

Tribal Transportation Program Delivery Guide - 2013*

A Manual for FHWA and BIA
Program Agreement Tribes

<http://flh.fhwa.dot.gov/programs/ttp/guide/>



*An update of the Indian Reservation Roads Program Delivery Guide of January 23, 2012

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Notice

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Acronyms

AASHTO	American Association of State Highway and Transportation Officials
ACH	Automated Clearing House
ADA	Americans with Disabilities Act
ADT	Average Daily Traffic
BIA	Bureau of Indian Affairs
BIADOT	Bureau of Indian Affairs Division of Transportation
CE	Categorical Exclusion
CEQ	Council on Environmental Quality
CFLHD	Central Federal Lands Highway Division
CFR	Code of Federal Regulations
CM	Contract Modification
DOI	Department of Interior
DOT	Department of Transportation
EA	Environmental Assessment
EFLHD	Eastern Federal Lands Highway Division
EIS	Environmental Impact Statement
ERFO	Emergency Relief for Federally Owned Roads
FHWA	Federal Highway Administration
FLH	FHWA Office of Federal Lands Highway
FONSI	Finding of No Significant Impact
FPOC	Federal Point of Contact (BIA)
GPRA	Government Performance and Results Act
HBP	Highway Bridge Program
HQ/HQTS	Headquarters
HRRRP	High Risk Rural Roads Program
HSIP	Highway Safety Improvement Program
IRR	Indian Reservation Roads
ISDEAA	Indian Self-Determination and Education Assistance Act
LRTP	Long Range Transportation Plan
MAP-21	Moving Ahead for Progress in the 21 st Century Act
MPO	Metropolitan Planning Organization
MSHA	Mine Safety and Health Administration
MUTCD	Manual on Uniform Traffic Control Devices
NACE	National Association of County Engineers
NEPA	National Environmental Policy Act
NHTSA	National Highway Traffic Safety Administration
NTTFI	National Tribal Transportation Facility Inventory
OMB	Office of Management and Budget
OSG	Office of Self-Governance
OSHA	Occupational Safety and Health Administration
PAF	Population Adjustment Factor
PDDM	Project Development and Design Manual
PFSA	Program, Functions, Services, and Activities
PM&O	Program Management and Oversight
PRAE	Project Related Administrative Expenses
PS&E	Plans, Specifications, and Estimates
RFA	Referenced Funding Agreement
RIFDS	Road Inventory Field Data System

RNDF	Relative Need Distribution Factor
ROW	Right-of-Way
SAFETEA-LU	Safe, Accountable, Flexible, Efficient Transportation Equity Act – A Legacy for Users
SHSP	Strategic Highway Safety Plan
SRTS	Safe Routes to School
STIP	State Transportation Improvement Program
STP	Surface Transportation Program
TCP	Traffic Control Plan
TERO	Tribal Employment Rights Ordinance
TFMMS	Transportation Facilities Maintenance Management System
THPP	Tribal High Priority Projects
TOSR	Tribal On-Site Representative
TRB	Transportation Research Board
TSR	Title Status Reports
TTAM	Tribal Transportation Allocation Methodology
TTAP	Tribal Technical Assistance Program
TTIP	Tribal Transportation Improvement Program
TTPTIP	Tribal Transportation Program Transportation Improvement Program
TTP	Tribal Transportation Program
TTFBP	Tribal Transportation Facility Bridge Program
THPP	Tribal High Priority Projects (THPP) Program
TTPSF	Tribal Transportation Program Safety Funding
USC or U.S.C.	The Code of Laws of the United States of America
US DOT	United States Department of Transportation
WFLHD	Western Federal Lands Highway Division

Forward

The Tribal Transportation Program (TTP), originally known as the Indian Reservation Roads (IRR) Program, was established by the Surface Transportation Assistance Act of 1982, and addresses transportation needs of over 560 Indian Tribes and Alaska Native Villages by providing funds for planning, designing, construction, and maintenance activities. The program is jointly administered by the Federal Highway Administration's Office of Federal Lands Highway (FLH) and the Bureau of Indian Affairs (BIA) in accordance with a memorandum of understanding.

The roads, trails and other facilities on the National Tribal Transportation Facility Inventory (NTTFI) provide safe and adequate transportation and public access to, within, and through Indian reservations and native communities for Native Americans, visitors, recreational users, resource users, and others, while contributing to the health and safety and economic development of Native American communities. Since the establishment of the IRR Program, the federal construction has exceeded \$4.5 billion.

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

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) Public Law 109-59 (2005), for the first time allowed Tribes the option of working directly with the Federal Highway Administration (FHWA) in the administration of their IRR program. This option was continued in the Tribal Transportation Program (TTP) in the Moving Ahead for Progress in the 21st Century Act (MAP-21) Public Law 112-141. This is accomplished through a Program Agreement between a Tribal government and FHWA. The BIA has also begun using a Program Agreement approach as an additional option for a Tribe in administering the TTP program.

In administering its TTP Program, a Tribal government is required to comply with the provisions of Title 23 of the United States Code, 25 CFR Part 170, MAP-21 and subsequent authorizations, and the terms of the executed TTP Program Agreement between the Tribe and the FHWA or the BIA.

This *TTP Program Delivery Guide* was first developed in 2008 to assist Tribes in the management of their IRR program. It is intended to explain the TTP Program Agreements while providing relevant technical assistance. The *Tribal Transportation Program Delivery Guide – 2013* is an update to the 2011 version and is intended for use beyond just the FHWA TTP Program, but also the BIA Program Agreement Tribes and as a general reference and assistance in delivering the overall Tribal Transportation Program.

A key message reinforced in this Program Delivery Guide is that coordination and communication with respective Federal, State, and local agencies are critical to the successful delivery of the TTP program.

Roads and bridges are vital transportation links, and are of particular importance in Indian Country. The FHWA and BIA look forward to working with Tribes in the successful delivery of this important program.

Joyce A Curtis
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I. Purpose of the Program Delivery Guide

The fundamental purpose of this document is to provide procedural guidelines to eligible Tribes entering into a Program Agreement with the FHWA or the BIA.

The Program Delivery Guide expands on the terms, roles and responsibilities, and provisions for the Tribes, FHWA, and BIA as outlined in the Program Agreement. It assists Tribal governments in the administration of the Tribal Transportation Program, and sets out the required process and procedures used by the FHWA and the BIA to carry out its oversight and stewardship responsibilities.

In addition, this Program Delivery Guide may serve as a technical resource for Tribal governments, Federal agencies, and State and local governments.

II. Introduction

Overview. The TTP is a part of the FHWA's Federal Lands Highway (FLH) Program established in 23 U.S.C. 202 to address transportation needs of Tribes. The program is jointly administered by the FLH and the BIA in accordance with an interagency agreement.

SAFETEA-LU and subsequently MAP-21 allowed for Tribal governments to enter into TTP Program Agreements directly with the FHWA to administer the TTP Program (see section 1119(g)(4) of the SAFETEA-LU, Pub. L. 109-59, 119 Stat. 1144, August 10, 2005 (codified at 23 U.S.C. § 202(b)(6)).

To carry out the requirements of the program, many agencies must work cooperatively together in a government-to-government relationship. Below is a short description of the various agencies and terms used to implement the TTP.

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

- (1) **Federal-aid Program.** There are 52 Federal-aid division offices (one in each State, the District of Columbia, and Puerto Rico). These division offices are located in the same city as the State Department of Transportation, which is usually the State capital. Federal-aid division offices provide Federal-aid program delivery and technical assistance to partners and customers in the highway transportation industry.
- (2) **Federal Lands Highways (FLH).** The Office of FLH is a division of FHWA. The FLH divisions, which report to the Headquarters FLH Office, administer FLH programs (Forest Highways, Park Roads and Parkways, Public Lands, Refuge Roads, and Indian Reservation Roads); the Defense Access Roads Program; and the Emergency Relief Program on federally owned roads; provide engineering related services to other Federal agencies, FHWA offices, and foreign countries as directed; and carry out technology and training activities related to FLH projects. There are three FLH divisions (Eastern, Central, and Western) located in Sterling, Virginia; Lakewood, Colorado; and Vancouver, Washington; respectively. See **Figure 2.1** for map.
 - (a) **Eastern Federal Lands Highway Division (EFLHD).**
The EFLHD operates as part of the FLH Program, serving the transportation planning and engineering needs of eastern United States, Puerto Rico, and the Virgin Islands.
 - (b) **Central Federal Lands Highway Division (CFLHD).**
The CFLHD operates as part of the FLH, serving the transportation planning and engineering needs of the central United States, Hawaii, and American Samoa.
 - (c) **Western Federal Lands Highway Division (WFLHD).**
The WFLHD operates as part of the FLH Program, serving the transportation planning and engineering needs of the northwestern United States and Alaska.

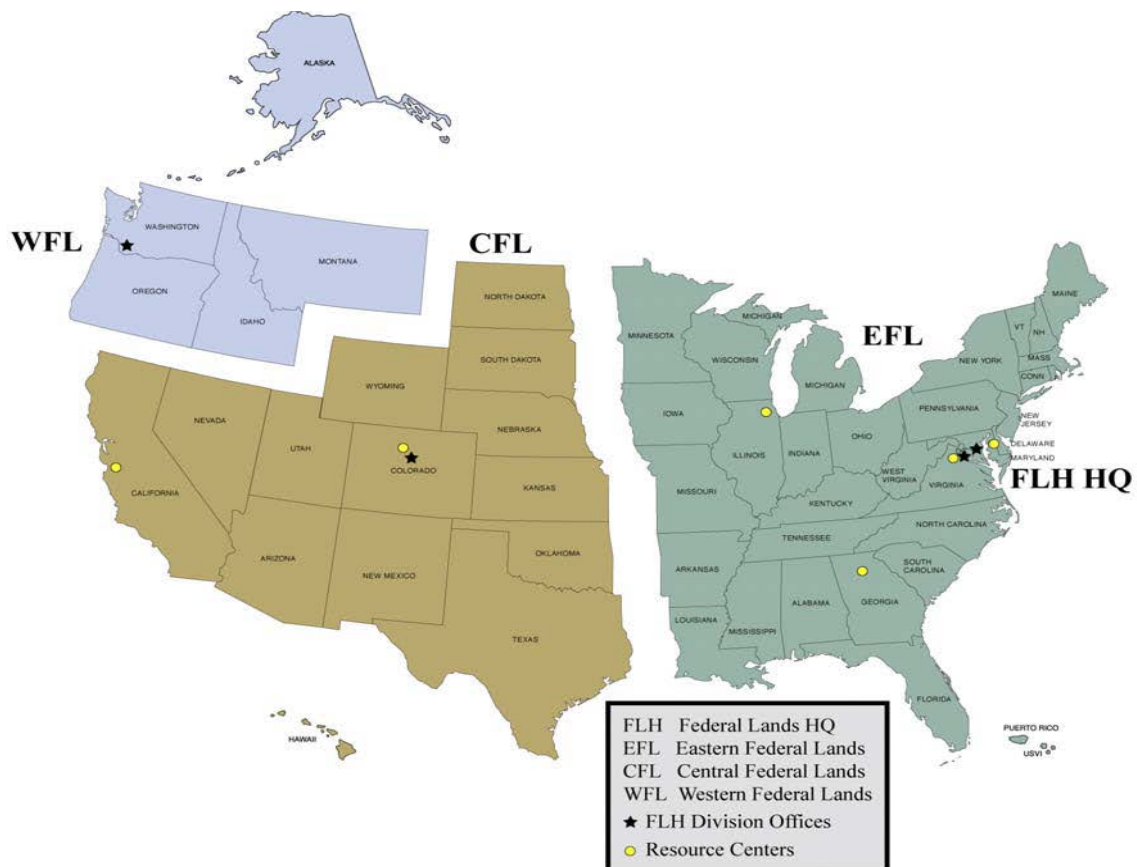


Figure 2.1: Territories assigned to each of the three FLH divisions

Bureau of Indian Affairs (BIA). The BIA is an agency of the United States Department of the Interior (DOI), under the Assistant Secretary of Indian Affairs, with the primary responsibility for the administration and management of approximately 66 million acres of land held in trust by the United States for American Indians, Indian Tribes, and Alaska Natives. It provides services (directly or through contracts, grants, or compacts) to approximately 1.9 million American Indians and Alaska Natives from the 564 federally recognized Tribes. The BIA is organized by 12 Regions and each Region has a TTP component which provides engineering, construction, and road maintenance services for roads on or leading to Reservations and Tribal lands. See **Figure 2.2** for map.

Office of Self Governance (OSG). The OSG is also a part of the DOI and is under the Assistant Secretary of Indian Affairs. The office is responsible for implementing the Tribal Self-Governance Act, the Indian Self-Determination and Education Assistance Act (P.L. 93-638), and Joint Funding Simplification Act (P.L. 95-510) as it pertains to Indian Self-Determination. The Office develops and implements regulations, policies, and guidance in support of the Self-Governance initiatives; facilitate the negotiation of annual funding agreements with eligible Tribes and consortia; coordinates the collection of budget and performance data from Self-Governance Tribes; and resolves issues that are identified in financial and program audits of Self-Governance operations.



Figure 2.2: BIA Regions and Regional Offices

Tribal Government. A Tribal Government is the local governing body of a Tribe, band, pueblo, community, village, or group of Native American Indians, or Alaska Natives that carry out sovereign governmental functions.

Tribal Lands. It is important to determine the status of all impacted land ownership to understand the roles and responsibilities of all parties. This understanding will also help in knowing which Federal, and State laws and regulations may apply. Although there are many classifications of Tribal land, the following are some of the most common:

- **Trust land** - The federal government holds legal title but the beneficial interest remains with the Tribe. Indian people and Tribes have use of the land, but the ultimate control over the land remains with the federal government.
- **Restricted fee land** - The Tribe holds legal title but with legal specific government-imposed restrictions on use and/or disposition.
- **Fee land purchased by Tribes** - The Tribe acquires legal title under specific statutory authority. Fee land owned by a Tribe outside the boundaries of a reservation is not subject to legal restrictions against alienation or encumbrance, absent any special circumstances.
- **Off-Reservation Trust Land** – Land that is protected by the federal government for Indian use. After reservations were created, some Tribes and individual Indians were given land to use outside of the reservation boundaries. For example, these pieces of land could be religious sites or pieces of land allotted to individual Indians.

FHWA Contact Information. A Tribe can find the FHWA contact information and other information pertaining to the TTP at the following FHWA website:

<http://flh.fhwa.dot.gov/programs/ttp/contact.htm>

BIA Contact Information. A Tribe can find the BIA contact information and other information pertaining to the TTP Program at the following BIA website:

<http://www.bia.gov/WhoWeAre/BIA/OIS/Transportation/index.htm>

III. Program Agreements (PA)

Overview. Prior to SAFETEA-LU, Indian Tribal governments worked directly with the BIA or the DOI, Assistant Secretary of Indian Affairs in implementing the TTP program.

Since SAFETEA-LU, Indian Tribal governments have a choice in administration of the TTP program. As a result, under 23 U.S.C. 202(a), the Secretary of Transportation is authorized to enter into agreements with an Indian Tribal government to carry out a highway, road, bridge, parkway, or transit program or projects. This allows Tribes the option of working directly with the FHWA in the administration of their TTP program. In addition, the BIA can also enter into an agreement with a Tribal government to carry out their transportation program. (See Figure 3.1 below)

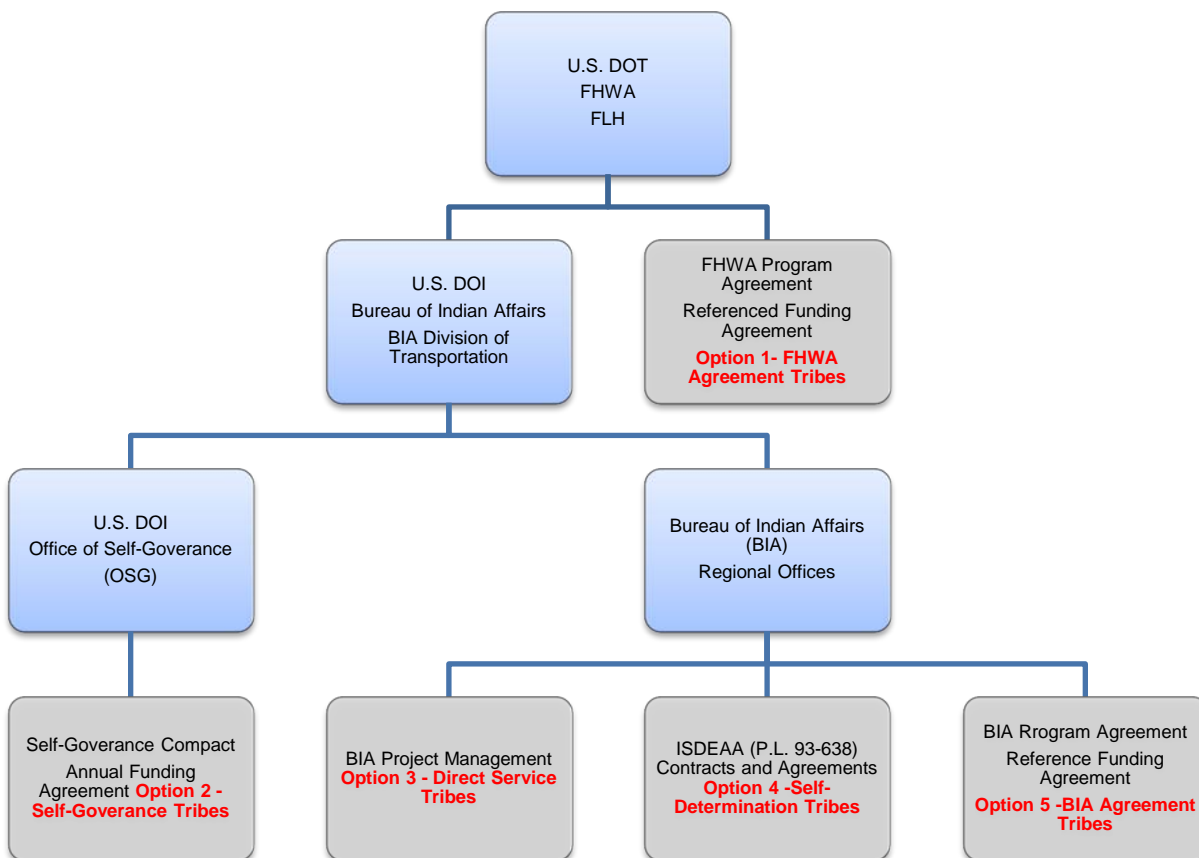


Figure 3.1: The five options the Indian Tribal governments have in administration of the TTP Program.

Tribes that intend to work directly with the FHWA or the BIA in the administration of their transportation program must enter into a Program Agreement. Tribes must demonstrate to the satisfaction of the Secretary of Transportation “financial stability and financial management capability during the three fiscal years immediately preceding the fiscal year for which the request is being made.”

Under 23 U.S.C. 202(b)(7)(F), “an Indian Tribal government that had no uncorrected significant and material audit exceptions in the required annual audit of the Indian Tribal government self-determination contracts or self-governance funding agreements with any Federal agency during the three fiscal year period . . . shall be conclusive evidence of the financial stability and financial management capability.”

Federal law, the standard FHWA Program Agreement, and the BIA Program Agreement, gives hiring and training preferences, to the greatest extent feasible, to Indians for all work performed under the TTP Program (25 CFR 170.911- 25 CFR 170.914). Under 25 U.S.C. 450e(b), Indian organizations and Indian-owned economic enterprises are entitled to a preference, to the greatest extent feasible, in the award of contracts, subcontracts, and sub-grants for all work performed under the TTP Program. In addition, under the standard FHWA Program Agreement or the BIA Program Agreement, the Tribe’s employment rights and contracting preference laws, including Tribal preference laws, apply to work performed under the particular Agreement.

Finally, in exercising responsibility for carrying out the eligible programs and projects, the Tribe, through assurances to the FHWA or the BIA, will certify they will meet all applicable health, safety, and labor standards related to the administration, planning, engineering, and construction activities performed.

Below is a list of some respective regulations related to the implementation and oversight of the program:

- 23 CFR 625 – Design Standards for Highways
- 23 CFR 630 – Preconstruction Procedures
- 23 CFR 650 – Bridges, Structures, and Hydraulics
- 23 CFR 661 – Indian Reservation Road Bridge Program
- 23 CFR 710 – Right-of-Way
- 23 CFR 771 – Environmental Impact and Related Procedures
- 25 CFR 170 – Indian Reservation Roads Program
- 29 CFR 1910 – Occupational Safety and Health Standards
- BIA NEPA
- Government Performance and Results Act

A. Definitions:

Program Agreement (PA) – A standardized document between the FHWA or the BIA and a Tribe which authorizes the Tribe to perform the planning, research, design, engineering, construction, and maintenance of highway, road, bridge, parkway, or transit facility programs or projects that are located on or which provide access to a Tribe or a community of the Tribe and are eligible for funding pursuant to 25 CFR Part 170. (See Appendix A - [Exhibit 3.1 – Program Agreement](#))

FHWA Tribal Coordinator – The main FHWA point of contact located near Tribes which leads the coordination between Tribal Government and FHWA Headquarters for the Program Agreement and Reference Funding Agreement. This person also has the primary function to provide technical assistance, management, and coordination required for improving tribal transportation system, including planning, design, and construction functions, and overall tribal transportation system safety.

BIA Federal Point of Contact (FPOC) – The main BIA Regional Road Engineer located in the nearest field office or region to a Tribe leading the coordination between a Tribal government and a BIA Region for the Program Agreement and Reference Funding Agreement. This person also has the primary function to provide technical assistance, management, and coordination required for

improving tribal transportation system, including planning, design, and construction functions, and overall tribal transportation system safety.

