.

The Pascua Yaqui Tribe and the Tohono O’odham Nation have been full members of PAG since 2002. They pay dues as do other MPO member agencies or jurisdictions; however, the amount is minimal relative to other PAG members since the dues structure is based on population. Tribal membership in the MPO expanded the tribal involvement beyond consultation to full participation in regional planning and decision-making. During PAG Board meetings, the Pascua Yaqui and Tohono O’odham flags are posted alongside the American and Arizona State flags to help enforce the concept of coordination among the sovereign nations and agencies. Tribal leaders are fully represented on all committees, including the Regional Council, the Transportation Planning Committee, the Transportation Improvement Program Sub-Committee, and the Transit Working Group, among others. Mr. Hoyos noted that tribal planning staff and leaders are invited to more meetings than they have the capacity to attend but try to make as many as they can.

Attaining PAG membership generated a number of new benefits for the Pascua Yaqui Tribe and the Tohono O’odham Nation, especially in terms of improving collaboration and strengthening their working partnerships. Mr. Hoyos explained that the Pascua Yaqui Tribe had applied three times unsuccessfully to the Arizona Department of Transportation (ADOT) for Federal TE funds in the past. After these unsuccessful attempts, tribal staff invested time to better understand the MPO process and MPO staff provided extra assistance to explain how to best complete the application and compete successfully in the funding process. Today, the Tribe is in the design phase of a project after successfully receiving TE funds. PAG staff are also working with their members, including the Tribe and the Nation, to provide workshops and training courses on the Local Update of Census Addresses (LUCA) that will help achieve more accurate population counts in the 2010 census. These counts are central to redistricting legislative boundaries and in the apportionment of state and Federal monies, so it is vital that tribal members are not under-represented.

The Pascua Yaqui Tribe and the Tohono O’odham Nation participated in the development of the Tucson region’s transportation ballot measure, which dedicates a half-cent of the county sales tax for needed transportation projects. Taxes are not collected on the reservation, but PAG recognizes that tribal members are not spatially limited to tribal lands. They work, travel, and buy goods and services throughout the county, so the PAG Board decided they should benefit from the tax just as any other member of the MPO. The RTA, as the measure is known, was successfully passed and now generates significant new regionally controlled monies for PAG to program. This is an attractive source of programming dollars for the Tribe and the Nation because it provides an alternative to the Indian Reservation Road (IRR) funding process and is not subject to the same restrictions that often come with the other state and Federal transportation funds that tribal members can now compete for through the MPO planning process.

Mr. Liosatos and Mr. Hoyos noted that giving the Pascua Yaqui Tribe and the Tohono O’odham Nation membership and full participation is one of the PAG’s major successes in tribal consultation. The Tribe and the Nation vote and use established criteria as do all other member jurisdictions to determine “regionally significant projects” and decide which projects will receive local, state, and Federal funds. Having a say in the MPO programming process also ensures that the Tribe and the Nation qualify to receive non-IRR funds, which widens the pool of potential funding sources for their projects.

Funding for recent tribal transportation projects secured through PAG membership includes:

- Regional Transportation Authority
 - HAWK – Hohokam (Pascua Yaqui)
 - Health Center to Senior Center Sidewalk (Pascua Yaqui)
 - Extended bus service to Casino del Sol (Pascua Yaqui)
 - Park N’ Ride Facility at Casino del Sol (Pascua Yaqui)
 - Valencia Road Widening (Pima County, Pascua Yaqui IRR Road Inventory)

- San Xavier Elderly/Pedestrian Master Plan (Tohono O'odham)
- Mission/Valencia Intersection Improvements (Tohono O'odham Nation)
- Transportation Enhancements
 - Mission Plaza (Tohono O'odham)
 - Vat Itom Voo'o Pedestrian Path (Pascua Yaqui)
- Transportation Improvement Program
 - Santa Cruz Pedestrian Bridge (Tohono O'odham)
 - Ignacio M. Baumea (Pascua Yaqui)
 - Camino de Oeste (Pima County, Pascua Yaqui IRR Road Inventory)
 - Pathway Master Plan (Pascua Yaqui)
 - Small Area Transportation Study (Pascua Yaqui)

Mr. Hoyos noted that, in balance, the Tribe and the Nation receive much more from their membership and participation in PAG in terms of Federal dollars leveraged and new projects being built than they pay out in member dues.

