

## IV. Referenced Funding Agreements (RFA)

**Overview.** The RFA outlines the specific conditions during a Fiscal Year for funding under the Program Agreement. It includes the terms that identify the specific programs, functions, services and activities (PFSAs) to be performed, the funds to be provided, the time and method of payment, and other provisions to which the Parties agree.

### A. Definition:

**Referenced Funding Agreement (RFA)** – A document between the FHWA or the BIA and a Tribe which sets forth specific conditions for Fiscal Year funding under the Program Agreement. It includes the terms that identify the specific programs, functions, services and activities to be performed, the funds to be provided, the time and method of payment, and such other provisions to which the Parties agree. (See Appendix A - [Exhibit 4.1 – FHWA RFA](#))

### B. Statutory/Regulatory Requirements:

- Section 202(b)(7) of Chapter 2 of Title 23, United States Code
- SAFETEA-LU, Pub. L. 109-59, 119 Stat. 1144 (Aug. 10, 2005)
- Indian Self-Determination and Education Assistance Act, Pub. L. 93-638
- 25 U.S.C. § 450 et seq.
- 49 C.F.R. 1.48(b)(29)

### C. Guidelines/Procedures:

Once the Program Agreement has been approved, the following procedures will be followed:

- 1. Tribal Transportation Improvement Program (TTIP).** Prior to approval of the RFA, the Tribes should have an approved TTIP. A Tribe may already have an approved TIP through the OSG or the BIA. This is also called a TTPTIP, Tribal Transportation Program Transportation Improvement Program.
- 2. Tribal Coordination.** FHWA Tribal Coordinator or the BIA FPOC will meet with the Tribe and BIADOT on an as needed basis to identify projects, activities, and functions associated with the RFA.
- 3. Project Related Administrative Expenses (PRAE).** Based on the identified projects, activities, and functions, the FHWA-FLH-HQTS determines the PRAE. As necessary, the FHWA-FLH-HQTS will meet with the BIA Region to negotiate the PRAE that will be done by the FHWA. Those expenses that will be done by BIA will be based on the project Engineering and Construction Engineering Administration activities/responsibilities of each agency. Their respective cost will be agreed upon using the PM&O/PRAE distribution tables, and the PRAE activity list.
- 4. Negotiate any remaining contractible projects/activities.** The FHWA Tribal Coordinator or the BIA FPOC, Tribe, and BIA will negotiate any contractible projects, activities, or functions that remain with the BIA and those that will be funded from the Tribal Transportation Allocation Methodology (TTAM) share (National Tribal Transportation Facility Inventory updates, inventory input, etc.). The respective funds must be provided from the agreement in advance of

any funds transferred to the Tribe. FHWA or BIA will finalize the negotiation and provide courtesy copy to BIADOT.

- 5. Notification funds Available.** Upon notifying the BIADOT, remaining funds will be withheld or withdrawn from affected BIA Regions by FHWA-FLH-HQTS.
- 6. RFA Approval.** Upon acceptance by FHWA or BIA, the RFA is executed between the Tribe and FHWA-FLH-HQTS or the appropriate BIA office. The FHWA Tribal Coordinator or the BIA FPOC prepares a RFA form based on the current year Tribal shares and any other applicable funding. The RFA is then sent to the Tribe for signature. After Tribal signature, the RFA is returned to the FHWA Tribal Coordinator or the BIA FPOC who will send to FHWA-FLH-HQTS or the appropriate BIA office for signature. Once signed the funds are considered obligated which begins the 30-day timeframe to allocate funds to the Tribe. Once the funds are deposited into the Tribe's bank account, the funds are considered expended.