Tribal Resolution or Authorizing Document – A document provided to the FHWA or the BIA by a Tribe stating the Tribe’s intent to enter into a “Program Agreement” with the FHWA or the BIA (See Appendix A - [Exhibit 3.2 –Example Tribal Resolution](#)).

Financial Management Documentation – A letter submitted to the FHWA or the BIA by a Tribe attesting to the lack of material audit exceptions for the prior three fiscal year period.

Assurances - A positive declaration from a Tribe intended to give confidence to the FHWA or the BIA that projects and/or other program areas implemented by the Tribe are being carried out in accordance with all Federal requirements.

B. Statutory/Regulatory Requirements

- 23 U.S.C. 202(a)

C. Guidelines, Procedures, and Process

1. The “Onboarding” process for Tribes intending to enter into a Program Agreement (PA).

a. For Tribes wishing to work with FHWA, the following process is followed:

- (1) Through a Notice of Intent, a Tribal government shall notify FHWA of its desire to work directly with the FHWA and enter into an FHWA Program Agreement for the administration of its Tribal Transportation Program. The Tribe’s Notice of Intent should be emailed to ttp_hq@dot.gov
- (2) FHWA will assign a Tribal Coordinator to work through the on-boarding process with the Tribe.
- (3) The FHWA Tribal Coordinator will provide an e-mail reponse to the Tribe’s signatory of the Notice of Intent, with a cc: to the Tribe’s Transportation Director. The e-mail will contain the following information:
 - A confirmation of receipt of the letter of intent.
 - A pdf file of this chapter of the Program Delivery Guide which discusses the on-boarding process steps.
 - A request for the additional documentation that will be required by FHWA from the Tribe before further action can be taken, including:
 - Sample Tribal resolution, if Tribal Resolution has not been previously submitted by the Tribe (see Appendix A - [Exhibit 3.2 –Example Tribal Resolution](#)).
 - The FHWA Program Agreement template (see Appendix A - [Exhibit 3.1](#))
 - FHWA Referenced Funding Agreement template (see Appendix A - [Exhibit 4.1](#));
 - The FHWA Program Agreement Orientation presentation;
 - The FHWA Tribal Transportation Program brochure; and
 - The link to the Program Delivery Guide at <http://flh.fhwa.dot.gov/programs/ttp/guide/>.

- Tribal audits:
 - **If the Tribe has received more than \$500,000 of Federal funding** the past fiscal year, the Tribe's financial single audit summary reports for the previous three fiscal years that were conducted in accordance with: 1) the auditing standards applicable to financial audits (Government Auditing Standards, issued by the Comptroller General of the United States); and 2) the compliance requirements in OMB Circular A-133 *Compliance Supplement and the Single Audit Guidelines*. The Tribe shall provide all the findings and discussions related to the Tribe's DOT program, as well as for the Tribe's other Federal programs. The Tribe shall also provide the corrective action plans and implementation schedules that were developed for any material findings identified in the Audits;
 - **If the Tribe has received less than \$500,000 of Federal funding** the past fiscal year, the Single Audit documentation identified above may or may not be available. In these cases, the Tribe must provide copies of any internal or external financial review/audits that have taken place over the past three years as well as any corrective action plans and implementation schedules that were developed.
 - Auditor's letters attesting to the finding or lack of material audit exceptions for the past three fiscal year period;
 - The Tribe's organizational charts for their Transportation and Financial Departments; and,
 - The Tribe's written Financial, Contracting, and Property Management Procedures.
- (4) After providing the above information to the Tribe, the FHWA Tribal Coordinator will conduct a webinar/conference call with the Tribe's representatives. The intent of this contact is to discuss the orientation presentation, review the language of the Program Agreement, establish a primary point of contact (POC) for future correspondence, ensure that the tribe's roles and responsibilities are understood, identify any remedial actions that could take place for non-performance, and answer any questions that the Tribe may have.
- (5) FHWA will review the submitted Tribal information, discuss the Tribe's on-going projects and contracts with the BIA Regional Office or OSG, and make a determination of the Tribe's financial stability and management capabilities. FHWA may ask for additional documentation in order to determine eligibility for entering into the Program Agreement.
- (6) Upon approval, FHWA will prepare the final FHWA Program Agreement (PA). Any major change to the PA template will require a FHWA legal review. The PA and the Automated Clearing House (ACH) Bank Form (SF 3881) will then be sent by email to the Tribe for completion and signature by Tribal Leadership. The ACH Bank Form (SF 3881) in Appendix A, Exhibit 5.1 and at <http://www.gsa.gov/portal/forms/download/116290>
- (7) The Tribe will return the signed PA and completed ACH Bank Form to the FHWA Tribal Coordinator for FHWA signature and processing.

- (8) After the PA is signed by the Tribe and FHWA, the Referenced Funding Agreement (RFA) process will begin. See [Chapter IV - Referenced Funding Agreements \(RFA\)](#).
 - (9) At this time, the Tribal Coordinator will schedule a meeting with the Tribe, BIA, and OSG (if required) to review the funding and project status of the Tribe's active BIA contracts or compacts to determine the best course of action for each (ie: continue, close out, fund transfer) as well as agency stewardship, oversight, and reporting responsibilities.
- a. For Tribes wishing to work with the BIA, the following process is followed:**
- (1) Through a Notice of Intent, a Tribal government shall notify the BIA of its desire to work directly with the BIA and enter into an BIA Program Agreement for the administration of its Tribal Transportation Program.
 - (2) The BIA FPOC provides an email to the Tribe of the process as outlined below, including all forms.
 - (3) The Tribe provides the BIA FPOC with a Tribal Resolution or Authorizing Document (See Appendix A - [Exhibit 3.2 –Example Tribal Resolution](#)).
 - (4) The FPOC sends the document to appropriate BIA office for approval, and the FPOC notifies the BIA Regional Road Engineer of the Tribe's intent to enter into a Program Agreement. For a Tribe currently participating in a self-governance compact (either individually or as part of a consortium) the FPOC notifies the Office of Self-Governance (OSG), Department of the Interior, that it has received a letter of intent from the Tribe.
 - (5) Once the Tribal Resolution or Authorizing Document is received and reviewed by BIA, the FPOC requests the Tribe to ask their auditors to prepare a letter attesting to the lack of material audit exceptions for the prior three fiscal year period and a copy of the audit. BIA doesn't necessarily need the full report, but any findings and discussions related to their DOT program, as well as for All-Federal programs in which the DOT is included.

The audit information is then sent to the BIA FPOC who forwards it to the appropriate BIA office for review.
 - (6) The appropriate BIA office reviews the audits and makes a determination of their financial stability.
 - (7) Once the audit is reviewed and approved by the BIA, a Program Agreement (also called a "G2G Agreement) is sent by the BIA to the Tribal leadership for signature. (**Note:** Any major change to the Program Agreement will require a BIA legal review.)

In addition, the BIA sends to the Tribe the Automated Clearing House (ACH) Bank Form (SF 3881), which documents the Tribe's direct deposit account for TTP funds from FHWA. The form is shown in Appendix A - [Exhibit 5.1](#), and can be obtained at <http://www.gsa.gov/portal/forms/download/116290>
 - (8) The Tribe completes both documents and returns them to the BIA FPOC. The BIA FPOC then forwards the documents to the appropriate BIA office.

- (9)** When BIA and the Tribe have both signed the PA, a Referenced Funding Agreement (RFA) with appropriate year funding amount is sent by the BIA FPOC to the Tribe for signature.
- (10)** The signed RFA is returned to the BIA FPOC who then forwards the documents to the appropriate BIA office.
- (11)** Once the BIA and the Tribe have both signed RFA, the funding is sent by BIADOT to the Tribe's established account.

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.

V. Funding

Overview. Under a Tribe's Program Agreement with the FHWA, FHWA electronically transfers TTP funds designated in a signed RFA to the Tribe's financial institution account.

A. Statutory/Regulatory Requirements

In reference to 23 U.S.C. 202(b)(7)(E) and subject to the availability of funding, the Secretary shall provide to the Tribe, or its designee, a funding amount equal to the amount that the Tribe would otherwise receive for the TTP program in accordance with the funding formula to the Program (25 CFR 170, Subpart C). Further, the Tribe would receive additional funding as determined by the Administrator usually withheld by the BIA for the administration of the Tribe's TTP Program or projects.

B. Guidelines/Procedures

- 1. ACH Banking Form (SF 3881).** The Tribe prepares an ACH banking form (See Appendix A - [Exhibit 5.1 –ACH Banking Form](#)) and submits it to the FHWA Tribal Coordinator or the BIA FPOC, who then e-mails the ACH Banking information to FHWA-FLH HQTS. The form can be obtained at <http://www.gsa.gov/portal/forms/download/116290>
- 2. Funds Transfer.** The FHWA-FLH-HQTS will transfer funds to the Tribe's account within the agreed upon time period in the Program Agreement and RFA. Once the FHWA-FLH-HQTS receives the signed RFA form, the FHWA-FLH-HQTS signs the RFA and allocates funds to the Tribes within 30 days.
- 3. Types of funds that can be transferred.** Under the Program Agreement with the FHWA, the types of program funds that can be transferred to the Tribe are described in Chapter 2 of Title 23, U.S.C., program funds. Some funds in addition to the TTP program funds may be transferred to the Tribe. The Tribe should contact the FHWA Tribal Coordinator to determine which funds may be transferred.
- 4. Availability of funds.** TTP funds are available for obligation in the fiscal year for which they are authorized plus three additional fiscal years. After that point, the funds lapse and are no longer available. When the funds are provided to the Tribe through the RFA, the funds are deemed obligated.
- 5. Burden Estimate Statement**

The estimated average burden associated with this collection of information is 15 minutes per respondent or record keeper, depending on individual circumstances. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Financial Management Service, Facilities Management Division, Property and Supply Branch, Room B-101, 3700 East West Highway, Hyattsville, MD 20782 and the Office of Management and Budget, Paperwork Reduction Project (1510-0056), Washington, DC 20503.

VI. Allowable Uses of Program Funds

Overview. Program funds are Federal funds that may only be expended on certain allowable activities. The program funds also come with conditions. Allowable activities are broken into two broad categories: (1) Planning and Design activities, and (2) Construction and Improvement activities. For a complete list of allowable uses of TTP funds, see Appendix A to Subpart B of 25 CFR 170. **The most common allowable activities to expend TTP funds on are:**

1. Planning and Design Activities –

- Indirect general and administrative costs which include, but are not limited to, computers, software, office furniture, and other equipment needed to administer the TTP. Costs should be reflected in a budget and must be reasonable and in accordance with OMB Circular A-87.
- Transportation-related planning and programming activities (including but not limited to roadway, trails, transit, and safety planning and programming, and planning for tourism and recreational travel).
- Identification and evaluation of accident prone locations.
- Planning and design of Tribal Transportation Facilities.
- Engineering support studies (i.e. geotechnical, hydraulic, etc.)
- Environmental studies, evaluations, and compliance activities.
- Planning and design of mitigation for impacts to environmental resources (i.e. wildlife and their habitat, wetlands, cultural resources, water quality, air quality, etc.).
- Architectural and landscape engineering services including lighting. Inspection of bridges and structures.
- Public meetings and public involvement activities.
- Tribal employment rights ordinance (TERO) fees.

2. Construction and Improvement activities –

- Construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements of TTP facilities (i.e. roads, trails, bridges, structures, pedestrian and bicycle facilities, transit facilities, ferry facilities, rest areas, parking areas, etc.).
- Road sealing and chip seals
- ADA improvements.
- Seasonal transportation routes, including but not limited to snowmobile trails, ice roads, overland winter roads.
- Mitigation activities required by Tribal, state, or Federal regulatory agencies, and 42 U.S.C. 4321 *et seq.*, The National Environmental Policy Act (NEPA) (see Appendix A to Subpart B of 25 CFR 170 for other environmental related allowable costs).
- Tribal employment rights ordinance (TERO) fees.
- Maintenance of TTP facilities identified in the National Tribal Transportation Facility Inventory (NTTFI) (25 CFR 170.803). Not more than 25% or \$500,000, whichever is greater, of the TTP funds allocated to a Tribe may be expended for the purpose of maintenance. This funding limit does not apply to road sealing (25 CFR 170.802).
- Development and negotiation of Tribal-State road maintenance agreements.
- Purchasing, leasing or rental of construction equipment. This requires submittal of written notification to, and approval by, the FHWA or the BIA, with justification and back-up documentation showing that it is more economical to purchase than to lease.

A. Conditions on TTP Funds. The amount of TTP allocation funds that can be used for particular activities have certain conditions placed on them. They are:

- Planning – Up to 2% of total fiscal year TTP funds as shown on RFA (23 U.S.C. 202(c)); up to 100% of TTP funds (25 CFR 170.403) if identified as a priority on FHWA approved TTPTIP.
- Preliminary Engineering – Up to 100% of Tribe’s total fiscal year TTP allocation minus any amounts from other areas.
- Construction – Up to 100% of Tribe’s total fiscal year TTP allocation minus any amounts from other areas.
- Construction Engineering – Up to 100% of Tribe’s total fiscal year TTP allocation minus any amounts from other areas.
- Transit – Up to 100% of Tribe’s total fiscal year TTP allocation minus any amounts from other areas.
- Maintenance – Up to 25% or \$500,000, whichever is greater, of total fiscal year TTP Tribal allocation (23 U.S.C. (a)(8), and 25 CFR 170 Subpart G).

VII. Transportation Planning

Overview. Transportation planning is a field involved with the evaluation, assessment, and design of transportation facilities (generally streets, highways, sidewalks (pathways), bike lanes and public transit). The transportation planning process defines goals and objectives, identifies problems, generates alternatives, evaluates alternatives, and develops plans. In addition, transportation planning assesses future funding requirements for the transportation system to meet projected travel demand.

The transportation planning process also includes data collection. Tribes collect data and provide this information to the BIA who maintains the National Tribal Transportation Facility Inventory.

Key products from the transportation planning process require the Tribe to develop a Long Range Transportation Plan (LRTP) and a Tribal Transportation Improvement Program (TTIP). FHWA or BIA approves the TTIP developed by the Tribes, and the Tribes implement the activities from the approved TTIP.

The role of the FHWA or BIA Tribal Planner is to provide technical expertise and assistance throughout the transportation planning process.

A. Statutory/Regulatory Requirements (25 CFR 170.400-446)

As defined in 25 CFR 170, the purpose of transportation planning is to fulfill transportation goals by developing strategies to meet transportation needs. Transportation strategies should be developed in consideration of current and future land use, economic development, traffic demand, public safety, health, and social needs. In addition, the transportation strategies should consider all modes of transportation including vehicle, transit, pedestrian, bicycle, freight, and as appropriate, rail, air, and water.

The Tribe should coordinate with and inform (25 CFR 170.108(a)(1)) the State DOT, and as appropriate any Metropolitan Planning Organization (MPO), on all regionally significant projects when developing their TTIP. Coordination should be done with these entities during the transportation planning process to ensure that their programs and projects adjacent to Tribal lands are consistent and appropriate with Tribal needs and interests.

The following are the functions, duties, and responsibilities the Tribal government has assumed when implementing the transportation planning process:

1. Preparing National Tribal Transportation Facility Inventory data updates as needed;
2. Coordinating with States, their political subdivisions, and appropriate planning authorities on regionally significant projects;
3. Developing Program budgets including transportation planning cost estimates;
4. Facilitating public involvement;
5. Participating in transportation planning and other transportation related meetings;
6. Performing traffic studies;
7. Performing preliminary project planning;
8. Conducting special transportation studies;
9. Developing short and long-range transportation plans;
10. Developing the TTIP;
11. Mapping;
12. Performing transportation planning for operational and maintenance facilities; and
13. Researching rights-of-way documents for project planning.

The following are the functions, duties, and responsibilities the FHWA and BIA have assumed when implementing transportation planning process:

1. Reviewing LRTPs developed by the Tribe or other contractors;
2. Reviewing and approving TTIPs developed by the Tribes or other contractors;
3. Ensuring the TTIP is on the State TIP (STIP);
4. Providing technical assistance to Tribal governments;
5. Coordination with tribal, state, regional, local governments; and
6. Coordinating with other Federal agencies.

B. Tribal Long Range Transportation Plan (LRTP)

Under the guidance of 25 CFR 170, a LRTP provides the vision for meeting transportation needs. The LRTP identifies short and long-range transportation improvement strategies that will address current and future transportation needs consistent with Tribal, Federal, and State government policies. The LRTP addresses various capital investments and inventories current facilities necessary in preserving existing infrastructure and the transportation system as a whole. This process and the plan are prerequisites to the expenditure of Federal funds. The following chart references key items for a LRTP.

Long Range Transportation Plan	
Item	Reference
Plan development, updates, amendments, and adoption (approved and date by Tribal Policy body)	25 CFR 170 Subpart D.
Time horizon for long-range transportation planning should be 20-years to match State transportation planning horizons. The Tribal transportation planner should review and update the LRTP at least every 5 years.	25 CFR 170.410,414
Includes both long- and short-range <i>strategies</i> that address current and future land use, economic development, traffic demand, public safety, health, and social needs. Lead to an intermodal transportation system that facilitates the efficient movement of people and goods.	25 CFR 170.411
Identifies approach in addressing current and future transportation demand. (Trip generation reports, forecast, etc.)	25 CFR 170,400 25 CFR 170.410 25 CFR 170.411(b)
Identifies existing and future transportation network. (National Tribal Transportation Facility Inventory, proposed routes, routes to be included in National Tribal Transportation Facility Inventory, transit, water, air, etc.)	25 CFR 170.442-446. Best Practice
Identifies transportation safety.	25 CFR 170.101(a)(1) 25 CFR 170.142
Describes proposed improvements in sufficient detail to develop cost estimates.	25 CFR 170.402(b)(10) 25CFR170.415
Sensitive environmental and archeological sites identified or noted.	25 CFR 170.415
Includes an analysis of funding alternatives to implement plan recommendations and preliminary project cost estimates..	25 CFR 170.411(j) 25 CFR 170.415(a)(1)
Estimates revenues identifying both existing and proposed source (local, State, Federal, Tribal, and private).	
Provides early and continuing opportunity for public official and citizen involvement on the draft LRTP.	25 CFR 170.413, 25 CFR 170.435-441
Provides consultation and coordination with States and/or MPO's for regionally significant projects.	25 CFR 170.108, 415(a)(3)
Includes a prioritized list of short- and long-term transportation needs.	25 CFR 170.411(i)

1. **L RTP Approvals.** The FHWA or the BIA does not approve the Tribal LRTP. The FHWA or the BIA Planning Specialist will be available for technical assistance during the plan development, update, or amendment prior to adoption by the Tribal Council. Once adopted, the FHWA or the BIA will review each plan and prepare a written record of the plan's adherence to applicable laws and regulations. Such reviews will be provided to the Tribal government for their information and will become part of the written record for the FHWA's and BIA's use in making a Federal planning finding on their Tribal transportation planning process.
2. **L TRP Publication.** A Tribe's LRTP shall be published in electronically accessible formats (to the maximum extent practicable in .doc, .txt, or .pdf files) and an electronic copy given to their respective Federal agency (FHWA; or BIA FPOC, and BIA DOT). A hard copy and/or electronic version must be given to other governmental entities and organizations that hold an interest in coordinating transportation projects with the Tribal government.
3. **L RTP Resources.** The following are resources that can assist in developing a short/long range transportation plan:

Web links:

- FHWA Tribal Transportation Planning – <http://www.fhwa.dot.gov/hep/Tribaltrans/index.htm>
- National Tribal Transportation Facility Inventory Report - <https://www.itims.doi.gov/reports.shtml>
- National Tribal Technical Assistance Program (TTAP) - <http://www.ltap.org/>
- Code of Federal Regulations – <http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>
- Office of Federal Lands Highway – <http://flh.fhwa.dot.gov/>

Books/Manuals:

- *Manual on Uniform Traffic Control Devices* - <http://mutcd.fhwa.dot.gov/>.
- *Trip Generation*, Institute of Transportation Engineers.
- *Parking Generation*, Institute of Transportation Engineers.
- *Transportation Decision-making Information Tools for Tribal Governments – Developing A Long Range Transportation Plan*, FHWA Office of Planning - http://www.tribalplanning.fhwa.dot.gov/training_lrtp_module.aspx.
- *Practitioner's Handbook #10: Using the Transportation Planning Process to Support the NEPA Process*, American Association of State Highway and Transportation Officials - http://environment.transportation.org/pdf/programs/practitioners_handbook10.pdf.

C. Pre-Project Planning

Pre-project planning is part of overall transportation planning and includes the activities conducted before final project approval on the TTP Transportation Improvement Program (TTPTIP). The pre-project planning process provides the information necessary to program a project on the four year TTIP.

Pre-project planning looks at various alternatives to the project (roundabout vs. intersection) the preliminary cost of a project, if the project warrants a public hearing, regionally significant, addresses needs and preliminary environmental and archeological reviews.

The pre-project planning process is not the final determination on which projects are designed and built. Determination is made only after a thorough analysis of all relevant factors, including NEPA review. Whether or not the project is actually funded and built, the extent of the project, and the type of project chosen to meet the purpose and need, will be determined only after the NEPA process is completed.

The [Pre-Project Planning Score Worksheet](#) (see Appendix A - [Exhibit 7.5](#)) can be used to aid the Tribe when addressing this part of transportation planning.

Pre-project planning activities include:

- **Preliminary project cost estimates.** This looks at alternative approaches to the project and what each approach would cost (roundabout cost vs. intersection cost, for example), and identifies items that need to be considered and included in the project. It is very important that all known items of work be identified and estimated. It is recognized that not all projects will have each and every item listed on the worksheet (see Appendix A - [Exhibit 7.5](#)). In some instances, not all of the items can be identified at this stage and an appropriate contingency factor (+5-25%) should therefore be applied to reflect other possible items.
- **Certification of public involvement.** Public involvement is required for all TTIP's (25 CFR 170.424(a)). A public hearing must be held if a project is:
 - (a) Is a new route or facility;
 - (b) Would significantly change the layout or function of connecting or related roads or streets;
 - (c) Would cause a substantial adverse effect on adjacent property; or
 - (d) Is controversial or expected to be controversial in nature. (25 CFR 170.435).