Another success story in PAG's tribal engagement has been their Transportation Art by Youth program, which provides funding and summer employment for youth to design and install murals and other public art along new transportation projects. Each member jurisdiction receives \$25,000 a year, of which at least 20 percent must be paid directly to student workers, to design, fabricate, and install a transportation-related art project. The program has existed for PAG-members since 1995, but the Tribe and the Nation have taken particular advantage of it as an opportunity to preserve meaningful tribal stories across generations as well as demonstrate cultural heritage and community pride.

Examples of PAG's Youth Engagement Transportation Art by Youth Program



In conclusion, Mr. Liosatos noted that agencies should not take a “one size fits all” policy for welcoming new member jurisdictions to participate in the planning process. Just as there are differences between traditional MPO member jurisdictions (e.g., urban versus rural), there are differences between tribes and even between changing administrations within the same tribal leadership. The key is to be proactive in your outreach and respectful in your approach. Be prepared to travel to the tribes and strive to seek to involve tribal leaders by using language that is meaningful to them rather than MPO jargon. Also, remember that effective participation and communication is a two-way street. In the case of PAG, membership provides many benefits to tribes; and because the dues are low for the tribes, they are able to share in that membership as a full partner. Mr. Hoyos explained one example of this partnership: When the Pascua Yaqui Tribe had extra money from gaming revenues, it paid for PAG to purchase a regional videoconferencing system that all MPO member agencies could benefit from.

Finally, the MPO noted that tribal membership on the MPO Board does not replace the need to consult on planning issues as prescribed in SAFETEA-LU. The MPO strives to provide open, face-to-face meetings with tribal leadership as part of its formal consultation process. However, the inclusion of the tribes as

MPO members has greatly improved communication, coordination, and collaboration, all of which are vital elements to successful consultation processes.

C: MPO Perspective: Tribal Consultation in the Olympia, Washington Region

Lon Wyrick, Director, Thurston Regional Planning Council

The TRPC is the MPO in the state capital of Olympia, Washington. There are two tribes in TRPC’s planning region, the Nisqually Indian Tribe and Confederated Tribes of the Chehalis Reservation. Until the passage of the ISTEA in 1992, many TRPC Board members were not familiar with tribal transportation planning processes. After ISTEA, the state developed a tribal accord that laid out a framework for increased tribal consultation and involvement, which helped both agencies and tribes establish their roles and rules of conduct. Since then, TRPC’s tribal involvement in MPO activities has grown.

Initially, TRPC focused its involvement with the tribes on issues that were of primary concern to the tribes, such as salmon habitat and water usage that is one of the major points of contention in the region. Later, the Nisqually Tribe formally joined the TRPC Board, followed by the Chehalis Tribe. Their initial purpose for joining was to become more involved in transportation planning and decision-making in the region. Greater involvement in the TRPC process also gave the tribes greater access to Federal programs and funds outside of the IRR process, such as Surface Transportation Program - Enhancement (STP-E) funds and Surface Transportation Program (STP) funds that can support needed projects on their reservations.

Mr. Wyrick noted TRPC’s fortune in having two very involved and knowledgeable tribal planning staffs that worked with TRPC at the beginning. This helped to build strong working relationships across interests and issues from the start. In 2006, TRPC staff wrote a diversity statement with Board and tribal input to clarify how it wanted to approach and involve tribes in regional planning efforts. TRPC then organized a day-long training for staff and council members to better understand the tribal transportation and planning needs, as well as to bridge differences in communication styles and decision-making structures (e.g., importance of involvement and deference to elders for tribes relative to the traditional U.S. agency structure). The training was run by staff at the Washington Department Of Transportation (WSDOT) and was based on similar training the WSDOT had organized several years prior to strengthen the state-tribal consultation process.