The **Certification of public involvement** is documented by submitting the self-certification statement when submitting your TTIP. Documents to be kept filed by the Tribal DOT are: Announcement of meeting, notice, or hearing; Sign-In sheet, minutes, or recording of hearing and other documentations that provide records of public involvement).

- **Consultation and coordination with States and/or MPO's for a regionally significant projects.** A "regionally significant project" is one that occurs on a facility serving regional transportation needs, and that would normally be included in the modeling of a metropolitan area's transportation network. This type of project includes work on principal arterial highways and all fixed guideway transit facilities that offer a significant alternative to regional highway travel. ("Regional transportation needs" includes access to and from the area outside of the region; major planned developments such as new retail malls, sports complexes, etc.; or transportation terminations, as well as most terminals themselves). The State DOT can assist in modeling or providing clarification on regionally significant projects for your area.

- **Preliminary needs assessments.** Two questions should be asked: (1) What is the problem your trying to solve with this project? (2) What are the consequences of not addressing the problem?
 - The statements should be specific enough to be measurable. The discussion should set the stage to conclude that the project is needed. How many fatalities (supported by data)? How much flooding (supported by data)? How much maintenance effort is needed? How much congestion? The discussion should make a convincing case that a solution to a problem is needed and that the purpose of the proposed project is to provide a solution that best solves the transportation problem.
 - For example, "Maple streets ADT has increase by 15% in last two years, a need to widen road for left hand turn lane is warranted according to applicable standards. If project is not address safety issues will increase.
 - Statements that are not supported by data and facts such as "dangerous", "hazardous", or "this curve caused six accidents" should not be stated. These are opinions and should not be used.
- Conceptualization of possible alternative strategies that could satisfy the identified deficiencies and purpose and need. This is not an all-inclusive list and is used for the purpose of programming a project. A complete list of all reasonable alternatives will be identified in the NEPA process.
- **Preliminary environmental and archeological reviews.** Document what and where your environmental and archeological resources are related to your project prior to construction. This can be done by working with your Tribal Natural Resource Department, Tribal Historical Preservation Office or the Federal/State agencies in your area. (See 23CFR450.322(g) for further details)

The process provides a sound basis for commitment of resources necessary to conduct environmental studies and other activities with respect to the proposed project.

See **Chapter IX - NEPA and Other Environmental Requirements** to determine the level of NEPA analysis that will be needed for the proposed project.

D. Tribal Transportation Improvement Program (TTIP)

1. Definitions:

- **TTIP.** The Tribal Transportation Improvement Program is a multiyear financially constrained list of proposed transportation projects developed by a Tribe, using the Tribal Priority List or the LRTP. The transportation facilities in the TTIP must be in the approved National Tribal Transportation Facility Inventory. "Financially constrained" means that a Tribe cannot show more programmed projects/activities in their TTIP than they have funds available, or funds that are "reasonably expected to be available" [see 23 CFR 450.104, 25 CFR 170.422. Please refer to the "Financial Planning and Fiscal Constraint for Transportation Plans and Programs Questions & Answers" from FHWA Office of Planning, Environment and Realty located at <http://www.fhwa.dot.gov/planning/fsclentrntques.cfm>
- **TTIPTIP.** The Tribal Transportation Program Transportation Improvement Program is a combination and complete list of all the Tribes' approved TTIPs together. The Secretary of Transportation distributes copies to each State for inclusion in their respective STIPs without further action.

2. Guidelines/Procedures

TTIP consistent with the LRTP and the Inventory. The projects listed on the TTIP must be consistent with the LRTP (25 CFR 170.421(a)). For those projects funded under the TTP, the route must be listed in the National Tribal Transportation Facility Inventory (25 CFR 170.442 (a)).

Project Funding. The TTIP needs to document the anticipated or available funding source(s) to be used to implement each transportation project. All of the funded transportation projects must be listed on an FHWA approved TTIP.

Planning Requirements for Development of the TTIP. The TTIP must adhere to all relevant provisions found in 25 CFR 170. The FHWA or BIA Transportation Planning Specialist will provide technical assistance to the Tribe to ensure that all Federal planning requirements have been met in the development of the proposed TTIP.

Financially Constrained. The TTIP must be financially constrained and contain all proposed projects and activities for construction programmed for four years. The year the project or activity will be implemented should be indicated in the TTIP.

Projects that are not financially constrained in the TTIP will be considered a part of an illustrative list, as long as they are listed in the LRTP. The unconstrained projects will not be considered for approval on the TTIP, nor will they be forwarded to be included into the State DOT STIP. Once funds become available for any project identified on the illustrative list, an amendment to the TTIP should be made showing the project as funded and programmed and forwarded to the Tribe's respective Federal agency, the FHWA or the BIA for approval.

Public Involvement. As required by 25 CFR 170.424, prior to submitting the TTIP for approval, the public must be allowed the opportunity to review and comment on the TTIP. The TTIP is subject to approval by the FHWA and concurred by the BIADOT Regional Road Engineer.

TTIP Timeline. The following table shows the timeline for the development, delivery, and approval of the TTIP (25 CFR 170.425).

TTIP Timeline (Fiscal Year)			
Quarter	Month	Action Item	Responsible Party
1 st Quarter	Oct-Nov-Dec	(1) Notifies the Tribe of the annual update of the TTIP; (2) Organizes with the Tribe a TTIP Coordinating meeting; (3) Provides the Tribe "Projected Program Amount" letter with funding amounts (see Appendix A - Exhibit 7.1); (4) Sends a copy of the current TTIP to the Tribe; (5) Provides a Pre-Project Planning Scope worksheet to the Tribe; and (6) Provides the Tribe with a FHWA Approved TTIP Form (see Appendix A - Exhibit 7.2); (7) Provides the Tribe a copy of the TTIP Certification Statement (see Appendix A - Exhibit 7.3).	FHWA Tribal Coordinator or BIA FPOC

2 nd through 4 th Quarter	Jan through July 15	(1) Reviews any new transportation planning information, priority lists, and TTIP. (2) Completes and forwards an updated TTIP package (Transportation Planning Process and TTIP Development Certification; TTIP Checklist; Approved TTIP Forms) to FHWA Transportation Planning Specialist or BIA FPOC.	Tribe
4 th Quarter	July 16 through September	Reviews all submitted information with the Tribes	FHWA Tribal Coordinator or BIA FPOC
		Upon satisfactory submittal, the TTIP is approved.	FHWA Planning Specialist or FPOC

During the first quarter of the fiscal year, the Tribe will receive a Projected Program Amount letter (See Appendix A - [Exhibit 7.1](#)). The TTP projected amount is used to assist in developing the TTIP. The TTP projected amount is not a guaranteed funding amount, nor is it to be used as leverage for other funding. The amount documented in the letter is for planning purposes only and to fulfill the requirements of 25 CFR 170.425(a).

Also, each Tribal transportation department will receive an electronic “FHWA Approved TTIP Form” or “BIA Approved TTIP Form” (See Appendix A - [Exhibit 7.2](#)) or the Microsoft Access TTIP Data Base File (See Appendix A - [Exhibit 7.4](#)) to develop their TTIP. The Tribe will fill out one of these forms for each activity to be included in their TTIP. Activities will fall into seven categories:

1. Administration
2. Planning
3. Preliminary Engineering
4. Construction
5. Construction Engineering
6. Transit
7. Maintenance

During this phase of the TTIP development, the Tribe and FHWA or BIA should mutually determine what inherent and/or non-inherent functions the Federal Government will perform (see 25 CFR 170 Appendix A to Subpart E – TTP Functions that are not Otherwise Contractible).

Typically, “inherent Federal functions” are at no cost to the Tribe (e.g., National Environmental Policy Act (NEPA) Approval); whereas non-inherent functions are a cost to Tribes (e.g., NEPA documentation, design, construction, and project management).

3. TTIP Development. The following defines the seven categories and provides basic guidance to aid Tribes in filling out the FHWA Approved TTIP Form or the BIA Approved TTIP form.

Category	Guidance
Administration	Costs associated with Administration may be direct and/or indirect cost related to tribal transportation department operating costs. Indirect costs should match line 11 of the Federal Financial Report, SF 425 and follow the FHWA indirect policy. (See Section XV - Reporting Requirements). 25CFR 170.931, 25CFR170 Appendix A to Subpart B A 36
Planning	Costs associated with Planning are those activities conducted during the Long Range Transportation Planning process (see 25CFR 170.400-446) i.e. 20 year LRTP, transportation improvement plan development, pre-project planning, etc. Up to 2% of total fiscal year TTP funds as shown on RFA (23 U.S.C. 202(c)), and up to 100% of TTP funds, if identified as a priority on the FHWA approved TTPTIP (25 CFR 170.403).
Preliminary Engineering	Costs associated with developing a PS&E package (see 25CFR170.460) i.e. surveying, design, NEPA, technical engineering, ROW acquisition, etc. Budgeted costs are usually between 10-25% of the overall project costs. Funds used for preliminary engineering can be up to 100% of Tribes' total fiscal year allocation minus any amounts from other areas.
Construction	Costs associated with construction activities include but not limited to roadway construction, utility relocation, bridge construction, culvert placement (not replacement of culverts), etc. Budgeted costs are usually between 60-90% of the overall project cost. Funds used for construction can be up to 100% of Tribes' total fiscal year allocation minus any amounts from other areas.
Construction Engineering	Costs associated with construction engineering include but not limited to, managing the project on/off site, inspection, material testing, etc. Budgeted costs are usually between 10-15% of the overall project costs. Funds used for construction engineering can be up to 100% of Tribes' total fiscal year allocation minus any amounts from other areas.
Transit	Costs associated with transit are documented in the LRTP and include but not limited to, administration, operations, personnel, etc.. Costs should be coordinated with the Federal Transit Administration (FTA) if used as matching FTA projects. Funds used for transit can be up to 100% of Tribes' total fiscal year allocation minus any amounts from other areas
Maintenance	Activities identified as maintenance are located in 25 CFR 170 Appendix A to Subpart G. Funds used for maintenance can be up to 25% of total fiscal year TTP Tribal allocation or \$500,000, whichever is greater (23 U.S.C. 202(a)(8); 25 CFR 170.802), except for road sealing, which is not subject to any limitation.

- 4. Submitting the TTIP Package.** The Tribe should submit the following items as a package to the FHWA or BIA Transportation Planning Specialist for review in order for the TTIP to be approved:
- A signed and dated “Tribal Transportation Planning Process and Transportation Improvement Program Development Certification Statement” (See Appendix A - [Exhibit 7.3](#)).
 - FHWA or BIA Approved TTIP Forms for each project/activity.
 - Tribal Resolution or Tribally authorized government action.

The TTIP package may be mailed, e-mailed or faxed to the FHWA or BIA Transportation Planning Specialist.

- 5. Reviewing the TTIP.** The FHWA or BIA Transportation Planning Specialist will review the TTIP package.

Note: If the FHWA or BIA Transportation Planning Specialist does not receive a signed “Transportation Planning Process and Transportation Improvement Program Development Certification Statement”, as described above, then a manual and more time consuming review process will take place.

- 6. Approving the TTIP.** The FHWA and BIA have until September of the current fiscal year to approve the TTIP (BIA will concur). Once the TTIP is processed by the federal agency, the document is forwarded to FHWA-FLH Headquarters Office in Washington DC where it is considered for approval. Once approved by FHWA the TTIP becomes part of the official TTPTIP. The Tribe will then receive a signed copy of the TTPTIP (See Appendix A - [Exhibit 7.6](#)). If some projects are not eligible, the Tribe will receive a “partial” TTIP approval.

FHWA provides copies of the approved TTPTIP to the FHWA division office for transmittal to the State transportation agency for inclusion in the State Transportation Improvement Program (STIP). Note: Having a project listed on the STIP does not guarantee State funding.)

- 7. TTIP Resources.** The following are resources that can assist in developing a TTIP.

Web link:

- Tribal Transportation Planning –FHWA Tribal Transportation Planning website at <http://www.fhwa.dot.gov/hep/Tribaltrans/topics.htm>. This site provides information, training, and technical assistance to the transportation professionals responsible for planning the capital, operating, and maintenance needs for Tribal Governments. On this website, you will find planning news, regulations, policies, training information, technical resources, and contact information. Also on this site is a Tribal Transportation Module Training Series, with topics such as, *Introduction to Planning; Developing a LRTP; Developing a TIP; Funding Resources; Public Involvement; Data Collection and Uses; Safety; and Project Prioritization.*

D. National Tribal Transportation Facility Inventory Update

1. Definition:

- **National Tribal Transportation Facility Inventory (NTTFI).** A comprehensive database of all transportation facilities eligible for TTP funding by Tribe, reservation, BIA agency and region, Congressional district, State, and county. Other specific information collected and maintained under the TTP Program includes classification, route number, bridge number, current and future traffic volumes, maintenance responsibility, and ownership.

2. **Overview.** The National Tribal Transportation Facility Inventory is developed through the LRTP process, as described in 25 CFR 170.410 through 170.415. The Tribes can use the inventory to assist in transportation and project planning, justify expenditures, identify transportation needs, maintain existing TTP transportation facilities, and develop management systems.

The BIA Regional offices maintain, certify, and review the data for their region's portion of the National Tribal Transportation Facility Inventory database. Tribes can receive training from BIADOT to enter their own data updates.

An important use of the inventory is funding disbursement. The BIA uses elements of the National Tribal Transportation Facility Inventory in the Relative Need Distribution Factor (RNDF), the formula to determine tribal shares of transportation funds. Therefore, it is imperative that Tribes maintain their National Tribal Transportation Facility Inventory to ensure their share of those funds is accurately calculated.

3. Statutory/Regulatory Requirements

25 CFR 170.225 - 170.228 and 25 CFR 170.442 - 170.445.

4. **Guidelines / Procedures.** BIA maintains the National Tribal Transportation Facility Inventory. It is important for Tribes to periodically update their inventory information to ensure Tribal shares of TTP funding are properly calculated and to determine eligibility of facilities for TTP funding of improvements. Tribes should submit their inventory updates through the BIA Regional Office. Following is an annual process for inventory updates:

Date	Action
By November 1	BIA Regional Office provides the tribes in its region copies of the National Tribal Transportation Facility Inventory.
By March 15	Tribe reviews the data and submits changes (together with a strip map of each change) to the BIA Regional Office along with authorizing resolutions or similar official authorization.
By May 15	BIA Regional Office reviews each tribe's submission for errors or omissions and provides the tribe with its revised inventory.
By June 15	Tribe must correct any errors or omissions.
By July 15	BIA Regional Office certifies its data and enters the data into the National Tribal Transportation Facility Inventory.
By August 15	BIA provides tribe with copies of the Relative Need Distribution Factor distribution percentages.

5. The Importance of the National Tribal Transportation Facility Inventory. The inventory is an important factor affecting two of the three elements in the Tribal Transportation Allocation Methodology. Because each Tribe's share of TTP funds is determined in part by the transportation facilities, the Tribe should update its National Tribal Transportation Facility Inventory annually. To ensure that the Tribe receives its Tribal share as distributed by the formula found in 25 CFR Part 170, the BIA and FHWA need accurate and complete information about the overall state of transportation facilities that serve Tribal communities.

6. Resources

- BIA Coding Guide and Instructions
https://www.itims.doi.gov/guides/irr_coding_guide.pdf
- Policy on Minimum Attachments for Acceptance of TTP Roads/Facilities into the National Tribal Transportation Facility Inventory, by the Director of the BIA, June 15, 2006
<http://www.ttap.mtu.edu/IRRPCC/MinimumAttachmentsPolicy6-15-06.pdf>
- RIFDS Public User Manual
<http://www.ttap.mtu.edu/bia/inventory%20files/RIFDS-PUBLIC-USERSMANUAL.pdf>
- Draft Coding Guide,
<http://www.ttap.mtu.edu/bia/inventory%20files/IRR-CodingGuide-DRAFT.doc>
- BIADOT RIFDS training workshops - by BIADOT or the Tribal Technical Assistance Programs (TTAP)

VIII. Project Charters

Overview. A Project Charter is a mutual, written agreement between the Tribal Government and the partner agencies and governments on how to develop a specific TTP project. The Project Charter includes a list of project tasks, roles and responsibilities, costs, and a schedule to accomplish the tasks. Along with the Tribal Government, the partner agencies and governments for a project may include FHWA, the BIA, State agencies, County governments, and Federal land management agencies (NPS, BLM, USFWS, etc.) that are in the project area. A project Charter may also be called a “Memorandum of Understanding”.

The Project Charter describes who, what, when, where and how to develop a project. For example:

- **Who:** Who is doing what and under what circumstances? Who retains ownership rights over the product or service? Who is completing the project?
- **What:** What will happen in every step of the project? If problems arise, what should be done?
When: When and under what schedule should different portions of the project be developed?
- **Where:** Where and in what way will communication take place between the parties? By email, phone or in person?
- **How:** How will the project be completed? In a day, week or in a month? How many due dates? One due date or a couple in an effort to break the project down into manageable parts. How will disputes be settled if any should arise?

In conclusion, the Project Charter is just the map to complete a project.

Project Charters should be authorized, approved, and signed by the Tribal Government and upper managers or leaders of the partner agencies and governments, and then distributed to all personnel who will be performing the project development work. In this way, the Project Charter acts as an authoritative agreement to guide project development team members in work tasks and coordination requirements (See Appendix A - [Exhibit 8.1](#)).

A. Statutory/Regulatory Requirements

Though not required by law, the FLH strongly recommends that Tribal governments enter into a Project Charter whenever the Tribe decides that Federal agencies, State agencies, or local governments will be performing specific project development activities to develop a project.

The FLH also recommends that Tribal governments enter into Project Charter whenever State or local governments own rights-of-way (ROWs) along the project, or will have some or all of the maintenance responsibilities for the completed project.

B. Guidelines/ Procedures

The Tribe will determine if a Project Charter is needed. It is recommended that the Tribe prepare the first draft of the Project Charter to insure that the Tribe’s perspective on partner agency/government responsibilities is adequately represented. All the governments and agencies who have a significant role in development of the project should review, comment on, and formally approve the Project Charter.

The Project Charter should be drafted well before any project development activities are started, and it should be circulated to the project’s partner agencies for review and comment. The Tribe may consider

hosting a project development review meeting of the partner agencies and governments to discuss the proposed project, the draft Project Charter, and the project coordination that will be required.

C. Roles and Responsibilities. The following are examples of roles and responsibilities to include in a Project Charter.

1. Roles of the Tribe may include (for projects on any route on the National Tribal Transportation Facility Inventory):

- Develops and maintains Tribal policies, procedures, program guidelines which meet or exceed federal standards to facilitate operations or administration of any aspect of the programs assumed by or delegated to the Tribe. These procedures should include contracting procedures (advertising bids, award, and contract), acquisition/procurement procedures (for equipment purchasing including cost and price analysis), attainment of services (architectural/engineering services), etc.
- Drafts Project Charter, provides review copies for partner agencies/governments, and executes the Charter with the partner agencies/governments.
- Identifies project needs and provides resources and other supporting information for project development tasks and products.
- Establishes a Project Development Team to develop project Purpose and Need, study project alternatives, and perform necessary environmental studies/evaluations to obtain project environmental clearances, pursuant to 23 CFR 771 regulations.
- Designs the project and produces the Plans, Specifications, and Engineering Estimate (PS&E).
- Provides reviews and certification of project PS&E, standards, and design exceptions.
- Advertises, awards, and administers the construction contract.
- Inspects and approves the final construction project, or equipment purchase, reports on accomplishments for transit or road maintenance program.
- Invites representatives from facility owned systems (BIA, State, County, Local, etc.) to attend key decision points in the process and project inspections.

2. Roles of the BIA Regional Office may include (for projects on BIA-owned routes on the National Tribal Transportation Facility Inventory):

- Some BIA Regions may provide project development services such as archeological reports, ROW appraisal and negotiation, surveys, designs, utility relocation, and construction monitoring. These activities would be undertaken at the request of the Tribe and through a Project Agreement, and would be a project cost requiring the Tribe to provide adequate funding to the BIA to complete the tasks.
- Has Federally inherent ROW responsibilities that include providing Title Status Reports (TSRs), Grants of Easement, and filing ROW documents. These activities are funded by BIA PRAE funds.
- Has the primary responsibility for maintenance of the completed project after construction.
- Reviews preliminary and final plans as the facility owner. Provides review and approval of NEPA documents when the Tribe requests BIA to act as the lead Federal agency using PRAE funds.
- Attends project inspections, final inspection, and concurs in Tribal acceptance of completed construction project.

3. Roles of FHWA (FLH or FHWA Division) may include (for projects on any route on the National Tribal Transportation Facility Inventory):

- Appoints a member to the Project Development Team and assists in developing the project Purpose and Need, studying project alternatives, and approving project environmental clearance.
- Acts in the capacity of lead agency or co-lead agency on Environmental Impact Statement (EIS) NEPA documents, and may be lead agency on other NEPA documents at Tribe's request.
- Reviews and executes a Project Agreement with the Tribe and cooperating agencies.
- Each FLH Division can provide project development services such as environmental documents, archeological, wetlands, and topographic surveys, and design. These activities would be undertaken at the request of the Tribe and through a Project Agreement, and would be a project cost requiring the Tribe to provide adequate funding to FHWA to complete the tasks.
- Reviews NEPA documentation, and approves the final NEPA document, PS&E contract documents, standards, and design exceptions.
- Reviews construction contract modifications.
- Provides final inspection and approval concurrence of completed construction project.

4. Roles of the State DOT may include (for projects on State-owned routes on the National Tribal Transportation Facility Inventory):

- Provides resources and other supporting information for project development tasks and products, as requested by the Tribe, through a Project Agreement.
- Appoints a member to the Project Development Team and assists in developing the project Purpose and Need, studying project alternatives, and obtaining project environmental clearance.
- Obtains necessary ROW and ensures utility relocation (both at State's expense).
- Maintains the completed project after construction.
- Reviews and executes a Project Agreement with the Tribe and cooperating agencies.
- Reviews NEPA documentation, PS&E contract documents, standards, and design exceptions.
- Provides final inspection and approval concurrence of completed construction project.
- May contribute cooperative funds to assist in the construction of a TTP Project.

5. Roles of the County may include (for projects on routes owned by the County or other local governments on the National Tribal Transportation Facility Inventory):

- Provides resources and other supporting information for project development tasks and products as requested by the Tribe through the Project Agreement.
- Appoints a member to the Project Development Team and assists in developing the project Purpose and Need, studying project alternatives, and obtaining project environmental clearance.
- Obtains necessary ROW and ensures utility relocation (both at County's expense).
- Maintains the completed project after construction.
- Reviews and executes a Project Agreement with the Tribe and cooperating agencies.
- Reviews NEPA documentation, PS&E contract documents, standards, and design exceptions.
- Provides final inspection and approval concurrence of completed construction project.
- May contribute cooperative funds to assist in the construction of a TTP Project.

IX. NEPA and Other Environmental Requirements

Overview. Tribal Transportation Program (TTP) projects, like any federally funded project, must comply with a wide range of Federal and state environmental laws, regulations, and policies. Project development and environmental review begin after projects are identified in the Tribe's Long Range Transportation Plan (LRTP) and the approved Tribal Transportation Improvement Program (TTIP) (see [Chapter VII-Transportation Planning](#)).

Each project requires a NEPA document that must be completed and approved before the Plans, Specifications, and Estimates (PS&E) can be approved, before ROW acquisition can occur, and before project construction can start. The NEPA document should ideally be completed and approved at the 30% (preliminary) design phase (see [Chapter XI - Plans, Specifications, and Estimates \(PS&E\) Development](#)).

The National Environmental Policy Act of 1969 (NEPA) was signed into law on January 1, 1970. NEPA established the basic framework for integrating environmental consideration into decision making. NEPA requires the identification and consideration of potential impacts to the social and natural environment when considering approval of proposed transportation projects. The overall goal of the NEPA process is to engage in a sound process by which agency decisions are made. The NEPA document is the record of those decisions and how they are to be carried out through the design, construction, and future maintenance of the project.

Section 2 of NEPA states that its purposes are:

- To declare a national policy which will encourage productive and enjoyable harmony between man and his environment;
- to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man;
- to enrich the understanding of the ecological systems and natural resources important to the Nation; and
- to establish a Council on Environmental Quality.

The text of the NEPA law can be found at <http://energy.gov/nepa/downloads/national-environmental-policy-act-1969>

A primary element of project-development and environmental review is compliance with NEPA and related environmental requirements. NEPA is a procedural law (as opposed to a substantive law) as it does not require a specific outcome but rather prescribes a method for analyzing the environmental effects and making decisions on proposed Federal actions. NEPA requires, to the fullest extent possible, that the policies, regulations, and laws of the Federal government be interpreted and administered in accordance with its environmental protection goals. NEPA also requires Federal agencies to use an interdisciplinary approach in planning and decisionmaking for any action that adversely impacts the environment.

To assist Federal agencies in effectively implementing the environmental policy and “action- forcing” provisions of NEPA, the Council on Environmental Quality (CEQ) issued [40 CFR 1500-1508 Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act](#). The CEQ regulations address the basic decisionmaking framework and action-forcing provisions established in NEPA. NEPA decisionmaking includes:

- Use of a systematic and interdisciplinary approach.

- Appropriate consideration given to environmental, economic, and technical issues.
- For major Federal actions significantly affecting the environment, inclusion of a detailed statement on:
 - Environmental impacts of the proposed action.
 - Adverse impacts that cannot be avoided.
 - Alternatives to the proposed action.
 - Consequences of taking the proposed action.
- Consultation with other Federal, state, and local agencies.
- Public involvement.

A. Development of the NEPA Document. A Tribe has several options in the development of a NEPA document. A Tribe can develop a NEPA document in house or contract the service out to a consultant, FHWA Federal Lands (FLH), or BIA. In any option, the FHWA will be the lead (or co-lead) Federal agency and will approve the NEPA document. There should be no approval of right-of-way (ROW) acquisition, approval of PS&E, purchase of construction materials, or construction prior to completion and approval of the NEPA document.

If a Tribe is to contract a consultant to develop a NEPA document or perform other environmental compliance work, it is important that the Tribe writes a good Statement of Work (SOW) which defines in detail what the consultant must perform and submit to the Tribe, including the specific deliverables, due dates and period of performance. The SOW is written before a consultant is hired, and it becomes an important part of the contract with the consultant. A well written, specific SOW will help save the Tribe time and money.

B. Statutory/Regulatory Requirements.

- 1. NEPA and Transportation Decisionmaking.** FHWA must be the lead (or a co-lead) Federal agency for TTP funded projects proposed by FHWA Agreement Tribes. This means that NEPA approvals and certain other environmental requirements and determinations are inherently governmental and must be performed by FHWA (i.e. they cannot be delegated to a Tribe or other governmental agency). However, project development and environmental support functions (background research, surveys, supporting documents, etc.), are the responsibility of the Tribe. The Tribe should coordinate with the TTP Environmental Specialist early in the project development process to determine the scope of the environmental requirements.

To address NEPA responsibilities established by CEQ, FHWA (and FTA) issued regulations [23 CFR 771](#)– Environmental Impact and Related Procedures to ensure that possible adverse economic, social, and environmental effects are fully considered during transportation project development. These regulations must be followed by FHWA Agreement Tribes for TTP-funded projects. The FHWA NEPA project development process aims to balance the need for safe and efficient transportation systems with the need for protecting and enhancing the environment. Other Federal agencies may have their own NEPA implementing regulations. When working on projects that have multiple Federal agency interests, it is important to coordinate early with these agencies in the NEPA project development process.

Another good source to help guide the environmental process is Chapter 3 *Environmental Stewardship* of the Federal Lands Highway (FLH) Project Development and Design Manual (PDDM) at <http://flh.fhwa.dot.gov/resources/manuals/pddm/archives/2008.htm>. Chapter 3 of the PDDM also provides a recommended step-by-step environmental process, showing and

describing major environmental process activities, tasks within those activities, and the coordination relationships to the Planning, Engineering, Public Involvement, and Construction phases of project delivery.

FHWA manages the NEPA project-development and decisionmaking process as an “umbrella” under which all applicable environmental laws, Executive Orders, and regulations are considered and addressed prior to the final project decision and document approval. The cultural resource and environmental requirements for the TTP are listed in [25 CFR 170, Appendix A to Subpart D](#) and depicted below in Figure 9-1. These are environmental laws that are commonly applicable during the NEPA process, but others may be applicable as well.

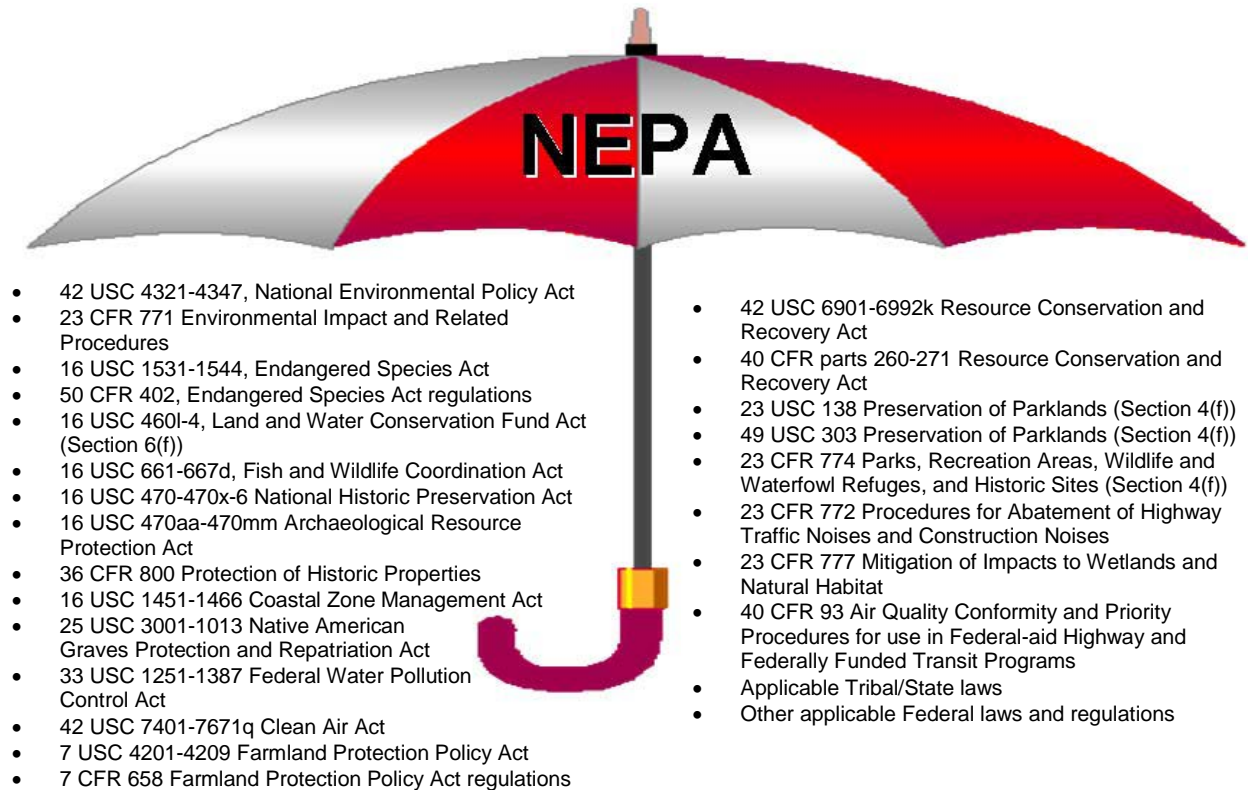


Figure 9-1: Applicable environmental laws listed in 25 CFR 170, Appendix A to Subpart D for TTP-funded actions

NOTES:

1. FHWA must be the lead (or co-lead) Federal agency and approves the NEPA documents for TTP-funded projects.
2. NEPA is an inherently governmental function and cannot be delegated.
3. FHWA Agreement Tribes must follow [23 CFR 771](#) for environmental impact and related procedures.
4. There should be no approval of ROW acquisition, final design, purchase of construction materials, or construction prior to completion of the NEPA process.

2. Essential Elements of the NEPA Process

- a. **Classes of Action.** There are three classes of actions, or “processing options,” under NEPA, depending on the significance of the environmental impact of the project under study. The

CEQ regulation at [40 CFR 1508.27](#) states that “significantly” or “significance” requires consideration of both context and intensity. Context means that the significance must be analyzed in several contexts such as society as a whole, national, affected region, affected interests, and the locality. Significance varies with the setting of the proposed action. Both short- and long-term effects are relevant. Intensity refers to the severity of the impact. Impacts may be both beneficial and adverse. The CEQ regulation lists ten factors to consider in evaluating the intensity of impacts.

The three classes of actions, or “processing options,” under NEPA are:

- **Categorical Exclusion (CE):** A determination appropriate for actions that do not individually or cumulatively have a significant effect on the environment ([23 CFR 771.117](#)). These actions are “excluded” from the requirements to prepare either an environmental assessment or an environmental impact statement based on experience that the actions do not normally result in significant impacts. It is expected that the vast majority of TTP funded projects fall under this class of action; however, it is not an exemption of NEPA or other environmental requirements.
- **Environmental Assessment (EA):** A process and documentation for actions in which the significance of the environmental impact is not clearly established ([23 CFR 771.119](#)). If it is determined during the EA process that a project will have no significant impact on the quality of the environment, a Finding of No Significant Impact (FONSI) is issued ([23 CFR 771.121](#)). If the project results in significant impacts, then an environmental impact statement is required. Some larger and more complicated TTP funded projects may require an EA.
- **Environmental Impact Statement (EIS):** A process and documentation for projects in which it is known that the action will have a significant effect on the environment ([23 CFR 771.123](#)). An EIS is a detailed statement required by NEPA for major federal actions significantly affecting the human environment. It is expected that few, if any, TTP funded projects will require an EIS.

These three “processing options” under NEPA determine how compliance with NEPA is carried out and documented (see Figure 9-2). The essential elements of the NEPA process, as discussed below, will come into play in various ways and degrees in terms of compliance, depending on the class of action of the project.

Resources:

- Federal Lands Highway (FLH) Project Development and Design Manual (PDDM), Chapter 3: <http://flh.fhwa.dot.gov/resources/manuals/pddm/archives/2008.htm>
- Guidance on Project Development and Documentation Overview: <http://environment.fhwa.dot.gov/projdev/tdmpdo.asp>
- FHWA Environmental Guidebook: <http://www.environment.fhwa.dot.gov/guidebook/index.asp>
- FHWA Technical Advisory T 6640.8A: <http://environment.fhwa.dot.gov/projdev/impta6640.asp>

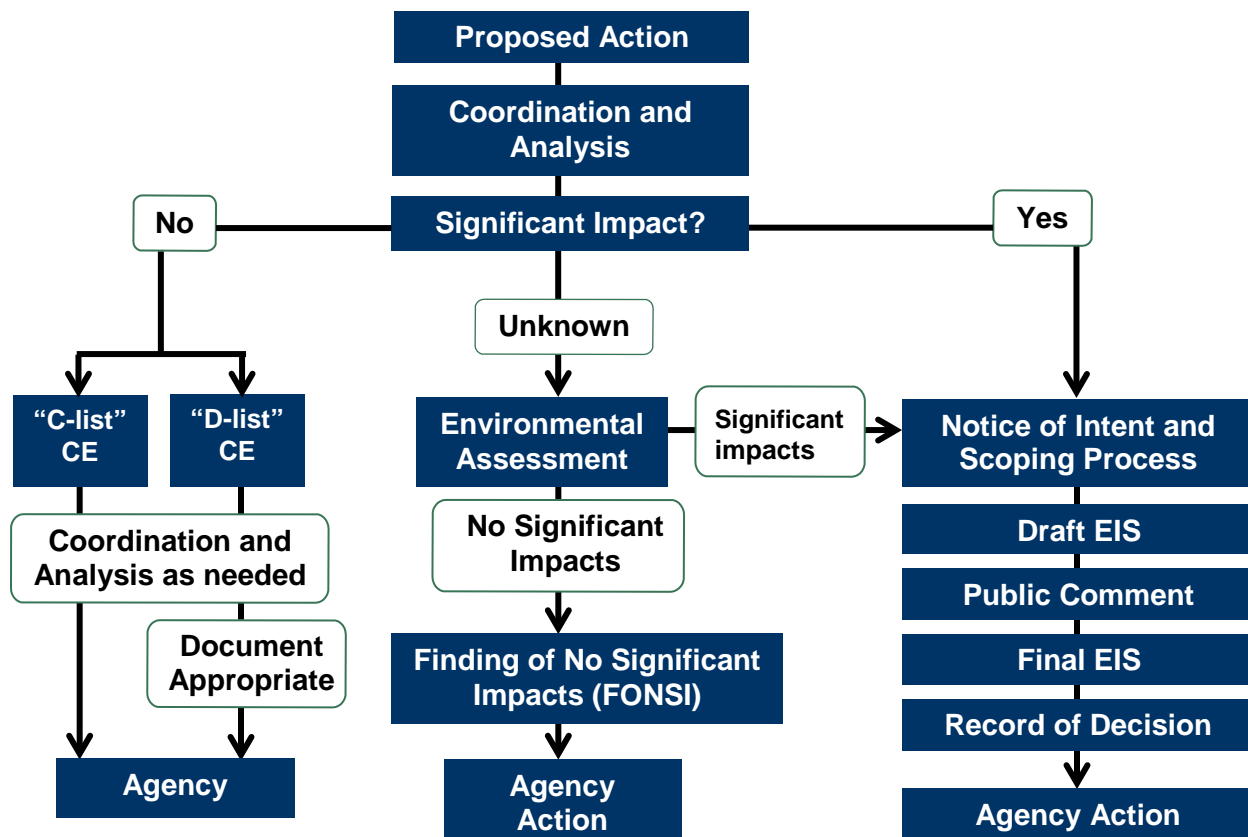


Figure 9-2: NEPA process flowchart

b. Purpose and Need. The identification of the purpose and need for a project is the foundation of the NEPA process and serves as the basis for identifying and evaluating alternatives. It establishes why the agency is proposing to spend taxpayers’ money while at the same time possibly causing significant environmental impacts. A project’s *need* establishes factual evidence of a current or future transportation problem or deficiency. A project’s *purpose* establishes what the project is intended to accomplish and presents objectives to address the project’s need. The need for a transportation project is initially identified during the transportation planning process. The project’s purpose and need is further refined at the onset of the NEPA process to ensure that a solid foundation for the project exists and is explained in terms the public can understand.

Resources:

- The Importance of Purpose and Need: <http://environment.fhwa.dot.gov/projdev/tdmneed.asp>
- Elements of Purpose and Need: <http://www.environment.fhwa.dot.gov/projdev/tmelements.asp>
- PDDM Chapter 3: <http://flh.fhwa.dot.gov/resources/manuals/pddm/archives/2008.htm>

- c. Alternatives.** Alternatives are developed and analyzed in the NEPA process in order to (1) address the purpose and need of the project, and (2) look for ways to avoid and minimize project impacts to the environment, address other environmental issues, provide the best engineering solution, and minimize overall project costs. A few general principles concerning alternatives development and analysis are as follows:
- For an EA and an EIS, an analysis of the “no-build” or “no-action” alternative is always included. The no-build, or do-nothing, alternative generally serves as a baseline against which other alternatives are evaluated and compared.
 - All proposals and alternatives must have logical termini and independent utility (including those in a CE). In other words, the endpoints of alternatives must make sense from a transportation standpoint, and the alternatives must be usable and represent a reasonable expenditure even if no additional transportation improvements in the area are made.
 - An EIS must include and objectively evaluate a range of reasonable alternatives. Reasonable alternatives are those that meet the purpose and need. Additional considerations in the “screening” of alternatives include the effects on environmental resources and communities and other constraints.
 - The reasonable range of alternatives may, in certain circumstances, include alternatives that are not within the jurisdiction of the lead agency, for example, public transportation options.
 - In analyzing alternatives, substantial treatment should be devoted to each reasonable alternative being considered in detail so that reviewers may evaluate the comparative merits of the alternatives.
 - During the NEPA process, it is generally good practice to provide other agencies and the public with an opportunity to be involved in the development of alternatives. For EIS projects, the involvement of the public and participating agencies in the development of the range of alternatives is required. FHWA is also required to determine, in collaboration with participating agencies, the appropriate methodologies to be used and the level of detail required in the analysis of alternatives [[23 USC 139\(f\)\(4\)](#)].

Resources:

- Guidance on Development and Evaluation of Alternatives: <http://www.environment.fhwa.dot.gov/projdev/tmalts.asp>
 - SAFETEA-LU Environmental Review Process Question and Answers: <http://www.fhwa.dot.gov/hep/section6002/index.htm>
 - PDDM Chapter 3: <http://flh.fhwa.dot.gov/resources/manuals/pddm/archives/2008.htm>
- d. Impacts.** For each reasonable alternative, the environmental impacts are assessed during alternatives analysis. Alternatives may be refined or modified in an effort to avoid or minimize impacts to the environment caused by the alternative. CEQ regulations define three types of impacts that must be considered and addressed:
- *Direct effects:* Caused by the action and occurring at the same time and place.
 - *Indirect effects:* Caused by the action and occurring later in time or farther removed in distance, but still reasonably foreseeable.
 - *Cumulative impacts:* Resulting from the incremental impact of the action when it is added to other past, present, and reasonably foreseeable future actions, regardless of which agency or person is, was, or will be responsible for such actions.

Resources:

- Guidance on environmental impacts:
<http://www.environment.fhwa.dot.gov/projdev/tdmimpacts.asp>
- AASHTO Practitioner's Handbook: Assessing Indirect Effects and Cumulative Impacts under NEPA:
http://environment.transportation.org/pdf/programs/practitioners_handbook_12.pdf
- PDDM Chapter 3: <http://flh.fhwa.dot.gov/resources/manuals/pddm/archives/2008.htm>

e. Mitigation. Mitigation is generally defined as avoidance, minimization, and compensation of impacts to the environment caused by the project. Avoidance and minimization of impacts to the environment is an integral component of the alternatives-development and analysis process. As alternatives are developed, impacts are assessed and possible avoidance, minimization, and compensation strategies are considered. The ordered approach to mitigation involves ([40 CFR 1508.20](#)):

- Avoiding the impact altogether by not taking a certain action or parts of an action.
- Minimizing the impact by limiting the degree or magnitude of the action and its implementation.
- Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.
- Compensating for the impact by replacing or providing substitute resources or environments.

TTP funds can be used for “mitigation activities required by tribal, state, or Federal regulatory agencies and 42 U.S.C. 4321, *et seq.*, the National Environmental Policy Act” (see 25 CFR Appendix A to Subpart B). FHWA’s mitigation policy ([23 CFR 771.105](#)) states that measures necessary to mitigate adverse impacts will be incorporated into the action and are eligible for Federal funding when FHWA determines that:

- The impacts for which the mitigation is proposed actually result from FHWA action.
- The proposed mitigation represents a reasonable public expenditure after the impacts of the action and the benefits of the proposed mitigation measures have been considered. In making this determination, FHWA will consider, among other factors, the extent to which the proposed measures would assist in complying with a Federal statute, Executive Order, or Administration regulation or policy.