The gaming industry has played an important role in supporting tribal involvement in transportation planning activities in the Olympia region. Previously, tribes did not have adequate resources to hire staff needed to participate in transportation planning issues. Today, by contrast, tribes have representation on the transportation policy board and advisory committees and are “very active” at TRPC’s monthly meetings. One role that the tribes play on the Board is to ensure Board rules are followed appropriately– they are not shy about speaking up when a detour in process is taken or suggested.

At the state level, tribes convene to discuss shared issues and formed a state transportation planning committee called the Tribal Transportation Planning Organization. The interaction between that group and the MPO has been very helpful in ensuring better working relationships and securing adequate funding for needed projects.

TRPC has found that an issue of key importance when designing a tribal consultation and engagement process is assuring that the person participating in the MPO’s committee meetings and decision-making has the authority to speak and act for the tribe. TRPC also stressed the importance of sharing knowledge about the MPO’s organizational structure, rules, and procedures to build understanding of how the MPO operates and makes decisions as a key lesson learned in designing effecting consultation processes.

D: Tribal Perspective: Tribal Consultation in the Olympia, Washington Region

Jim Longley, Transportation Planner, Nisqually Tribe

The Nisqually Tribal staff has a close working relationship with staff at the TRPC, and they are often in touch on a weekly basis. TRPC staff help Nisqually planners navigate state and Federal funding processes and provide support in project development to ensure that planning and engineering requirements are adequately met. Staff turnover is an endemic problem that affects many tribes, specifically in their capacity to participate in regional planning processes and carry out Federal consultation requirements. Mr. Longley said that investing the time to forge and maintain strong working relationships is a key opportunity for MPO and other agency staff to support the sustainability of tribal involvement in these processes.

Having strong relationships has also helped the Nisqually Tribe complete valuable projects that it would not have been able to address without the technical assistance made available through MPO membership and partner agency support. Mr. Longley shared an example about a letter he received from WSDOT in 2004. The letter said that the Tribe had been awarded \$130,000 to build a short recreational trail 9 years prior; and if they could not resubmit the proposal to current standards within 2 weeks, the monies would expire. Mr. Longley was able to call TRPC staff, who he knew were working on a county-wide trails plan, for help. TRPC staff were able to help him resubmit the design, refine the proposal, develop a new cost estimate, usher it through the WSDOT approval process, and meet the time deadline. Co-management of the process led to the recent completion of the trail, which connects elder housing down a steep hill to the Tribe’s gas station/convenience store and elders’ day care center. The trail complies with the Americans with Disabilities Act (with a very flat grade), and the hillside was planted with 2,000 native plants by 25 volunteers on a cold, drizzly day. Beyond completion of trail construction, three tribal members gained valuable experience operating numerous pieces of heavy equipment under the supervision of WSDOT staff over the 8-week project. On the day the trail opened, staff from WSDOT, TRPC, and members of the Nisqually Tribe participated. The ceremony included a blessing of the pathway, a canopy tent for tribal elders, gifts, speeches, and a sit-down lunch for 200. This was not a huge project relative to many funded by TRPC and WSDOT, but Mr. Longley explained that the good faith effort put forward by TRPC and WSDOT in support of the project helped to cement an even stronger relationship between the Tribe and these agencies than had existed before and bodes well for future joint projects.

E: State Perspective: Tribal Consultation in Wisconsin

Alyssa Macy, State Tribal Liaison, Wisconsin Department of Transportation

In 2004, Governor Doyle issued Executive Order 39 (EO 39) affirming the government-to-government relationship between the state of Wisconsin and the 11 Federally-recognized tribal governments⁷ located within the state. From EO 39, a Partnership Agreement was created to develop and define the processes by which WisDOT and FHWA would work in collaboration with tribes in the state while recognizing tribal sovereignty. Consultation and other activities carried out under EO 39 include:

- Annual Consultation Meeting
- Establishment of a WisDOT/Tribal Task Force
- Tribal Historic Preservation Initiative
- American Indian⁸ Disadvantaged Business Enterprise (DBE) Economic Development and Capacity Building
- Cultural Competency Training for WisDOT Employees
- Annual Tribal Transportation Conference