Mitigation commitments agreed upon during NEPA must be completed. Communication and documentation are essential to ensuring that project commitments are implemented. Mitigation activities may extend through a project’s final design, construction, operation, and maintenance.

Resources:

- Guidance on mitigation:
<http://www.environment.fhwa.dot.gov/projdev/tdmmitig2.asp>
- PDDM Chapter 3: <http://flh.fhwa.dot.gov/resources/manuals/pddm/archives/2008.htm>

f. Public Involvement. It is important to keep the local public and other interested parties apprised of project development and to solicit and address the public’s concerns. Effective public involvement is a key to successful project development. A public involvement plan

may be prepared to guide these public involvement activities, which should be consistent with and build on the efforts made during the earlier planning process. Public involvement can be accomplished with a variety of techniques, depending on the type and magnitude of the project, the issues involved and the interest and background of the public.

Resources:

- Guidance on Public Involvement:
<http://www.environment.fhwa.dot.gov/projdev/tdmpubinv2.asp>
- Context sensitive solutions: <http://www.fhwa.dot.gov/context/index.cfm>
- PDDM Chapter 3: <http://flh.fhwa.dot.gov/resources/manuals/pddm/archives/2008.htm>

g. Interagency and Internal Coordination

The NEPA process requires interagency coordination and cooperation in the project development decisionmaking process. As with members of the public, coordination with agencies should be early and continuous to ensure their concerns are appropriately considered and to avoid project delays or unexpected costs.

It is also a recommended practice to develop coordination/communication practices between the environmental specialists, the planners, and the designers working on a project. Good communication between these specialists during project development ensures the following: common understanding of project purpose and need, alternatives to consider, and design/construction impacts; environmentally sensitive areas that may affect design or utility locations; development of avoidance, minimization, or mitigation of resources; balancing of design/safety considerations and environmental impacts; as well as many other benefits.

Resources:

- Guidance on Interagency Coordination:
<http://www.environment.fhwa.dot.gov/projdev/tdminterag2.asp>
- PDDM Chapter 3: <http://flh.fhwa.dot.gov/resources/manuals/pddm/archives/2008.htm>

C. Documentation and Processing. NEPA requires that Federal agencies disclose the results of their analysis and the effects of project implementation on the environment. The purpose of documenting the NEPA process is to provide for complete disclosure to the public; to allow others an opportunity to provide input and to comment on proposals, alternatives, and environmental impacts; and to make the appropriate information available to decisionmakers to ensure a reasoned choice among alternatives. As NEPA is a procedural law, the administrative record provides evidence that the process was followed. The following section provides information on the three processing options.

- 1. Categorical Exclusions.** When an action meets the definitions in 23 CFR 771.117, a CE is the appropriate classification. A specific list of CE actions are identified in [23 CFR 771.117\(c\) and \(d\)](#). Based on past experience, these actions have normally been shown to result in no significant impacts. The “c-list” CE actions normally do not require documentation or FHWA approval; however, a record must be established that demonstrates that the action is consistent with an action(s) on the “c-list” and has no unusual circumstances as set forth in [23 CFR 771.117\(b\)](#). CE actions on the “d-list” require (1) environmental analyses and documentation to show the action would result in no significant environmental effects, and (2) FHWA approval based on review of the documentation. See Figure 9-3 for an overview of the steps involved in the development of a CE.

CE projects are subject to all applicable laws, executive orders, and regulations under the NEPA umbrella. Appropriate environmental studies and documentation will be completed by the Tribe and submitted to FHWA for review. Some environmental laws (i.e. the National Historic Preservation Act, Endangered Species Act, etc.) may require specific consultation by FHWA with appropriate agencies. The Tribe will complete the CE documentation, including the results of compliance with other applicable environmental laws, and submit it to FHWA for review and approval. An example format of a narrative type CE is provided in Appendix A - [Exhibit 9.1](#), or the Tribe may use the “CE Checklist” provided in Appendix A - [Exhibit 9.2](#). The Tribe should coordinate with the TTP Environmental Specialist early in project development to determine the appropriate CE classification, needed environmental studies, and suitable documentation. The FHWA is the “approving” agency for documented CE’s.

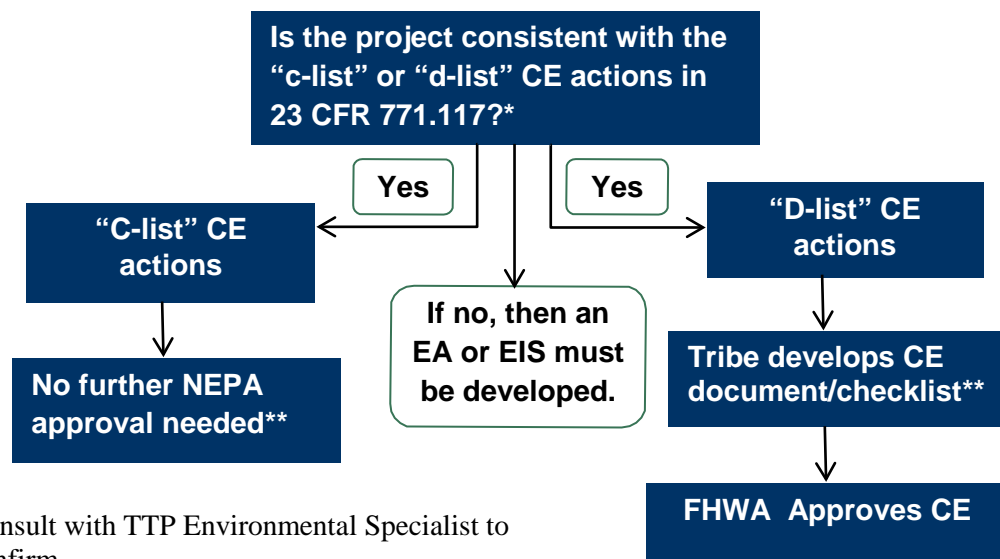


Figure 9-3: Categorical Exclusion process flowchart.

Resources:

- Project Development and Documentation Overview: <http://environment.fhwa.dot.gov/projdev/tdmpdo.asp>
- Guidance on Categorical Exclusions: <http://www.environment.fhwa.dot.gov/projdev/docuce.asp>
- CEQ - Regulations for Implementing NEPA: http://www.whitehouse.gov/files/ceq/epa_comments_-_ceq_draft_nepa_efficiencies_guidance.pdf
- Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations: <http://energy.gov/nepa/downloads/forty-most-asked-questions-concerning-ceqs-national-environmental-policy-act>
- PDDM Chapter 3: <http://flh.fhwa.dot.gov/resources/manuals/pddm/archives/2008.htm>

2. Environmental Assessments. When the significance of the environmental, social, and economic impacts of an action is not clearly established, an EA should be undertaken ([23 CFR 771.119](#)) (see Figure 9-4 for an overview of the steps involved in the development of an EA). The Tribe or the Tribe’s contractor will complete the EA, including the results of compliance with other applicable environmental laws, and submit it to FHWA for review and approval. If the EA is prepared by a Tribe’s contractor, the Tribe should review the EA prior to submittal to FHWA for review and approval. There is no required format for the EA; however FHWA’s Technical Advisory (TA)T6640.8A, Guidance for Preparing and Processing Environmental and Section 4(f) Documents, provides a recommended format. The example EA format provided in Appendix A - [Exhibit 9.3](#) follows the TA’s recommended format. The Tribe should coordinate with the TTP Environmental Specialist if an alternative EA format is being proposed.

Once the EA is approved (i.e., signed) by FHWA, the Tribe will place a notice in a newspaper(s) advising the public of the availability of the EA for public comment and where to obtain information regarding the action. When a newspaper notice is impractical for advising the community, other appropriate means of providing a notice should be considered (e.g., Tribal website, posting in prominent publicly available places such as Tribal headquarters, post office, recreation center, etc. An example notice of availability is provided in Appendix A - [Exhibit 9.4](#).

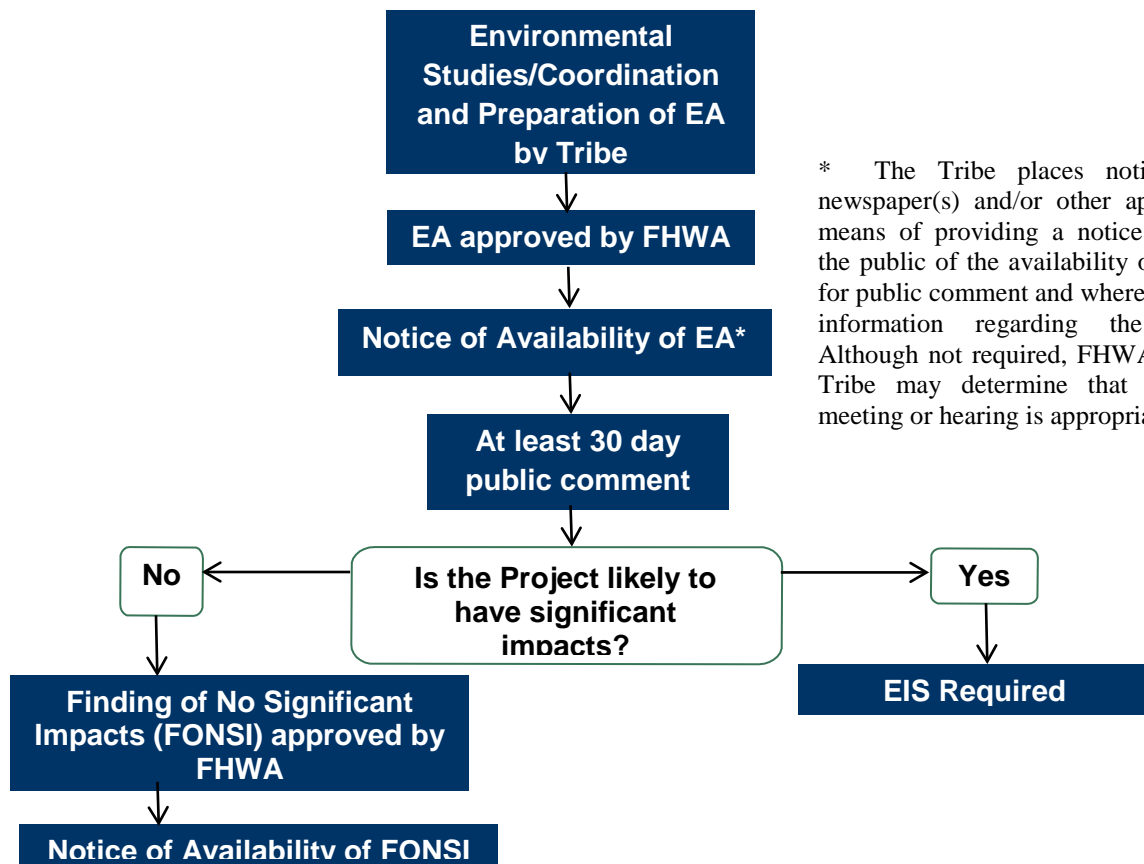


Figure 9-4: Environmental Assessment process flowchart.

Although not required, FHWA and the Tribe may determine that a public meeting or hearing is appropriate. The public and applicable agencies must be given at least 30 days to comment on the EA. After considering comments received during this period, FHWA determines if the action

will result in significant impacts. If impacts are determined not to be significant, FHWA develops and approves a Finding of No Significant Impact (FONSI), and the Tribe will send a notice of availability of the FONSI to affected agencies. If impacts are determined significant, then an EIS would need to be developed.

Resources:

- Project Development and Documentation Overview:
<http://environment.fhwa.dot.gov/projdev/tdmpdo.asp>
- Guidance on Environmental Assessments:
<http://www.environment.fhwa.dot.gov/projdev/docuea.asp>
- CEQ - Regulations for Implementing NEPA:
http://www.whitehouse.gov/files/ceq/epa_comments_-_ceq_draft_nepa_efficiencies_guidance.pdf
- Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations: <http://energy.gov/nepa/downloads/forty-most-asked-questions-concerning-ceqs-national-environmental-policy-act>
- PDDM Chapter 3: <http://flh.fhwa.dot.gov/resources/manuals/pddm/archives/2008.htm>

- 3. Environmental Impact Statement.** NEPA requires Federal agencies to prepare an EIS for major Federal actions that significantly affect the quality of the human environment. An EIS is a full-disclosure document and includes consideration of a range of reasonable alternatives (one of which must be the no-build alternative), analyzes the potential impacts resulting from the alternatives, and demonstrates compliance with other applicable environmental laws and Executive Orders. Because few, if any, TTP funded projects are anticipated to require an EIS, the EIS development process will not be discussed further in this guidance. However, additional information can be found at the links provided below.

Resources:

- Project Development and Documentation Overview:
<http://environment.fhwa.dot.gov/projdev/tdmpdo.asp>
- NEPA Documentation – Environmental Impact Statement (EIS):
<http://www.environment.fhwa.dot.gov/projdev/docueis.asp>
- CEQ - Regulations for Implementing NEPA:
http://www.whitehouse.gov/files/ceq/epa_comments_-_ceq_draft_nepa_efficiencies_guidance.pdf
- Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations: <http://energy.gov/nepa/downloads/forty-most-asked-questions-concerning-ceqs-national-environmental-policy-act>
- PDDM Chapter 3: <http://flh.fhwa.dot.gov/resources/manuals/pddm/archives/2008.htm>

4. Reevaluation

After approval of a ROD, FONSI, or CE designation, the Tribe shall consult with FHWA prior to requesting any major project approvals or grants, to establish whether or not the approved environmental document or CE designation remains valid. This is accomplished through a reevaluation ([23 CFR 771.129](#)), a process to determine if there are new circumstances or information that affect the adequacy or validity of a previous decision. If the previous decision is found to be valid, the findings should be documented in the project file and the process continued. If the findings are no longer valid, a documented reevaluation may be required or a new or supplemental document may be required. The Tribe will coordinate with FHWA to provide

information supporting a reevaluation. An example reevaluation is provided in Appendix A - [Exhibit 9.5](#).

Resources:

- Project Development and Documentation Overview:
<http://environment.fhwa.dot.gov/projdev/tdmpdo.asp>
- PDDM Chapter 3: <http://flh.fhwa.dot.gov/resources/manuals/pddm/archives/2008.htm>

5. Administrative Record

The administrative record is a fundamental component of the NEPA project decisionmaking and documentation process. It is intended to provide evidence that the agency's decision was derived in accordance with NEPA and is in compliance with other requirements. The administrative record consists of the NEPA documents and other documentation that supports or is referenced in them, such as public-hearing transcripts, correspondence, and studies/evaluations/technical reports. It includes e-mail, meeting minutes, and information that support the facts and decisions made during the NEPA process, such as purpose and need, alternatives development, impact analysis, public involvement, and interagency coordination. The administrative record should fully reflect the deliberative process that the agency took to reach its decision.

Resources:

- AASHTO Practitioner Handbook - Maintaining a Project File and Preparing an Administrative Record for a NEPA Study:
<http://environment.transportation.org/pdf/programs/PG01.pdf>
- PDDM Chapter 3: <http://flh.fhwa.dot.gov/resources/manuals/pddm/archives/2008.htm>

D. Other Environmental Laws and Requirements. As described above, the NEPA process involves compliance with a number of additional environmental laws and requirements. The following section highlights some of the environmental laws and requirements that commonly come into play in transportation projects. For a more detailed discussion on other additional environmental laws and requirements, see the PDDM Chapter 3:

<http://flh.fhwa.dot.gov/resources/manuals/pddm/archives/2008.htm>

- 1. Section 4(f).** Section 4(f) refers to the original section in the U.S. Department of Transportation Act of 1966 that provides protection for publicly owned parks, recreational areas, wildlife and waterfowl refuges, and public or private historical sites from use by transportation projects. The law, now codified in 49 USC §303 and 23 USC §138, is implemented by FHWA/FTA through regulation ([23 CFR 774](#)).

If a project proposes to use a property protected by Section 4(f), FHWA must either determine that impacts are *de minimis* or prepare a Programmatic or Individual Section 4(f) evaluation to determine that no feasible and prudent avoidance alternatives exist. FHWA, with assistance from the Tribe, is ultimately responsible for making all decisions related to Section 4(f) compliance. These decisions include whether Section 4(f) applies to a property, whether a use would occur, whether a *de minimis* impact determination may be made, what each alternative's impacts will be on Section 4(f) properties, and whether the law allows the selection of a particular alternative that uses 4(f) property after the appropriate officials with jurisdiction have been consulted.

Resources:

- FHWA Section 4(f) Program Overview: <http://environment.fhwa.dot.gov/4f/index.asp>
- FHWA Section 4(f) Policy Paper: <http://environment.fhwa.dot.gov/4f/4fpolicy.asp>
- PDDM Chapter 3: <http://flh.fhwa.dot.gov/resources/manuals/pddm/archives/2008.htm>

- 2. Section 106 of the National Historic Preservation Act.** Section 106 of the National Historic Preservation Act (NHPA) of 1966, as amended, requires Federal agencies to take into account the effects of their actions on historic properties and to afford the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment. The historical preservation review process mandated by Section 106 is outlined in [36 CFR 800](#). Section 106 requires Federal agencies to consult with the State Historic Preservation Office (SHPO) and/or Tribal Historic Preservation Office (THPO), property owners, local governments, and other parties when a Federal undertaking may affect historic properties that are on or are eligible for inclusion in the National Register of Historic Places. In certain cases, the ACHP may be invited to participate in the consultation process.

The Tribe is responsible for ensuring appropriate surveys and reports are completed in compliance with the NHPA, however, early coordination with the TTP Environmental Specialist is recommended to ensure the appropriate level of study and any appropriate consultation by FHWA is undertaken. Also, any reports should be reviewed by FHWA prior to being finalized. FHWA is typically responsible for consultation with the SHPO and/or THPO.

Resources:

- FHWA Historic Preservation Website: <http://environment.fhwa.dot.gov/histpres/index.asp>
- Section 106 Users Guide: <http://www.achp.gov/usersguide.html>
- PDDM Chapter 3: <http://flh.fhwa.dot.gov/resources/manuals/pddm/archives/2008.htm>

- 3. Section 7 of the Endangered Species Act of 1973.** The Endangered Species Act (ESA), codified in 16 USC 1531 and implemented in [50 CFR 402](#), provides for the conservation of ecosystems upon which threatened and endangered species of fish, wildlife, and plants depend. US Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) share responsibility for administration of the ESA. Section 7 of the ESA requires Federal agencies to ensure that any action authorized, funded, or carried out by them is not likely to jeopardize the continued existence of listed species or to adversely modify their critical habitat.

If FHWA and its joint lead agencies find that the project will have “no effect” on listed species or designated critical habitat, consultation with the Services is not required. If they find that the project “may affect, but not likely to adversely affect” listed species or modify designated critical habitat, they must conduct informal consultation with the appropriate Service(s). The Service(s) must concur with this finding in writing to conclude the informal consultation process. Formal consultation is initiated by the Federal lead agency when a project “may affect, likely to adversely affect” listed species or modify designated critical habitat. At the conclusion of the formal consultation process, the Service(s) will issue a biological opinion.

The Tribe is responsible for ensuring appropriate surveys and reports (a Biological Assessment is required for informal and formal consultation) are completed in compliance with the ESA, however, early coordination with the TTP Environmental Specialist is recommended to ensure the appropriate level of study and any appropriate consultation by FHWA is undertaken. Also,

any reports should be reviewed by FHWA prior to being finalized. FHWA is typically responsible for consultation with the Services on “may affect...” determinations.

Resources:

- FHWA ESA Webtool: <http://www.environment.fhwa.dot.gov/esawebtool>
- PDDM Chapter 3: <http://flh.fhwa.dot.gov/resources/manuals/pddm/archives/2008.htm>
- Endangered Species Section 7 Handbook: http://www.nmfs.noaa.gov/pr/pdfs/laws/esa_section7_handbook.pdf

- 4. Sections 401, 402, and 404 of the Clean Water Act.** Section 401 of the Clean Water Act (CWA), ([33 USC 1341](#)), the State Water Quality Certification Program, requires that states certify compliance of Federal permits or licenses with state water quality requirements and other applicable state laws. Under Section 401, states have authority to review any Federal permit or license that may result in a discharge to wetlands and other waters under state jurisdiction to ensure that the actions would be consistent with the state’s water quality requirements.

Section 402 of the CWA ([33 USC 1342](#)), the National Pollutant Discharge Elimination System (NPDES) Program, regulates discharges from point sources to waters of the United States. Under NPDES, all facilities that discharge pollutants from any point source into waters of the United States are required to obtain a permit. A point source is defined by the CWA as “any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or floating craft, from which pollutants are or may be discharged.”

Section 404 of the CWA ([33 USC 1344](#)) establishes a program to regulate the discharge of dredged and fill material into waters of the United States, including wetlands. Responsibility for administering and enforcing Section 404 is shared by the United States Army Corps of Engineers (USACE) and the Environmental Protection Agency (EPA). Under Section 404, no discharge of dredged or fill material can be permitted if a practicable alternative exists that is less damaging to the aquatic environment or if the nation’s waters would be significantly degraded. Section 404 requires a permit before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from Section 404 regulation. When applying for a permit, an agency must show that it has, to the extent practicable:

- Taken steps to avoid wetlands impacts.
- Minimized potential impacts on wetlands.
- Provided compensation for any remaining unavoidable impacts.

The Tribe is responsible for obtaining CWA permits. Early coordination with appropriate agencies and the TTP Environmental Specialist is recommended to ensure the appropriate level of study and documentation is pursued.

Resources:

- Wetlands and Section 401 Certification Fact Sheet: <http://www.epa.gov/owow/wetlands/facts/fact24.html>
- NPDES Website: <http://cfpub.epa.gov/npdes>
- Overview of Section 404 Permitting: <http://water.epa.gov/lawsregs/guidance/cwa/dredgdis>
- PDDM Chapter 3: <http://flh.fhwa.dot.gov/resources/manuals/pddm/archives/2008.htm>

X. Right-of-Way (ROW)

Overview. “Right-of-way” means real property and rights therein used for the construction, operation, or maintenance of a transportation or related facility. A Tribal Transportation Program (TTP) project must have a public right-of-way established before construction of the project can begin. The public right-of-way must be wide enough and in the proper location for the proposed transportation project. Oftentimes for a TTP project, acquiring property rights may be necessary to provide the right-of-way needed for the proposed road, trail, or transportation facility.

Right-of-way research, mapping and acquisition needs to occur during the proper project design phases, to enable the project to be developed and constructed. See [Chapter XI. Plans, Specifications, and Estimates \(PS&E\) Development, Part B, Section 4](#) for a description of right-of-way work that should occur during each design phase.

Acquisition of right-of-way or easements may be needed for a proposed project. The need for acquiring permanent right-of-way, as well as temporary or specialized easements for driveway approaches, runoff ditches, utility relocations, etc., will depend on:

- The width and location of the existing public right-of-way.
- The width and location of the proposed right-of-way needed for the project.
- The types of land ownership that will be affected by acquisition of the proposed project right-of-way.
- Temporary or specialized encroachments that will be needed onto land outside the proposed right-of way.

If right-of-way or easements need to be acquired for the project, then it will be necessary to: plat (map) onto plan sheets the existing and proposed right-of-way and easement limits, cost appraise the land or rights to be acquired, negotiate the acquisition cost and conditions of use with the landowners, and finally acquire the new right-of-way and easements from the landowners.

Right-of-way acquisition can occur only after the project’s NEPA document is completed and approved. Project construction cannot begin until the right-of-way is acquired and formally certified. All of the right-of-way needed for a project should be acquired and formally certified before the project construction is advertised for bids.

A. Statutory/Regulatory Requirements.

42 U.S.C. 4601 – Uniform Relocation and Real Property Acquisitions Policy Act (the “Uniform Act”)

B. Guidelines / Procedures. When acquiring right-of-way, the Uniform Act requires the coordination of any relocation of businesses and families required to build the project. In addition, the management and disposition of residue parcels and surplus right of way should be tracked and coordinated.

Any right-of-way work involving land acquisition and/or relocation of businesses or people for development of transportation projects must conform to the Uniform Act. Requirements of the Uniform Act provide for fair market value to be paid for real estate, and reimbursements paid for relocating homeowners/tenants and business owners.

Right-of-way work needed to develop a TTP project may also include Federal land transfers, control of outdoor advertising, acquisition of encroachment permits and temporary construction easements, and junkyard control.

- 1. Roles and Responsibilities.** The following outline provides examples of potential agency or governmental roles and responsibilities when establishing a project agreement for TTP projects advanced by a Tribe under a Program Agreement.

Land	Roles and Responsibilities
Trust Land	<p>Tribe: Drafts Project Agreement, provides review copies for cooperating agencies, and executes the Project Agreement with cooperating agencies.</p> <p>BIA Regional Office: Processing right-of-way: reviewing right-of-way applications and certifications; approving right-of-way documents; processing grants and acquisitions of rights-of-way requests for allocated lands; responding to information requests; filing Affidavit of Completion Forms; Performing custodial functions related to storing rights-of-way documents; ROW appraisal and negotiation; providing Title Status Reports (TSRs), Grants of Easement, and filing ROW documents; reviews and approval.</p> <p>FHWA: Ensure ROW process is complete.</p>
Restricted Fee Land	<p>Tribe: Drafts Project Agreement, provides review copies for cooperating agencies, and executes the Project Agreement with cooperating agencies.</p> <p>BIA Regional Office: Processing right-of-way: reviewing right-of-way applications and certifications; approving right-of-way documents; processing grants and acquisitions of rights-of-way requests for allocated lands; responding to information requests; filing Affidavit of Completion Forms; Performing custodial functions related to storing rights-of-way documents; ROW appraisal and negotiation; providing Title Status Reports (TSRs), Grants of Easement, and filing ROW documents; reviews and approval.</p> <p>FHWA: Ensure ROW process is complete.</p>
Fee Land	<p>Tribe: Drafts Project Agreement, provides review copies for cooperating agencies, and executes the Project Agreement with cooperating agencies.</p> <p>FHWA: Ensure ROW process is complete.</p>
State Owned	<p>State DOT: Obtains necessary ROW and ensures utility relocation (both at State's expense).</p> <p>Tribe: Drafts Project Agreement, provides review copies for cooperating agencies, and executes the Project Agreement with cooperating agencies.</p> <p>FHWA: Ensure ROW process is complete.</p>

Land	Roles and Responsibilities
County or local agency owned roads	<p>Tribe: Drafts Project Agreement, provides review copies for cooperating agencies, and executes the Project Agreement with cooperating agencies.</p> <p>County/Local Agency: Obtains necessary ROW and ensures utility relocation (both at County's expense).</p> <p>FHWA: Ensure ROW process is complete.</p>

C. Resources.

- FHWA Right-Of-Way Acquisition Guidelines located at http://www.fhwa.dot.gov/real_estate/practitioners/uniform_act/acquisition/real_property.cfm
- WFL Right-Of-Way and Utilities web site <http://www.wfl.fhwa.dot.gov/design/row>
- Chapter 12, Right of Way and Utilities, of the FLH “*Project Development and Design Manual*” (PDDM), at (<http://flh.fhwa.dot.gov/resources/manuals/pddm/archives/2008.htm>)

XI. Plans, Specifications, and Estimates (PS&E) Development

Overview. Construction management includes several major steps with sub-stages in each major step, including pre-planning, conceptual design, PS&E development, bidding and awarding contracts, project execution and construction, project monitoring, and project completion.

In the PS&E development, also referred to as Project Development, the process takes a transportation improvement from concept through design. Development of the PS&E includes design of the facility, and may also include performing a topographic and right-of-way (land ownership) survey of the project corridor, geotechnical and hydraulic field reconnaissance and analysis, coordination with utility companies, and coordination with right-of-way acquisition.

The primary function of design is to designate those standards, policies, and standard specifications that are acceptable for application in the geometric and structural features of highways, roads, bridges, and trails. Key objectives for design should include:

- Improving safety for all users,
- Promoting project design choices that are consistent with Tribal transportation plan and policies,
- Compatibility with the NEPA analysis, environmental consultations and permits for the project,
- Providing facility designed to meet the functional and operational goals established by the project purpose and need in the NEPA process,
- Providing accessibility for people with disabilities,
- Compatibility with other transportation modes, facilities and land uses,
- Cost effectiveness to ensure value returned, and
- The project is sensitive to the local context and meets the needs of the people it serves.

The need for early identification of issues and alternatives is important. Before design begins, the Tribe and all stakeholders need to identify and agree on what type of facility is desired and what work will be included in the project. In addition, community values, natural, historic, and cultural resources should be fully considered throughout the design process. The role of the Tribe is to ensure the key objectives for design are met.

A. Statutory/Regulatory Requirements.

23 U.S.C. 202(b)(5) allows an Indian Tribal government to approve plans, specifications, and estimates (PS&Es).

The following requirements must be met by the Tribal government when approving a PS&E package:

1. **Assurances.** The Tribe will provide assurances that the construction will meet or exceed applicable health and safety standards. This can be accomplished by:
 - a. A State-licensed civil engineer must certify (seal) on the plans that the PS&E meets applicable health and safety standard; and
 - b. The Tribe must provide a copy of the certification letter by the State-licensed civil engineer to the Deputy Assistant Secretary for Tribal Government Affairs or to the Assistant Secretary for Indian Affairs (See Appendix A - [Exhibit 11.1 - PS&E Certification Letter](#)).

2. **Public Hearing.** (a) Criteria to determine if a public hearing will be held are listed in 25 CFR 170.435. (b) Requirements for a “Notice of No Public Hearing” are listed in 25 CFR 170.437. (c) Public hearing process is in 25 CFR 170.438 to 170.441.
3. **Environmental and Archeological.** Requirements for archeological and environmental are in 25 CFR 170.450, 25 CFR 170.451, and Appendix A to Subpart D - Cultural Resource and Environmental Requirements for the TTP.
4. **Design Standards.** Design standards are directed by 25 CFR 170.454 - 170.456. Specifically:
 - a. Standards listed in 25 CFR 170, Appendix B to Subpart D – Design Standards for the TTP.
 - b. FHWA-approved State design standards.
 - c. FHWA-approved Tribal road and bridge design standards that are consistent with or exceed applicable Federal standards.
 - d. MUTCD Manual of Uniform Traffic Safety Devices, latest edition
 - e. Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects, latest edition.
 - f. Design standards used must be applied for each construction project consistent with a minimum 20-year design life for highway projects and 75-year design life for highway bridges. The design of TTP projects must take into consideration:
 - i. The existing and planned future use of the TTP transportation facility in a manner that is conducive to safety, durability, and economy of maintenance;
 - ii. The particular needs of each locality, and the environmental, scenic, historic, aesthetic, community, and other cultural values and mobility needs in a cost-effective manner; and
 - iii. Access and accommodation for other modes of transportation.
5. **Design Exceptions.** Design exception requests must be submitted to the FHWA Tribal Coordinator by the Tribe. The State registered Civil Engineer must submit written documentation with appropriate supporting data, sketches, details, and justification based on engineering analysis (See Appendix A - [Exhibit 11.2 - Highway Design Standards Certification](#)). The FHWA may grant design exceptions for:
 - a. Experimental features on projects, and
 - b. Projects where conditions warrant that exceptions be made.

The FHWA can approve a project design exception only after giving due consideration to all project conditions such as:

- a. Maximum service and safety benefits for the dollar invested;
- b. Compatibility with adjacent features; and
- c. Probable time before reconstruction of the project due to changed conditions or transportation demands.

The FHWA has 30 days from receiving the request to approve or decline the design exception (for BIA ownership, the BIA will review, recommend, and concur).

6. **Review, Content, and Approval of PS&E Package.** Criteria governing review and approval of PS&E packages are in 25 CFR 170.460 through 25 CFR 170.463. The content of the PS&E package includes, at a minimum, the following:

- a. Certified stamped plans by a State licensed professional engineer that the plan meet or exceed design, health, and safety standards.
- b. A copy of the PS&E certification letter (See Appendix A - [Exhibit 11.1 – PS&E Certification Letter](#)) by a State-licensed civil engineer that certifies the PS&E meets applicable health and safety standards, as outlined in 25 CFR 107 Appendix B to subpart D.
- c. Specifications that ensure that materials and construction techniques will meet acceptable standards.
- d. Estimates that reasonably anticipate the project cost.
- e. A Tribal resolution or other authorized document supporting the project.
- f. Certification that right-of-way clearances have been obtained.
- g. Certification that required environmental, archeological, and cultural clearances have been obtained.
- h. Design exceptions have been identified and approved (if used in the plans).
- i. Public hearing requirements have been met.
- j. Any utility agreements.

B. Guidelines / Procedures.

- 1. Development of the PS&E Package.** A Tribe can develop the PS&E package in house, contract the service out to an engineering consultant, or use the services of a Federal agency.

Under the authority prescribed in 23 U.S.C. 202, a Tribal government may request a Federal agency, such as BIA, FHWA Federal Lands Highway (FLH) and others, to perform all or parts of TTP project planning, preliminary engineering, and construction management. If so requested, a Federal agency may execute individual Project Agreements with Tribal governments to develop the PS&E if TTP funds are used. The Tribe fills out a Tribal Request for Services form as the first step (See Appendix A - [Exhibit 11.4 - Tribal Request for Services form](#)).

If the Tribe is to contract a consultant to develop the PS&E, it is important that the Tribe writes a good Statement of Work (SOW) which defines in detail what the consultant must design and submit to the Tribe, including deliverables, due dates and period of performance. The SOW is written before a consultant is hired, and it becomes an important part of the contract with the consultant. A well written, specific SOW will help save the Tribe time and money.

- 2. PS&E Development Process for a BIA or Tribally Owned Facility.**

- a. Engage the services of a licensed professional engineer to supervise design and approval of the PS&E package.
- b. Ensure that the licensed professional engineer has certified that the PS&E meets or exceeds the design, health, and safety standards in Appendix B to subpart D of 25 CFR 170.
- c. Before soliciting bids for the project, provide a copy of the certification and approved PS&E package to the Deputy Assistant Secretary for Tribal Government Affairs with a copy to the BIA Regional Director and the FLH Associate Administrator.

- 3. PS&E Development Process for a Facility Maintained by a Public Authority Other Than the BIA or a Tribe.**

- a. Engage the services of a licensed professional engineer to supervise design and approval of the PS&E package.
- b. Ensure that the licensed professional engineer has certified that the PS&E meets or exceeds the design, health, and safety standards in Appendix B to subpart D of 25 CFR 170.

- c. Before soliciting bids for the project, provide a copy of the State-licensed civil engineer's certification and the approved PS&E package to the Deputy Assistant Secretary for Tribal Government Affairs with a copy to the BIA Regional Director and the FLH Associate Administrator.
 - d. Develop an agreement between the public authority and the Tribe that delineates the roles and responsibilities of the two entities for the development, construction, and continued maintenance of the project after construction.
 - e. Perform the following according to the Program Agreement Article III, Section 1.C(2):
 - i. Provide the public authority the opportunity to review and comment on the Tribe's PS&E package when it is between 75% and 95% complete, unless an agreement between the Tribe and the public authority states otherwise.
 - ii. Allow the public authority at least 30 days for review and comment unless the Tribe and the public authority agree upon a longer period of time.
 - iii. Before soliciting bids for the project, certify in writing to the FHWA Administrator that it afforded the public authority an opportunity to review and comment on the PS&E package, addressed all comments, and received no written comments from the public authority that prevent the Tribe from proceeding with the project.
- 4. Right-of-way (ROW) and Utility Coordination.** Right-of-way research, mapping and acquisition needs to occur during the proper design phases, as shown below, to keep the project development and construction on schedule. See **Chapter X. Right-of-Way (ROW)** for additional information on right-of-way.

For projects where there are existing utilities present, it is essential that the utility companies be advised early on and during the project development process, as shown below, of any developments that will affect their facilities. Prior to performing topographical (ground) survey for the project design, request the utility companies to mark on the ground the locations of their existing utilities, so that the topographical survey can pick up these ground markings, and the locations displayed on the project plans and cross-sections.

- **30% (Preliminary) Design Phase.** Conduct research as necessary to identify existing property boundaries and current ownership of all right of way, and all private, native, native corporation and other lands adjoining the right of way. Include this boundary and ownership information onto the electronic mapping performed for the project.

Identify and map existing utilities in the project corridor. At this 30% (preliminary) design phase, it is recommended that copies of the plans and cross-sections be sent to the utility companies, showing locations of existing utilities, to make them aware of any conflicts with their facilities.

- **50% (Intermediate) Design Phase.** If the NEPA document for the project is completed and signed at this point, the acquisition of right-of-way can begin, including mapping (platting) of the proposed right-of-way, contact and negotiations with the affected landowners, and purchase of the new right-of-way. When the project plans are at the 50% design phase, a set of the plans and cross-sections, along with a cover letter, should be sent to the utilities companies for them. The cover letter should list locations where utilities may need to be relocated due to the proposed project design.
- **95% (Final) Design Phase.** By this time, all right-of-way needed for the project should be acquired and certified. Send the 95% (final) set of plans to the utility companies for final resolution of utility relocations. At this time, the utility companies, the Tribe and the owner

agency (if different than the Tribe) of the road or trail should draft agreements which describe who will be responsible for the utility relocation, estimate of utility relocation cost, the cost share of each party involved, and utility plans approval.

- 5. Permits and Clearances.** All required permits and clearances must be obtained prior to constructing the project. Permits are usually obtained during the 50% or 70% Design Phases after the NEPA document is approved, and the design is developed enough to provide the information needed for the permit. Required permits include, but are not limited to:
- wetland, hydraulic, other environmental,
 - railroads,
 - airports,
 - approaches onto State, county or borough roads, and
 - utilities.
- 6. Project Design Phases.** The following design phases represent key project development milestones that need to be met to produce a complete PS&E and effectively deliver the project.

On simpler projects, such as reconstruction of low volume roads, the 70% (Plan-in-Hand) Design Phase may be combined with the 50% (Intermediate) Design Phase.

a. 30% (Preliminary) Design Phase. This milestone includes completion of the following:

- Conduct research as necessary to identify existing property boundaries and current ownership of all right of way, and private, native and native corporation lands adjoining the right of way through the project corridor.
- Complete the electronic base mapping and topographic survey files prior to beginning roadway line and grade design. Include in the mapping boundary and ownership information, existing utility locations, and environmental features (wetlands, archeological or historical features, etc.).
- The 30% Preliminary Design Plan Set should include plan and profile design sheets, typical sections, cross-sections (showing existing ground and proposed roadway, and an approximate construction cost estimate.
- A Design narrative highlighting the significant engineering, right-of-way, geotechnical, hydraulic, utility relocation, and environmental issues.
- An on-site meeting with all project development disciplines, and stakeholders to discuss the progress of the project.
- A completed and signed project NEPA document, addressing the design and other information at this phase.

b. 50% (Intermediate) Design Phase. This milestone includes completion of the following:

- Revisions to the 30% Preliminary Design based on review comments, environmental requirements from the project NEPA document, and any other new information.
- Design details such as major drainage structures, walls, guardrails, subexcavation, temporary erosion control, intersection layouts, and revegetation.
- The footprint of the designed cuts and fills, to determine right-of-way acquisition needs and environmental effects needed to apply for permits. Insure that the designed fill and cut banks, and other design features, fall inside the planned ROW boundary.
- Detailed quantity estimate and project pay item listing, and engineer's estimate for all project pay items.

- Standard and supplemental specifications, including anticipated environmental work windows, work shutdowns, and impacts to public traffic.
 - Brief design narrative highlighting the significant engineering and environmental issues identified to date.
- c. 70% (Plan-in-Hand) Design Phase.** This milestone includes completion of the following:
- Revisions to the 70% Intermediate Design based on review comments, environmental consultations and permits, and new information.
 - Complete set of plans representing a draft of all the plan sheets that will be in the final plans. Included are complete detail drawings showing complete dimensions.
 - Complete quantity tables for all work, including pay items and the non-pay items (information only items).
 - Final ROW limits showing areas of right-of-way acquisition. Insure that the designed fill and cut banks, and other design features, are inside the available or planned ROW.
 - A complete set of standard and supplemental specifications.
 - After design revisions are made, check if the designed facility is still in the ROW limits.
 - Conduct an on-site “plan-in-hand” field review after the 70% PS&E is completed. The field review should be attended by the Tribe, personnel from the consultant or agency performing the design, the stakeholders (any Federal or state land management agencies and local governments in the project area), and others as appropriate.
 - Draft NPDES Stormwater Pollution Prevention Plan.
 - Apply for environmental and other required permits, if the NEPA document is approved.
 - Brief design narrative highlighting the significant engineering and environmental issues identified to date.
- d. 95% (Final) Design Phase.** This milestone includes completion of the following:
- Revisions to the Plan-in-Hand (70%) Design based on review comments, the 70% field review, and the requirements of environmental permits and environmental consultations.
 - Detailed project design, plans, cross-sections and engineer’s estimate.
 - Conduct a meeting with the project stakeholders to review the final plans. The meeting provides stakeholders an opportunity to insure that their comments on the previous phase of the PS&E have been addressed in this Final PS&E.

7. Indian Tribal Government Approval. The Tribe reviews and approves the PS&E package.

8. Submittal of the Approved PS&E Package. Upon completion of the approved plans, the Tribe should provide FHWA and the facility owner with a complete PS&E package. The PS&E Certification Checklist (See Appendix A - [Exhibit 11.3](#)) should be included with the PS&E package.

C. Resources.

- Federal Lands Highway’s “*Project Development and Design Manual*” (PDDM) at (<http://flh.fhwa.dot.gov/resources/manuals/pddm/archives/2008.htm>)
- FHWA standard specifications “*U.S. Customary Units version of the Standard Specifications for Construction of Roads and Bridges on Federal Highway Projects, FP-03* (FP-03) at <http://flh.fhwa.dot.gov/recs/pse/specs/fp-03/>

- FLH supplemental specifications at <http://www.wfl.fhwa.dot.gov/resources/design/specs/> , or <http://www.cflhd.gov/resources/design/constructspecs/sct/>
- *A Policy on Geometric Design of Highways and Streets, 6th Edition 2011* AASHTO.
- *Guidelines for Geometric Design of Very Low-Volume Roads (ADT \leq 400), 2001* AASHTO.
- *AASHTO Roadside Design Guide, 4th Edition, 2011.*
- *AASHTO A Guide for Transportation Landscape and Environmental Design.*
- *AASHTO Guide for Selecting, Locating and Designing Traffic Barriers*, latest edition.
- *AASHTO Standard Specifications for Highway Bridges*, latest edition.
- *Manual on Uniform Traffic Control Devices (MUTCD) 2009 Edition*, DOT, FHWA, 2009 at <http://mutcd.fhwa.dot.gov/>
- FHWA Utilities Guidelines at <http://www.fhwa.dot.gov/realestate/rowutil1.htm>
- FHWA Right-Of-Way Guidelines at <http://www.fhwa.dot.gov/realestate/index.htm>
- WFL Right-Of-Way and Utilities web site at <http://www.wfl.fhwa.dot.gov/design/row>
- FHWA *Flexibility in Highway Design* at <http://www.fhwa.dot.gov/environment/publications/flexibility/flexibility.pdf>
- FHWA *Roadside Improvements for Local Roads and Streets* at <http://www.fhwa.dot.gov/publications/research/safety/00002/00002.pdf>
- 23 CFR part 625, Design Standards for Highways at <http://www.fhwa.dot.gov/legsregs/directives/fapg/cfr0625.htm>
- 23 CFR part 630, Preconstruction Procedures at <http://www.fhwa.dot.gov/legsregs/directives/fapg/cfr0630c.htm>
- 23 CFR part 633, Required Contract Provisions at <http://www.fhwa.dot.gov/legsregs/directives/fapg/cfr0633a.htm>
- 23 CFR part 635, Construction and Maintenance at <http://www.fhwa.dot.gov/construction/contracts/930721.cfm>
- 23 CFR part 645, Utilities at <http://www.fhwa.dot.gov/legsregs/directives/fapg/cfr0645a.htm>
- 23 CFR part 646, Railroads at <http://www.fhwa.dot.gov/legsregs/directives/fapg/cfr0646a.htm>
- 23 U.S.C. 106, PS&E at <http://www.fhwa.dot.gov/map21/docs/title23usc.pdf>
- 23 U.S.C. 109, Standards at <http://www.fhwa.dot.gov/map21/docs/title23usc.pdf>
- *FHWA Hydraulic Design Series (HDS-5), "Hydraulic Design of Highway Culverts, 3rd Edition"* at http://www.fhwa.dot.gov/engineering/hydraulics/library_arc.cfm?pub_number=7&id=13

- FLH Standard Drawings and Detail Drawings at <http://flh.fhwa.dot.gov/resources/pse/standard/> and <http://www.wfl.fhwa.dot.gov/resources/design/details/>
- Geopak and Microstation information at <http://www.wfl.fhwa.dot.gov/resources/cadd/>
- FHWA-approved State standards.
- FHWA-approved tribal design standards.