⁷ These are the Bad River Band of Lake Superior Chippewa, Lac Courte Oreilles Band of Lake Superior Chippewa, Lac du Flambeau Band of Lake Superior Chippewa, Red Cliff Band of Lake Superior Chippewa, Sokaogon Chippewa Community, St. Croix Chippewa Community, Forest County Potawatomi Community, Stockbridge-Munsee Band of Mohican Indians, Menominee Nation, Oneida Nation of Wisconsin, and the Ho-Chunk Nation.

⁸ The word “Indian” and/or “American Indian” is the terminology used in Wisconsin legislation and regulation, rather than “Tribal” or “Native American.”

Ms. Macy explained that the goal of EO 39 is to move beyond the agency mindset of consulting with Indian tribes and nations as a legal requirement, towards proactively working with tribes as equal partners focused on people, economics, natural, and human environments in order to improve the quality of life for all people in the state.

The state consultation process takes place in an annual meeting with the state’s secretary of transportation and tribal leaders. The annual meeting provides an opportunity for tribal leaders to discuss concerns and share successes, as well as for WisDOT to update tribes on new initiatives and policies that will impact them. There is no official documented tribal consultation process at the state level beyond EO 39; however, there is an understanding that WisDOT will work with each tribe individually to better understand their interests and work to better serve their needs.

The WisDOT/Tribal Task Force includes representatives from WisDOT, FHWA, and the 11 tribes within the state (tribal representatives are designated by tribal leaders) and is coordinated by the College of Menominee Nation. The Task Force meets monthly to discuss WisDOT policies and to create programs to address tribal issues such as:

- *Tribal Employment Rights Ordinance (TERO)*⁹ – WisDOT does not currently have a TERO policy, but the task force provides a forum to discuss and work on the development of a potential policy in the future;
- *Crash Data Collection* – How to collect and share appropriate data with Indian Nations;
- *Information sharing* – WisDOT provides information on excess land policies, road safety audits, etc.;
- *Tribal signage* – To discuss the unique needs of Indian nations;
- *Institutionalization of Indian Nations Work at WisDOT* – how the state department of transportation can expand its employment of tribal members.

Managing expectations is an important component in working with Indian nations. Ms. Macy observed that while WisDOT is making a concerted effort to listen and work more pro-actively with tribes, staff are also trying not to oversell or make promises they cannot keep. In this way, trust is enforced and strengthened.

The *Tribal Historic Preservation Initiative* is a collaboration between WisDOT and the Lac du Flambeau Nation to review, revamp, and create WisDOT policies and procedures in historic preservation, archaeology, and cultural resources management that better meet the needs and interests of tribal communities. In the past, tribes have been unhappy with what they felt were insensitivities on the part of WisDOT with certain state highway projects. By challenging WisDOT in court on these fronts, tribes were able to block projects. The intention of this initiative is to develop internal policies that engage tribes early and continuously in project planning and development and avoid these types of conflicts in the future. Ms. Macy explained that this program is unique around the country in that it is the only state department of transportation/Tribal Historic Preservation Agreement in the U.S. focusing on internal state agency policy and procedures.

The *American Indian Business Capacity Project* is a partnership between Great Lakes Indian Law Center and the American Indian Chamber of Commerce of Wisconsin to assist Indian-owned businesses to obtain DBE certification. Project activities have focused around the U.S. 41 project, which is estimated to spend millions of dollars in the region and include training, technical assistance, mentoring, and the development of financial products/services. There are currently 46 American Indian-owned businesses with DBE certification, 12 of which received certification since the launch of the project. Phase One of this project offered seven trainings with information on current WisDOT project opportunities, how to bid on WisDOT projects, and the DBE application process. Phase Two will offer training on estimating, bidding, bonding, financing, and marketing.

⁹ This would secure “American Indian” preference in employment, contracting, and subcontracting.

The Great Lakes Indian Law Center created a cultural competency training for WisDOT employees to provide a context for improved communication and help state employees better understand the Federal legal framework governing state-tribal interactions. The 2-day trainings include sessions on Indian history in the United States, jurisdictional issues for Indian tribes, and conducting and regulating business with Indian tribes. This “101” version of the training has been offered twice and a “102” version is now in development. WisDOT has found the trainings to be an excellent learning opportunity and important forum for people to ask difficult questions they would not normally have the chance to ask. They have now opened participation in the trainings to county employees and others who will be working closely with tribal governments, like agencies, and local jurisdictions along the U.S. 41 corridor.

The first *State Tribal Transportation Conference* was held in April 2007. It had three topical tracks:

- Tribal Historic Preservation
- Indian Business/Economic Development
- Transportation, Transit and Planning

A second conference will be held November 6-7, 2008, at the Radisson in Green Bay.

An “American Indian Liaison” staff position was created at WisDOT through EO 39 in 2004. A second tribal liaison position was added in 2007. Tribal liaisons serve as a major point of communication, along with any WisDOT districts, for tribal concerns and facilitate the implementation of protocol and action items related to tribal planning. WisDOT currently has two regional tribal coordinators as well, who help to organize outreach meetings in the regions they serve, answer tribal questions at the project level, connect tribes with appropriate contacts, and help them start the Section 106 historic preservation process for specific projects. Making these staffing commitments is part of WisDOT’s strategy to institutionalize tribal concerns in the state planning and programming process. Ms Macy noted that it is an exciting time to be working on tribal issues in Wisconsin. There is still a lot of work to be done; but she feels that a real cultural shift is beginning to take place at WisDOT, and there are real opportunities for people working in these positions to grow and learn.

F: Tribal Perspective: State Tribal Consultation in Wisconsin

Joe Eichinger, Transit Manager, Namekogon Transit

Namekogon Transit is a small system of 15 vehicles that provides public transit for the Lac Courte Oreilles Tribe and surrounding communities in northern Wisconsin. It serves the largest county in the state and gives about 60,000 rides a year, with service provided equally to the tribe and surrounding communities. With the growth of the gaming industry and rising fuel prices, demand for transit service is also growing; but Mr. Eichinger noted that the system has trouble keeping up with rising demand.

Funding is a big part of this challenge. Mr. Eichinger explained that all tribes need to identify new sources of funding and learn how to better tap into funds that already exist. Working with the WisDOT and the county (whose Department of Health and Human Services provides vital operations funding for his system) is part of the solution. As these relationships have strengthened in recent years, Mr. Eichinger noted that Namekogon Transit has been able to double the size of its fleet through new funding arrangements and partnerships. One of the greatest challenges is to ensure that funding is available for both capital and operations, since the sources and administrative processes governing each of these funding types differs. However, Mr. Eichinger believes that staff persistence to wade through all the requisite paperwork enables them to do that and take better advantage of the many Federal and state funding sources already available.

Today, Mr. Eichinger feels that he has established a good working relationship with WisDOT and the county. WisDOT provides technical assistance with grant writing and includes Mr. Eichinger in regular face-to-face meetings that help him understand how to better access state and other dollars available for transportation funding. Now, when he has an idea he calls WisDOT staff directly with questions or to seek

guidance. As a result of these relationships, Mr. Eichinger felt that his agency’s opportunities for improving and expanding transit service are better than ever before.

G: State Perspective: State Tribal Consultation in New Mexico

Ron Shutiva, Tribal Liaison, New Mexico Department of Transportation

Mr. Shutiva is the tribal liaison for the NMDOT. His role is to coordinate efforts with the state’s 22 tribal governments. Many of these tribes are traditionally appointed, meaning that their leadership changes every year, which creates a number of logistical challenges for sustained coordination. Mr. Shutiva is a member (and former governor) of Acoma Pueblo and has a long history of involvement in tribal leadership before coming to work at the NMDOT, which has helped inform his current efforts as the tribal liaison.