XII. Construction Bid Advertisement, and Contract Award and Administration

Overview. A Tribe may construct a project using a construction contractor, or may construct it by “force account,” also known as “in-house,” using its own forces and equipment. The “force account” process is described in greater detail in [Chapter XIII- Construction](#).

If a Tribe chooses to build a project using a construction contractor, then the role of the Tribe is to prepare, advertise, award, and administer the construction contract, according to the Tribe’s Contracting Procedures.

The object of the construction contract advertisement and bidding process is to provide competition among bidders, to award the contract to the bidder who best meets cost and other criteria contained in the Tribe’s Contracting Procedures, and to provide assurance that the completed project will meet all of the standards specified in the contract.

A Tribe has several options for awarding and administering a construction contract. The Tribe may perform construction management and inspection using qualified and trained Tribal employees, or by hiring a consultant or a Federal agency (FLH, BIA or others) to perform this role. When establishing a contract with a private consultant, the Tribe follows its written procurement policies.

Under the authority prescribed in 23 U.S.C. 202, a Tribal government may request a Federal agency, such as BIA, FHWA Federal Lands Highway (FLH) and others, to manage the construction project and monitor (inspect) the work of the construction contractor. If so requested, the Federal agency may execute a Project Agreement with the Tribal Government to perform this work. The Tribe fills out a Tribal Request for Services form as the first step (see Appendix A - [Exhibit 11.4](#)).

In any case, the Tribe is responsible for awarding the contract. A contract to perform construction work is between a contractor and the Tribe – not the FHWA, BIA or other agency.

A. Statutory/Regulatory Requirements

- Under 25 U.S.C. Section 450e(b), Indian organizations and Indian-owned economic enterprises are entitled to a preference, to the greatest extent feasible, in the award of contracts, subcontracts, and sub-grants for all work performed under the TTP Program.
- Before soliciting bids for projects(s), Tribes must certify in writing to the FHWA Administrator (See Appendix A - [Exhibit 12.1 - Tribe Certification Letter for Soliciting Bids](#)) that the Tribe gave the public authority an opportunity to review and comment on the PS&E package, the Tribe addressed any issues, and the Tribe received no written comments from the public authority that prevent the Tribe from proceeding with the project (Program Agreement - Article III, Section 1C(2)(c)).
- The Tribe agrees to initiate and complete TTP construction projects in accordance with the approved PS&E (Program Agreement - Article III, Section 1B).
- Each Tribe needs Contracting Procedures (policies that guide bid advertisement, contract award, and contract administration) documented and in place in order to perform the contracted programs and projects in accordance with the requirements of 25 CFR Part 170, as amended by MAP-21 (Program Agreement – Article III, Section 1B).

B. Guidelines / Procedures. The Tribe may at its sole option, adopt applicable State DOT, FHWA or BIA policies, procedures, program guidelines and memoranda, or develop tribal policies, procedures, program guidelines and memoranda which meet or exceed federal standards to facilitate operation or administration of any aspect of the programs assumed by or delegated to the Tribe under the agreement between FHWA and the Tribe.

Attached is a PS&E Advertising Checklist the Tribe may wish to use to help ensure all items have been completed prior to advertising for bids (See Appendix A - [Exhibit 12.2 – TTP PS&E Advertisement Checklist](#)).

C. Resources

- Contract Administration Core Curricular Participants' Manual and Reference Guide 2006, located at <http://www.fhwa.dot.gov/programadmin/contracts/coretoc.cfm>
This document provides guidance to State DOTs on advertising for bids, bid analysis, and awarding of contracts.

XIII. Construction

Overview. Construction of a project is another step in construction management. The construction step generally covers both the implementation (building of) the project and the managing/monitoring of the construction work, starting from the first day of construction all the way through final acceptance of the project. The role of the Tribe is to ensure that the project is constructed according to the plans, specifications and estimates (PS&E). When establishing a contract with a construction contractor or a private consultant, the Tribe follows its written procurement policies.

Tribes have three options for constructing a project:

1. **Force Account.** The Tribe implements (builds) the construction project using employees of the Tribe. This is also known as “in-house” construction. If doing the project in this manner, the Tribe should complete an independent in-house cost analysis to compare to the engineers estimate that accompanies the PS&E. This is to ensure the reasonability of the anticipated cost and accuracy of the engineers estimate.

Part of the purpose of the Tribal Transportation Program (TTP) is to contribute to “...employment of Indians and Alaska Natives.” FHWA, therefore, encourages Indian and Alaska Native employment in any and all aspects of project construction. The management and monitoring of the construction may also be done by qualified employees of the Tribe.

2. **Contracted or Project Agreement.** The Tribe contracts out the construction of the project. Even though the project will be constructed by a contractor, the project work still needs to be managed and monitored by a construction manager and inspectors. To do this, a Tribe may use its own qualified employees, or hire a consultant, or use a Federal agency (FLH, BIA or others) through a Project Agreement.

Under the authority prescribed in 23 U.S.C. 202, a Tribal government may request a Federal agency, such as BIA, FHWA Federal Lands Highway (FLH) and others, to perform all or parts of TTP project planning, preliminary engineering, and construction management and inspection. If so requested, the Federal agency may execute individual Project Agreements with Tribal governments to perform any or all project development activities if TTP funds are used. The Tribe fills out a Tribal Request for Services form as the first step (see [Exhibit 11.4 - Tribal Request for Services form](#)).

1. **Combination.** The Tribe performs some construction and monitoring activities while hiring out (with a contract or project agreement) the other activities. For example, a Tribe could use its own force account crews to perform the construction work, but contract a consultant (or utilize a Federal agency) to manage the construction. Construction inspection could be performed by qualified and trained Tribal employees, or by a consultant through a contract, or by a Federal Agency agency (FLH, BIA or others) through a Project Agreement.

Construction equipment for Force Account Projects. Construction equipment, to be used for constructing a TTP project with Force Account crews, can be leased, rented, or purchased (25 CFR 170 Appendix A to Subpart B). Construction equipment can be purchased using TTP funds only after the Tribe provides the FLH Director of the Office of Tribal Transportation Program with written notice and a written “cost analysis” (49 CFR 18.36) showing that it is more economical to purchase than lease. Use the form shown in [Exhibit 14.1 - Equipment Acquisition Request Form](#) to document the cost analysis. The cost limit shown in Item 3 of this form does not apply to equipment to be purchased for force account

construction of a TTP project. Construction equipment cannot be purchased with TTP funds unless specific approval is granted in writing by the FLH Director of the Office of Tribal Transportation Program.

A. Statutory/Regulatory Requirements

- All construction and construction monitoring is governed under 25 CFR 170.470 - 170.474.
- The Tribe must meet applicable labor standards in accordance with Mine Safety and Health Administration (MSHA) regulations found in 30 CFR 1 - 199, Mineral Resources, developed pursuant to the Federal Mine Safety and Health Act of 1977 (PL 91-173) as amended, and in accordance with the Occupational Safety and Health Administration (OSHA) regulations found in 29 CFR 1900, Labor - Construction Standards, developed pursuant to the Occupational Safety and Health Act of 1970 (PL 91-596) as amended.
- With respect to Indian Employment Preference/Tribal Preference/TERO, please see 25 CFR 170.910 - 25 CFR 170.917 for further information in these areas.

B. Guidelines / Procedures.

The following are recommended procedures, regardless of whether the construction project is being built by a construction contractor or by the Tribe's own force account crews. These procedures should also be used by Tribal employees, consultants or Federal agencies (BIA, FLH or others) if they are managing or monitoring the construction. The Tribal On-site Representative's (TOSR) position should be established and duties described herein carried out regardless of whether the project is being constructed by Tribal force account crews or by a contractor.

- 1. Documentation.** The need for an accurate and detailed documentation and monitoring of construction projects cannot be over emphasized. Documentation plays a major role in every construction project. Information must be collected and stored to serve as a reference or evidential material.

Documentation may be different depending on the option the Tribe chooses in implementing and overseeing the construction activities. For example, if the Tribe chooses to have a consultant, BIA, or FHWA implement and oversee the construction activities, these entities may have their own tested documentation processes already in place. Whereas if the Tribe chooses to implement and oversee the construction activities in house, the Tribe may need assistance on what and how to document all the activities taking place on a construction project. Below is a website where a Tribe can obtain forms used by WFL. These forms can be modified and simplified to fit the complexity of the construction project.

<http://www.wfl.fhwa.dot.gov/resources/construction/forms/contractor-forms.htm>

Documentation covers the collection of information from the pre-construction stage through the construction stage. Documentation is intended to be used as a record for looking up facts, definitions or other information relating to activities or work performed in a construction project.

Documentation should serve in resolving disputes and supporting contractual claims. This calls for a detailed and accurate collection and recording of construction information. The documents contained in a file will almost certainly affect the outcome of a dispute. When the construction documents are complete, they are subject to code and legal reviews. Accurate and detailed project documentation also establishes either the validity or unsustainability, of a contractual claim.

Documentation is necessary to record construction activities and results, in order to provide adequate evidence of compliance with laws, regulations, codes, PS&E requirements. Documentation also supports funding used in constructing the project.

Below are some suggested basic rules for good documentation for the construction procedures.

a. Rules for Data Entry

- Signature and Initials logs, that list the printed name, title, and the written signature and initials used by each person who is authorized to make or authenticate entries, will be prepared and maintained in the construction field book, when used, or in the file cabinet for that construction activity. Copies of this log, along with original signatures and initials added, are acceptable.
- Entries must be legible, clear, and reproducible.
- Errors will be corrected by lining through the incorrect entry with a single line, making the correction, and initialing and dating the correction. The erroneous information must not be obliterated or erased.
- When entries for a given subject are made on two or more pages or separate records that are not consecutive, each page or record must be cross-referenced to the previous and the following entries.
- When a page has entries from more than one day, each entry shall be signed or initialed and dated.
- The balance of that section of the document shall be crossed out immediately below the last entry.
- Pages to documents shall not be left completely blank. If a page must be left blank, it must be ruled across, signed, and dated.

b. Completeness and Correction of Incorrect Information

- The person who monitored or recorded the activity must identify the construction site, provide the date the activity was monitored or observed, and sign (or initial if the initials are identified on a signature/initials log) each page of the document recording a construction activity.
- Record accurately and concisely all data as required by procedures for the activity being performed.
- Record all significant and relevant field activity on the construction field inspection log; account for each work day, noting any work suspension and restarts.
- Describe the activity with enough detail to enable someone of equivalent skill and experience to understand and be informed as to what occurred or was recorded.
- All documentation shall be kept intact; no page is to be partially removed.
- Documents requiring replacement because of illegible handwriting, incompleteness, or inaccuracies will be voided and a replacement prepared. A notation will be made on the voided document indicating that a replacement document was completed along with the initials and date of the person making the void notation. The voided document will be filed immediately following the replacement document.
- When a document contains information on more than one activity or project, reproducible copies may be designated and controlled as records for the other activities.

c. Recording Construction Activities

- Use still or digital photographic images and narrated video camera recording to enhance all written documentation from preexisting site conditions to final inspections.
- The Construction Field Inspection Log or other line management approved form should provide a documented factual record of the work performed each day, as well as:
 - All changes that might affect cost and schedule.
 - Major project status changes.
 - All directions or clarifications.
 - Personnel accidents or injuries, safety infractions, and corrections.
 - Safety meetings held on site.
 - Names of visitors to the site.
 - Conditions and actions in response to Subcontractor violations.
 - Significant events, such as unexpected power outages, severe weather occurrences, or spills of hazardous materials (residual radioactive material, hazardous waste, hazardous substance).
 - Construction inspections and quality control tests performed. Include time of tests and inspections and results.
 - Implementation of the applicable emergency plan.
 - Security incidents.
 - Applicable equipment parameters, including out-of-tolerance readings.
 - Nonconformance reports.
 - Signatures that acknowledge notifications or changes in construction activities.
 - Positive actions that resulted in significant savings, quality improvements, lessons learned, etc.
 - Hours worked.
 - Equipment on-site and used.
 - Weather.
 - Other pertinent information as determined by the project manager.
- The Site Supervisor should:
 - Document events as completely as possible and communicate information as clearly as possible to maximize understanding by individuals reading the Construction Field Inspection Log.
 - Record information promptly to avoid inaccuracy or incompleteness that often results from delayed entries.
 - Enter unusual, abnormal, or unexpected conditions in the appropriate record, and resolve these conditions in accordance with project management's guidance.

2. Project Management and Monitoring.

- a. **Pre-Construction Conference and Walk Through/Photographs.** Prior to beginning any construction project, the Tribe should hold a pre-construction conference with the construction contractor, any force account Tribal employees working on the project, any consultant or Federal Agency personnel serving as project managers or inspectors, the FHWA or BIA Tribal Coordinator, and other key stakeholders. The purpose of the conference is to discuss, review, and reinforce the plans and specifications for the project, any unusual conditions, the construction contractor's plan and schedule of operation, type and adequacy of equipment, labor requirements, equal employment opportunity requirement, Tribal

Employment Rights Ordinance (TERO), maintenance of traffic, requirements for traffic control, the construction contractor's responsibilities for accident prevention, material sources and testing requirements, subcontracting requirements, required submissions, and any other pertinent items which would result in a better job understanding.

It is recommended that the Tribe, the construction contractor, and any consultant or Federal Agency personnel hired to manage the project, walk through the project and take photographs prior to beginning construction. Additional photographs of the project should be taken during construction to document the progress of the project until completion and final inspection.

- b. Submittal Review.** Prior to beginning work on a construction project, the construction contractor (or the project manager of force account construction) should begin submitting documentation for materials that are intended for use on the project. A log of all of the construction contractor's submittals, or force account work records, should be maintained through the duration of the project including:
- payrolls,
 - material certifications,
 - test reports, and
 - other routine items.
- c. Construction Project File Set-up.** Key to any construction is to establish and maintain an organized filing system. Documentation is important for proper accountability purposes.
- i. **Tribal On-site Representative's (TOSR) Daily Diaries.** The TOSR should maintain project diaries documenting construction operations, progress, meetings, telephone conversations, and problems encountered. Daily entries, with signature should be made. If the TOSR is absent from the project, the daily entries should be made and signed by the person left in charge during their absence.
 - ii. **Inspector's Daily Reports.** The project inspector(s) should prepare a daily report that fully documents the construction contractor's (or force account crew's) construction operations and pay quantities. The TOSR should review and sign the daily report. The TOSR should establish a process for reviewing, endorsing, and providing feedback as necessary, on construction contractor produced records.
 - iii. **Construction Daily Reports.** It is recommended that the Tribe require the construction contractor (or force account crews, if being used) to maintain daily records of equipment, personnel, and construction operations. If required by the contract, the construction contractor's daily reports should be contractually required to be furnished to the Tribal Contracting Officers representative within 24 hours following the reporting period.
 - iv. **Project Files.** The TOSR should establish a uniform filing system for use in construction field offices. Establishing and maintaining this system will ensure compliance with 25 CFR 472, which states that project records have to be maintained properly and be readily available when needed.
- d. Inspection.** An important part of construction monitoring is completing project-level inspections. An on-site review is required to evaluate project activities and the quality and progress of the work. The following are several types of inspections.

- i. **Work Site Safety, Worker Safety, and Work Zone Traffic Control.** The TOSR is responsible for ensuring that day-to-day project inspections are carried out during construction. The inspections should include a review of project safety.

As part of the daily inspections, the Tribe should complete a Work Zone Traffic Control inspection to assure compliance with the approved project standards. An example of a Traffic Control Report (see link below) for these inspections that may be modified to meet project requirements is located at:

<http://www.wfl.fhwa.dot.gov/resources/construction/forms/contractor-forms.htm>

A Safety Checklist (see [Exhibit 13.2 – Safety Checklist](#)) is also included for reference to assist the TOSR. This checklist identifies critical elements of work zone traffic safety and OSHA conditions that should be checked during an inspection. The checklist should be completed by the Tribe at least once during each construction season for that particular project. The checklist was developed to minimize subjective reporting and to help determine if the construction contractor's safety plan and policy, plus the approved traffic control plan are being followed throughout the duration of the project. Upon request of the Tribe, an FLH representative may be available to take part in the safety review.

If the TOSR becomes aware of any unsafe condition resulting from the construction contractor's action or inaction or a possible violation of either OSHA standards or reasonable standards of construction safety practice, the construction contractor must be immediately notified verbally, and followed up with written notice documenting the deficiency. The Tribe should be involved in this process and should be copied on any correspondence regarding safety issues.

- ii. **Construction Standards.** Quality Assurance/Quality Control (QA/QC) must be performed on all projects. The TOSR should oversee the activities of the construction contractor and monitor their work to ensure compliance with plans and specifications. WFL has examples of forms to aid in monitoring and documenting the construction contractor's work. See this link:
<http://www.wfl.fhwa.dot.gov/resources/construction/forms/contractor-forms.htm>
- iii. **Materials.** Construction administration and quality control by the construction contractor and quality assurance by the Tribe should include continuous on-site inspections throughout construction, by competent, technically qualified, and experienced inspectors.

The TOSR should ensure that all materials being incorporated into the project conform to contract requirements. At a minimum, this work should include:

- Confirming that construction contractor sampling/testing is performed in accordance with the sampling/testing frequencies stipulated in the contract and project specifications.
- Ensuring that the construction contractor's testing company maintains properly calibrated equipment and qualified personnel to perform the required work.
- Maintaining all materials test results and documents for project records. It is recommended that records of all failing test results be supplemented with a follow-up

passing test result. Any reporting discrepancies; i.e., errors, omissions, or conflicts, should be corrected and documented properly.

- Receiving and maintaining materials certifications for all manufactured/non-tested materials incorporated into the project.
- Sampling and Testing – Ensuring that all test samples are taken in accordance with the approved project standards and contract requirements, and that they are sent to the testing company for verification testing and analysis. The tribe should have independent testing done in addition to what the contractor is performing to verify the construction contractor's results. The construction contractor's testing is for quality control and should be reviewed and overseen by the Tribe or their agent.

WFL has examples of forms to aid the Tribe in continuous on-site inspections and documentation throughout the construction project. See this link:

<http://www.wfl.fhwa.dot.gov/resources/construction/forms/contractor-forms.htm>

- iv. **Quantity Measurements.** Before any measurements are taken on a project, the TOSR should study the plans, specifications, and special contract requirements to determine what is to be measured and how the measurement will be completed.
- v. **Sediment and Erosion Control Inspections.** The TOSR should ensure that the construction contractor provides permanent and temporary erosion control measures in accordance with the approved erosion control plan, to minimize erosion and sedimentation during and after construction. It is recommended that inspections be carried out at least weekly and/or after significant rain events. Some permits required for construction may specify certain inspection, monitoring, and reporting requirements. It is the Tribe's responsibility to see that these permit requirements are met.
- e. **Construction Schedule Review.** If specified in the contract, a construction contractor must submit a construction schedule to the TOSR. This construction schedule represents the sequence in which the construction contractor plans to perform the contract work. The TOSR should review the schedule and work with the construction contractor to verify that the construction schedule generally represents the activities that logically occur during the completion of the construction project. Updates to the construction schedule should be submitted according to requirements set out in the Tribal policy. It is recommended that a construction schedule should also be prepared by the Tribe (or consultant/Federal agency used by the Tribe) for projects being constructed with Tribal force account crews.
- f. **Progress Payments.** The payment and invoice process, as well as the construction contractor's obligations, should be emphasized at the preconstruction conference. The construction contractor should understand the negative impacts that could result from failure to provide required materials and documentation, test reports, and/or certifications. The requirements for the processing of progress payments that are included in the contract should be reviewed in detail as well.
- g. **Contract Modifications.** Only the Professional Engineer of record may change a TTP project's PS&E during construction. This requirement applies regardless of whether the project is being built by a construction contractor or by Tribal force account crews.

Substantial changes to a construction contract should only be completed in coordination with the Tribe and the facility owner. Records of the approved change orders, along with documentation of the work involved, such as photographs, diaries, daily reports, costs, and time must be maintained by the TOSR to assist in determining final costs and liability.