Some formalized Memorandum of Understanding (MOU) and other documentation exist between the NMDOT and the tribes, but much of the consultation process in New Mexico relies on getting agencies and representatives to meet and talk issues through in person. State Governor Richardson assisted state-tribal relations by appointing a tribal leader to the six-member New Mexico State Transportation Commission which sets NMDOT policy. This Commissioner has helped raise awareness about engaging tribes and an upcoming meeting of the Commission which will be hosted by the Navajo Nation. Mr. Shutiva noted this action as another step forward in strengthening NMDOT’s understanding of tribal planning concerns.

Due to the high turnover in tribal leadership, establishing firm policies is difficult, so concerns are typically addressed on a project-by-project basis. For this reason, NMDOT district office staff meet monthly with tribes to discuss project administration and other issues as they arise. One successful outcome of the state tribal consultation process has been the development of a Joint Powers Agreement (JPA) to address all roads leading to and adjacent to tribal lands, including all on/off ramps, county roads, interstates, etc. for incorporation into the tribal IRR inventories.

Despite these successes, Mr. Shutiva observed a noticeable increase in Federal requirements under SAFETEA-LU, which he felt is often confusing for tribes and further complicates processes. He explained that tribes face tremendous technical capacity challenges and require a lot of assistance. The amount of IRR funding in the state is very small relative to the overall needs. As a result of insufficient funding for projects, Federal funds often go unspent from year to year. However, tribes have been able to use their IRR funds to leverage other state or Federal funding available through the state department of transportation or local MPOs. An example of this is with Governor Richardson’s Investment Partnership, which sets aside \$250 million for 115 specific projects. Eighteen of these are projects are to take place on tribal lands. In each of these cases, the tribes have been able to use IRR funds as the local match for the selected projects.

Regional Transportation Planning Organizations (RTPOs) also provide services to Indian nations, tribes, and pueblos in New Mexico and play an important role in working with tribes to identify projects, needs, and concerns within the rural planning areas, outside the MPO. Mr. Shutiva observed that RTPO relationships with tribal governments have strengthened in the last few years. The Albuquerque RTPO has decided that tribal input is valuable enough that it waived the dues for tribes to help encourage them to become RTPO members and have greater input in decision-making processes. Likewise, the Santa Fe RTPO is currently revisiting its tribal policies to allow the Tesuque Pueblo, and perhaps others, to sit on its policy board. Mr. Shutiva felt that engaging tribes at the RTPO is critical because they play an important role in recommending projects and priorities for the STIP and play a key role in determining transit funding allocations statewide. Mr. Shutiva also felt that RTPOs are an effective means for initiating and sustaining the project-specific partnerships between NMDOT districts, tribes, municipalities, business, citizens, and non-profit groups, which is critical for success.

Mr. Shutiva noted that tribes have been able to secure more formal partnerships with NMDOT and strengthen the recognition of tribal concerns at the state policy level by working at the RTPO level and leveraging the RTPOs’ close working relationships with NMDOT district staff. RTPOs have also helped

tribes leverage new funding resources on significant projects that might not otherwise have been built. Examples of projects include:

- US 491 widening with Navajo Nation
- I-40 Exit 102 with the Pueblo of Acoma
- I-40 Exit 108 with the Pueblo of Laguna

For all these reasons, Mr. Shutiva feels the state is better able to understand specific tribal transportation needs and leverage the resources necessary to address tribal needs through the RTPO structure.

New Mexico is making progress in improving its tribal consultation processes, but it was noted that a number of challenges remain, primarily:

- Addressing high-need projects in a timely manner
- Identifying additional ways to leverage resources
- Better meeting rural economic development needs

Mr. Shutiva observed that the key elements of successful tribal consultation in New Mexico come down to the “Four Ps” – Persistence, Politics, Patience and Partnerships.

H: Tribal Perspective: State Tribal Consultation in New Mexico

Tom Platero, Tribal Liaison, Navajo Nation Department of Transportation

The Navajo Nation is the largest Native American tribe in the United States in terms of both size and population. Covering 26,000 square miles in northwestern New Mexico, northeastern Arizona, and southeastern Utah, the reservation is slightly larger than the state of West Virginia with over 110,000 of its 200,000 members living on the reservation.

The Navajo Department of Transportation was created with 22 employees but has since expanded to 80 employees. When you count construction workers and other employees working on Navajo Department Of Transportation projects, there are an additional 300 additional employees managed through the Navajo Department of Transportation..

The unmet transportation needs on the Navajo Reservation are currently estimated at \$300-\$400 million. The current inventory of Navajo roads for the IRR program stands at about 10,000 miles but Navajo Department Of Transportation employees estimate that the entire roadway system is many miles more than that, since the majority of roads are unpaved gravel or dirt roads in varying condition. Heavy rains render many of the unpaved roads in rural areas unusable, so travel times and safety issues are constant struggles that the Navajo Department Of Transportation must address. Despite the tremendous financial need for investments in infrastructure maintenance and upgrades, as well as new projects, the Navajo Nation only receives \$50 million per year from the IRR program to support its transportation system.

The need to move beyond traditional approaches and identify new partnerships and funding sources for projects has motivated increased participation in tribal consultation and collaboration between the Navajo Department Of Transportation and other local, regional, and state agencies. Tribal consultation is complicated for the Navajo Department Of Transportation since external coordination is required with three separate states as well as the 11 counties bordering reservation lands. Internally, the Navajo Nation also has 110 tribal chapters to coordinate with and must answer to the Navajo Nation’s 88-delegate Council leadership.

An important component of the Navajo Department Of Transportation’s consultation effort is building relationships with external agencies and educating them about the Navajo Nation’s internal organizational structure and transportation system needs. Mr. Platero explained that few things are as eye opening and effective in this regard as loading a tribal Head Start or senior transportation van with state department of transportation staff to give them a tour of existing facilities and conditions to see the difficulties many Navajo people face in getting around (especially if the tour happens to follow a rain shower). Agency staff

are often shocked and disheartened by what they see. In order to begin addressing these conditions, however, Mr. Platero argued that the learning has to happen both ways. By holding more frequent and regular meetings with state department of transportation and county employees, Navajo Department Of Transportation employees come to better understand the culture and processes governing these outside agencies.

One project that illustrates the Navajo Department Of Transportation’s consultation activities with the NMDOT is the U.S. 491 corridor project. U.S. 491 (recently renamed from U.S. 666) is a major north-south tourist and commercial route in the Four Corners, running nearly 200 miles between Gallup, New Mexico, and Monticello, Utah. The NMDOT is currently reevaluating a 90-mile section of this corridor between Gallup and Window Roc, New Mexico, 70 miles of which runs through the Navajo Nation, where it serves as a major route for everyday travel. The \$250 million project will expand the route from two to four lanes, with 200 turnouts to be built as well, so there are numerous community and environmental considerations at play.

Mr. Platero explained that developing a formal process to work together on the project was a challenge. Establishing all the necessary intergovernmental agreements and JPAs throughout the corridor required compromise on all sides and, at times, an agreement to disagree. In the end, the Navajo Department Of Transportation had to assume additional responsibilities regarding endangered species and habitat protection during project development and pay \$10 million in cash and in-kind resources in support of the project. It was also able to secure several key provisions to benefit the tribal community, including:

- FHWA agreement to use a “Navajo Preference” in lieu of an “Indian Preference” in project-related hiring and contracting.
- Creation of an outreach and training center to support Navajo high school and college students in pursuing transportation careers.
- Dedicated funding from NMDOT to support the Navajo Department Of Transportation’s next LRTP.

Towards the end of the negotiations, the Navajo Nation flew its President and Oversight Committee to meet with the New Mexico Secretary of Transportation to come to formal agreement. The first project, which will cost \$25 million, has been let and was scheduled to begin construction in June 2008.

IV. Key Federal Contacts

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V. Attachments

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B: Agenda

Program for Wednesday May 28, 2008

Begin	End	DESCRIPTION
8:30 am	9:00 am	Welcome, Introductions, and Process Overview
9:30 am	10:00 am	San Diego Association of Governments Tribal Consultation Process
10:00am	10:20 am	Pima Association of Governments Tribal Consultation Process
10:20 am	10:40 am	Pascua Yaqui Tribal Consultation Process
10:40 am	10:50 am	Morning Break
10:50 am	11:10 am	Thurston Regional Planning Council Tribal Consultation Process
11:00 am	12:00 pm	Nisqually Tribal Consultation Process
12:00 pm	12:30 pm	Roundtable Discussion on MPO-Tribal Consultation Process <ul style="list-style-type: none"> • Clarifications Questions • Key Lessons Learned • Best Practices
12:30 pm	1:15 pm	Lunch
1:15 pm	1:45 pm	Wisconsin DOT State Tribal Consultation Process
1:45 pm	2:15 pm	New Mexico DOT State Tribal Consultation Process
2:15 pm	2:45 pm	Navajo Nation State Tribal Consultation Process
2:45 pm	3:00 pm	Afternoon Break
3:00 pm	4:00 pm	Roundtable Discussion on State-Tribal Consultation Process <ul style="list-style-type: none"> • Clarifications Questions • Key Lessons Learned • Best Practices
End of Day One		

Program for Thursday May 29, 2008

Begin	End	DESCRIPTION
8:30 am	9:00 am	Welcome, Introductions, and Process Overview
9:00 am	10:45 am	Breakout Discussions <ul style="list-style-type: none"> • What are the best practices in MPO-Tribal and State-Tribal Consultation? • What resources can Federal agencies provide in support of more effective MPO-Tribal and State-Tribal Consultation?
10:45 am	11:00 am	Morning Break
11:00 am	12:00 pm	Groups Report Back on Group Discussion
12:00 pm	12:15 pm	Wrap-Up and Evaluation

C: Participant Agency Websites

San Diego Association of Governments
<http://www.sandag.org>

Pima Association of Governments
<http://www.pagnet.org/Home/tabid/36/Default.aspx>

Pascua Yaqui Tribe

<http://www.pascuayaqui-nsn.gov/>

Thurston Regional Planning Council

<http://www.trpc.org/>

Nisqually Tribe

<http://www.nisqually-nsn.gov/>

Wisconsin Department of Transportation, Tribal Affairs

<http://www.dot.wisconsin.gov/localgov/aid/Tribal-affairs.htm>

New Mexico Department of Transportation

<http://www.nmshtd.state.nm.us/>

Navajo Nation DOT

<http://www.navajodot.org/default.asp?CustComKey=282865&CategoryKey=282869&pn=Page&DomName=navajodot.org>

Transportation Planning Capacity Building (TPCB) Program

<http://www.planning.dot.gov>

D. Links to Other Resources on Tribal Consultation

Statutory/Regulatory Requirements for Indian Tribal consultation:

<http://www.fhwa.dot.gov/hep/tribaltrans/consult.htm>

Executive Order 13175 - Consultation and Coordination With Indian Tribal Governments:

<http://www.fhwa.dot.gov/hep/tribaltrans/eo13175.htm>

Presidential Memorandum on Government-to-Government Relationship with Tribal Governments:

http://www.fhwa.dot.gov/hep/tribaltrans/sep23_94.htm

Developing A Long Range Transportation Plan: <http://www.fhwa.dot.gov/hep/tribaltrans/lrtpsum.htm>

2005 TPCB peer exchange report: <http://www.planning.dot.gov/Peer/Arizona/scottsdale.htm#f-1>

2004 Tribal consultation baseline report: <http://fhintra.fhwa.dot.gov/hep/staffepplansumaug.htm>

FHWA Tribal Planning website: <http://www.fhwa.dot.gov/hep/tribaltrans/index.htm>

TPCB – Tribal Planning website: <http://www.planning.dot.gov/tribal.asp>

TTAP Centers: <http://www.ltapt2.org/centers/>

State Department of Transportation Tribal Liaison Roundtable and Panel Discussion:

<http://www.planning.dot.gov/Peer/Washington/spokane.htm>