- h. Project Progress Meetings.** The TOSR should hold regularly scheduled meetings with the construction contractor's superintendent or representative to discuss the construction contractor's work progress, future plan, schedule of work, and any problems arising on the project. The frequency of the meetings should be determined by the complexity of the project.
- i. Weekly/Monthly Status Reports.** The TOSR should keep the Tribe and facility owner aware of the current state of the project by submitting a project status report to them on a regular basis.
- j. Construction Project Reviews.** In accordance with Section 1(F)(4) of Article III in the Program Agreement, FHWA Tribal Coordinator has the opportunity to visit project sites on a monthly basis or at critical project milestones. This visit may also be carried out by a mutually agreed upon delegated representative as well. FHWA Tribal Coordinator will give the Tribe reasonable advance written notice of inspection. For BIA lands, the BIA will be invited to attend. These visits are intended to allow FHWA, through the Tribal Coordinator, to carry out its oversight and stewardship responsibilities for the TTP Program or project(s) assumed by the Tribe.

A Construction Project Review will be completed during the visit and discussed/reviewed with the TOSR. The FHWA Tribal Coordinator will document the review using the [Project Monitoring Checklist \(see Appendix A - Exhibit 13.1\)](#) and the [Construction Inspection Report \(see Appendix A - Exhibit 13.3\)](#). FHWA Tribal Coordinator will not provide direction or instruction to the Tribe's construction contractor or any subcontractor, or Tribal force account crews, at any time. If a problem is discovered during an on-site monitoring visit, FHWA Tribal Coordinator will promptly notify the TOSR and, if asked, provide technical assistance.

For a BIA facility ownership, the FHWA Tribal Coordinator will invite a BIA representative to attend interim project reviews if not already invited.

- k. Final Inspection, Project Acceptance, and Project Closeout and Report.**
 - i. Final Inspection.** A final inspection is conducted to determine whether the project has been completed in reasonable conformity with the PS&E.

The final inspection should be conducted within 30 days of the completion of all contract activities submittal or completion of force account construction.

The TOSR should schedule the final inspection so that officials from the Tribe, facility owner (i.e., BIA), and FHWA are able to participate, as well as the construction contractor and maintenance personnel. For a BIA owned facility, the BIA should also attend the final inspection.

The Tribe shall provide a construction report that accounts for the funds expended to date on the project, as well as the as-built plans to the facility owner and the FHWA Tribal Coordinator for final inspection. In addition, all project information must be made available during the final inspection. Examples of project information include:

- Daily diaries
- Weekly progress reports
- Monthly Narrative progress reports
- Subcontracts
- Subcontract expenditures
- Salaries
- Equipment expenditures
- As-built drawings
- Material Certifications/ testing reports
- Contract modifications
- Etc.

Final inspection review forms (See Appendix A - [Exhibit 13.1 – Project Monitoring Checklist](#) and [Exhibit 13.3 - Construction Inspection Report](#)) will be completed by an FHWA Tribal Coordinator representative in company with the TOSR. If a BIA owned facility, the BIA representative will also participate in completing the Construction Inspection Report.

Once completed, the Construction Inspection Report will be forwarded to the Tribe for review and consideration.

- ii. **Project Acceptance.** Before the project can be closed out, certain documents and processes must be completed. The items must be included as completed in the close-out report. Items in support of the final project acceptance may include:
 - Final Contract Modification (CM) – Actual final item quantities often vary from the original contract item quantities and as a result, a final CM may be required in order to close out the contract. The final CM will change the item quantities to match the actual amounts incorporated into the project. This work should be carried out by the TOSR.
 - The Final Estimate – The final estimate should account for all final quantities, a time count, and any assessment of liquidated damages. The final amount of the contract should also be identified.
 - Claims – It is recommended that the Tribe, the facility owner (BIA if owner of the facility), and the construction contractor address and resolve any pending claims, which pertain to the contract as part of the close-out process.
 - The Tribe should receive and maintain all project records. The records should include certifications showing that all of the materials used on the project were in conformance with project specifications. The U.S. Department of Transportation recommends that project records be maintained for at least 10 years.
 - Verify completion and/or status of environmental commitments.

Once the final inspection is documented and any issues completed and documentation which supports all activities of the project is completed, a Letter of Acceptance (See Appendix A - [Exhibit 13.4 – Final Letter of Acceptance](#)) shall be developed by the Tribe. (For a BIA owned facility, the BIA will write a Letter of Acceptance to the Tribe, with a copy to FHWA, once accepted by the BIA (see Appendix A - [Exhibit 13.5 – Final Letter of Acceptance for BIA Owned Facility](#)). The Tribe will then send a Letter of Acceptance to the Contractor, if applicable). This letter is a formal acceptance document in which the Tribe and the BIA (if BIA owns the facility) accept and acknowledge that the project has been developed as requested or in accordance with the contract document. This releases the construction contractor of any further responsibilities of the project.

The Letter of Acceptance is provided to the construction contractor and a courtesy copy is also given to the facility owner and the FHWA Tribal Coordinator.

- iii. **Project Closeout and Report.** After final inspection, completion of any required corrections, and project final acceptance by the Tribe and the facility owner, the Tribe must submit a final project closeout report to FHWA Tribal Coordinator and the facility owner (BIA if facility owner).

The project closeout report is the final accounting of all construction project expenditures and is the closing of the financial books for the construction project.

The closeout documents and report are typically generated by the TOSR.

The report should be completed within 120 calendar days (4-months) of the date of project acceptance.

The final close out report should consist of:

- A summary of the construction project records to ensure compliance requirement have been met,
- Review of the bid item quantities and expenditures to ensure reasonable conformance with the PS&E and contract modifications,
- Final as-built plans,
- Photographs,
- Change orders,
- FHWA Final Inspection report, and
- Acceptance letter

All project information made available during final inspection per 25 CFR 472-474 can also be used to develop the TTP construction project closeout report.

Once the project is complete the Tribe must update the National Tribal Transportation Facility Inventory to reflect any changes and submit cost to construct detail sheets to the BIADOT.

C. Resources.

- FHWA Construction website at <http://www.fhwa.dot.gov/construction/>
- FLH Construction Manual at <http://flh.fhwa.dot.gov/resources/manuals/cm/>

XIV. Maintenance

Overview: Maintenance is any action required to preserve and maintain a current facility in such condition that it may be safely and effectively utilized for its designated or designed purpose. The main categories of maintenance are:

- Preventive Maintenance is regularly scheduled inspection, and minor repairs.
- Scheduled Maintenance is planned, and results from preventive maintenance inspections.
- Unscheduled Maintenance is immediate action needed to correct occurrences impacting safety and efficient operations.
- Normal Maintenance is recurrent day-to-day systematic care.

There are two types of funds which can be used for maintenance:

1. BIA Transportation Facility Maintenance Program; and
2. Tribal Transportation Program Funds (not more than 25% or \$500,000, whichever is greater, except road sealing)

A. Statutory / Regulatory Requirements

- TTP funds may be used for maintenance in accordance with 23 U.S.C. 202(a).
- TTP funds may be used for eligible maintenance activities listed in 25 CFR 170 Appendix A to Subpart G.
- TTP funds can be used for the maintenance of TTP facilities identified in the National Tribal Transportation Facility Inventory (NTTFI) (25 CFR 170.803).
- TTP road maintenance requirements are in 25 CFR 170.800 - 170.808.
- TTP road maintenance standards are in 25 CFR 170.806. Notwithstanding 25 CFR 170.116, in accordance with 23 U.S.C. 202(a)(8) and 25 CFR 170.802, not more than 25 percent of the TTP funds allocated to a Tribe or \$500,000, whichever is greater, may be expended for the purpose of maintenance. Road sealing is not subject to this limitation.

B. Guidelines / Procedures

- The Tribe is responsible for making the determination of what can be considered a cost-effective means of extending the service life of a transportation system.
- Maintenance should be included on the FHWA approved TTIP, if using TTP funds, before funds are expended, although each activity does not need to be listed as a separate line item. One line item can be used and should be labeled as “routine maintenance.”
- Maintenance Equipment can be leased, rented, or purchased using TTP funds after the Tribe provides the FLH Director of the Office of Tribal Transportation Program with written notice and a “cost analysis” (49 CFR 18.36) showing that it is more economical to purchase than lease (See Appendix A - [Exhibit 14.1 - Equipment Acquisition Request Form](#)). The maintenance equipment cannot be purchased with TTP funds unless specific approval is granted by the FLH Director of the Office of Tribal Transportation Program. If the maintenance equipment purchase is approved, then the approved cost of the maintenance equipment purchase must be shown separately on the Tribe’s TTIP.
- Additional maintenance funds are available through the Bureau of Indian Affairs using Self-Determination or Self-Governance contracting or compacting procedures.

C. Resources

- American Association of State Highway and Transportation Officials (AASHTO) road and bridge maintenance manuals and maintenance management system manuals.
- National Association of County Engineers (NACE) action guides, and other Federal, State, Tribal, or local government maintenance standards.

XV. Reporting Requirements

Overview. There are several categories of required reports which need to be submitted.

Financial reports are the documents and records put together to track and review how much funds a Tribes is expending.

Progress Reports (also called Performance Reports or Accomplishment Reports) document the measure of progress achieved on a project(s), and help identify programmatic and administrative problems that may need to be resolved. [Exhibit 15.1](#) (form type) and [Exhibit 15.2](#) (narrative type example) in Appendix A show acceptable forms of Progress Reports to be submitted. [Exhibit 15.2](#) is just one example of a narrative type Progress Report. Tribes with smaller TTP programs would likely prepare a shorter version.

There are many reasons for the reporting requirements. Information from these reports helps in the oversight by FHWA. In addition, information from these report are used to collectively provide information and support for the Administrator's when reporting to Congress.

A. Statutory Requirements

- Tribal/FHWA Program Agreement – Reports must be developed in accordance with Article III, Section 1.G.
- 2 CFR

B. Guidelines/ Procedures

Report	Reporting Period	Due	Submit Through
Single Agency Audit Report	Annual	When completed	FHWA Tribal Coordinator
Progress Report (see form type - Exhibit 15.1 or narrative type - Exhibit 15.2 in Appendix A)	Semi-annual: October 1 through March 31	Within 90 days of conclusion of reporting period reporting period (NLT June 30)	FHWA Tribal Coordinator
	April 1 through September 30	Within 90 days of conclusion of reporting period reporting period (NLT December 30)	FHWA Tribal Coordinator
Financial Status Report*	Semi-annual October 1 through March 31	Within 90 days of conclusion of reporting period reporting period (NLT June 30)	FHWA Tribal Coordinator
	April 1 through September 30	Within 90 days of conclusion of reporting period reporting period (NLT December 30)	FHWA Tribal Coordinator

***Note:** See Appendix A - [Exhibit 15.3](#) and [Exhibit 15.4](#) for the SF 425 Form, and instructions on how to fill out the form for TTP Semi-Annual Reports.

- i. **The Federal Financial Report (SF 425) requires Indirect Cost information.** Indirect costs represent the expenses of doing business that are not readily identified with a particular grant, contract, project function or activity, but are necessary for the general operation of the organization and the conduct of activities it performs.

Indirect costs are those costs that are not classified as direct. Direct costs can be identified specifically with particular cost objectives such as a grant, contract, project, function, or activity. Direct costs generally include:

- Salaries and wages (including vacations, holidays, sick leave, and other excused absences of employees working specifically on objectives of a grant or contract – i.e., direct labor costs).
- Other employee fringe benefits allocable on direct labor employees.
- Consultant services contracted to accomplish specific grant/contract objectives.
- Travel of (direct labor) employees.
- Materials, supplies, and equipment purchased directly for use on a specific grant or contract.
- Communication costs such as long distance telephone calls or telegrams identifiable with a specific award or activity.

An indirect cost rate is simply a mechanism for determining fairly and conveniently, within the boundaries of sound administrative principle, what proportions of departmental/organization administration costs each program should bear. An indirect cost rate represents the ratio between the total indirect costs and benefiting direct costs, after excluding and or reclassifying unallowable costs, and extraordinary or distorting expenditures (i.e., capital expenditures and major contracts and sub-grants). The indirect costs in the numerator of the equation should bear a reasonable relationship to the direct costs from the denominator. This will allow for each program or activity represented in the direct costs base to assume their fair share of indirect costs when the rate is applied. See [Exhibit 15.4](#) for more information on how to fill out indirect costs on the SF 425 form.

- ii. **The application of Tribal Indirect Costs to the Tribal Transportation Program (TTP)**

a. Background

Each Indirect Cost Rate (ICR) for a federally recognized Tribe is negotiated with the Department of the Interior's National Business Center (NBC). This ICR is then applied to grants, contracts, and other agreements that the Tribe receives from the Federal government to which P.L. 93-638 and OMB Circular A-87 apply, subject to the limitations contained in 25 CFR 900. However, how a Tribe applies indirect costs to the TTP funds it receives through agreements/contracts/compacts from the Federal Highway Administration (FHWA), Bureau of Indian Affairs (BIA), or the Office of Self-Governance (OSG) has become an issue that requires resolution from a national level. Some tribes have insisted on applying their Tribe's ICR to the entire amount of TTP funding it receives, thus removing a significant portion of those funds from their primary purpose of improving the transportation facilities serving the Tribe.

TTP funds that a Tribe receives can be broken into two categories; program administration and pass-through/project. For purposes of this determination, pass-through funds are defined as all project related costs including major contracts or subcontracts, payments to participants, sub-grants that a Tribe enters into as well as all direct labor, equipment, and

materials costs for projects carried out by the Tribe. The NBC has stated in their reports that the determination of whether or not a Tribe's ICR is applicable to pass-through funds is up to the discretion of the awarding agency but generally it is not permitted.

b. Guidance

Under the TTP, two distinct and separate Indirect Cost Rates (ICRs) will be allowed per Tribe:

- The NBC negotiated ICR is allowed to be applied only to the TTP funds that are used by a Tribe for program administration activities (non pass-through);
- An ICR of not more than 3% is allowed to be applied to pass-through funds as identified above.

Both FHWA and BIA will carry out this guidance uniformly with all Tribes nationwide. In addition, they will provide technical assistance to the Tribes to ensure that it is understood with respect to requirements of the TTP.

NOTE: The Tribe will enter the indirect cost information on line 11 of the SF 425 prior to submitting to the FHWA/BIA Tribal Coordinator. See Appendix A - [Exhibit 15.3](#) and [Exhibit 15.4](#) for the SF 425 Form and for instructions on how to fill out the form for TTP Semi-Annual Reports.

XVI. Tribal Transportation Program (TTP) - Bridge Program

Overview. The Tribal Transportation Facility Bridge Program (TTFBP) is a nationwide priority program for improving structurally deficient and functionally obsolete TTP bridges. Funds provided from the TTFB, also called the TTP Bridge Program, can be used to carry out preliminary engineering (PE), construction, and construction engineering (CE) activities of projects to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate, sodium acetate/formate or other environmentally acceptable, minimally corrosive anti-icing and deicing compositions, or install scour countermeasures for structurally deficient or functionally obsolete TTP bridges, including multiple pipe culverts. TTP Bridge Program funds can be transferred to the Tribe under the FHWA/Tribal program agreement.

A. Definitions.

- **Construction engineering (CE)** is the supervision, inspection, and other activities required to ensure the project construction meets the project's approved acceptance specifications, including but not limited to: additional survey staking functions considered necessary for effective control of the construction operations; testing materials incorporated into construction; checking shop drawings; and measurements needed for the preparation of pay estimates.
- **Functionally obsolete (FO)** is the state in which the deck geometry, load carrying capacity (comparison of the original design load to the State legal load), clearance, or approach roadway alignment no longer meets the usual criteria for the system of which it is an integral part.
- **National Bridge Inventory (NBI)** means the aggregation of structure inventory and appraisal data collected to fulfill the requirements of the National Bridge Inspection Standards (NBIS).
- **Plans, specifications and estimates (PS&E)** means construction drawings, compilation of provisions, and construction project cost estimates for the performance of the prescribed scope of work.
- **Preliminary engineering (PE)** means planning, survey, design, engineering, and preconstruction activities (including archaeological, environmental, and right-of-way activities) related to a specific bridge project.
- **Structurally deficient (SD)** means a bridge becomes structurally deficient when it reaches the set threshold of one of the six criteria from the FHWA NBI.
- **Structure Inventory and Appraisal (SI&A) Sheet** means the graphic representation of the data recorded and stored for each NBI record in accordance with the Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation's Bridges (Report No. FHWA-PD-96-001).
- **Sufficiency rating (SR)** means the numerical rating of a bridge based on its structural adequacy and safety, essentiality for public use, and its serviceability and functional obsolescence.
- **Tribal transportation facility** means a public highway, road, bridge, trail, or transit system that is located on or provides access to tribal land and appears on the National Tribal Transportation Facility Inventory described in 23 U.S.C.

- ***Tribal Transportation Program (TTP) bridge*** means a structure located on a designated tribal transportation facility, including supports, erected over a depression or an obstruction, such as water, a highway, or a railway, and having a track or passageway for carrying traffic or other moving loads, and having an opening measured along the center of the roadway of more than 20 feet between undercopings of abutments or spring lines of arches, or extreme ends of the openings for multiple boxes; it may also include multiple pipes, where the clear distance between openings is less than half of the smaller contiguous opening.

B. Statutory/Regulatory Requirements.

- Authorizes \$9 million of distinct and separate funds per year for the replacement or rehabilitation of structurally deficient or functionally obsolete bridges.
- The Tribal Transportation Facility Bridge Program is authorized and defined under 23 U.S.C. 202(d) and set forth in 23 CFR 661.
- 23 CFR 661- Tribal Transportation Program (TTP) - Bridge Program at <http://www.gpo.gov/fdsys/pkg/CFR-2011-title23-vol1/pdf/CFR-2011-title23-vol1-part661.pdf>

C. Guidelines/Procedures.

1. Eligible activities for TTP Bridge Program funds (23 CFR 661.15):

- a. TTP Bridge Program funds can be used to carry out any planning, design, engineering, preconstruction, construction, and inspection of a project to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and deicing composition; and
- b. to implement any countermeasure for deficient TTP bridges, including multiple-pipe culverts; and
- c. to demolish the old bridge that is being replaced by a new bridge under the TTP Bridge Program.

Criteria for bridge eligibility (23 CFR 661.17):

- a. Bridge eligibility requires the following:
 - i. Have an opening of 20 feet or more.
 - ii. Be classified as a tribal transportation facility.
 - iii. Be structurally deficient or functionally obsolete.
 - iv. Be recorded in the National Bridge Inventory (NBI) maintained by the FHWA.
- b. Bridges that were constructed, rehabilitated, or replaced in the last 10 years, are only eligible for seismic retrofit or installation of scour countermeasures.

2. Funding limitations on individual TTP bridge project (23 CFR 661.37):

- a. BIA and Tribally owned TTP bridge is eligible for 100 percent TTP Bridge Program funding, with a \$150,000 maximum limit for PE.

- b. Non-BIA owned TTP bridge is eligible for up to 80 percent TTP Bridge Program funding, with a \$150,000 maximum limit for PE and \$1,000,000 maximum limit for construction. The minimum 20 percent local match will need to be identified in the application package. TTP Program construction funds received by a Tribe may be used as the local match.
- c. Requests for additional funds above the referenced funding limitations may be submitted along with proper justification to FLH for consideration. The request will be considered on a case-by-case basis. There is no guarantee for the approval of the request for additional funds.
- d. All applications will be ranked and prioritized based on: (1) Bridge sufficiency rating (SR); (2) Bridge status with structurally deficient (SD) having precedence over functionally obsolete (FO); (3) Bridges on school bus routes; (4) Detour length; (5) Average daily traffic; and (6) Truck average daily traffic.
- e. An existing bridge must have a sufficiency rating of less than or equal to 80 to be eligible for rehabilitation, and a sufficiency rating of less than 50 to be eligible for replacement.
- f. Funding for successful TTP bridge applications will be distributed on a quarterly basis.

3. Application Package for Preliminary Engineering

Any time during the year, in accordance with 23 CFR 661.25, the Tribe will submit the application package for preliminary engineering (PE) request to the Tribal Coordinator, who will review the submittal and resolve any issues with the Tribe, before submitting the package to FHWA-FLH Headquarters (TTP Bridge Program Coordinator).

The application package should contain the following:

- a. TTP Bridge Program Certification Checklist (see [Exhibit 16.2](#)).
- b. An approved TTP bridge TIP with the candidate project shown thereon,
- c. A detailed Project scope of work (SOW),
- d. Detailed cost itemization for PE tasks, and
- e. [Structure Inventory and Appraised \(SI&A\) sheet](#) (see [Exhibit 16.1](#)).

NOTE: For **non-BIA TTP bridges**, the application package must also include:

- A Tribal resolution supporting the project, and
- Identification of the required minimum 20 percent local funding match.

FHWA-FLH will review only complete TTP bridge project application packages and place eligible projects in a queue based upon the ranking factors.

Incomplete application packages will not be eligible and will be returned for revision and resubmission along with a notation providing the reason for return.

Funding for the approved eligible projects in the queue will be made available to the Tribe under the FHWA/Tribal agreement based upon their ranking until all funds are exhausted. Projects not funded due to unavailability of funds will remain in the queue for potential funding from future appropriations of TTP Bridge Program funds.

If Preliminary Engineering funds are being applied for to replace an existing structure that is only eligible for rehabilitation due to its Sufficiency Rating, a Life Cycle Cost Analysis (LCCA) must

be submitted with the application showing that it is more cost effective to replace the structure than to rehabilitate it.

4. Application Package for Construction

Any time during the year, in accordance with 23 CFR 661.27, the Tribe will submit the application package for construction request to the Tribal Coordinator, who will review the submittal and resolve any issues with the Tribe, before submitting the package to FHWA-FLH Headquarters (TTP Bridge Program Coordinator).

A candidate bridge rehabilitation or replacement project must be “shovel ready”; i.e., ready for solicitation of bids. A complete application package for construction of such a project will consist of the following documents:

- An approved PS&E, with PE stamp and signature (PE registered in the same state as project)
- TTP Bridge Program Certification Checklist (see [Exhibit 16.2](#)).
- [Structure Inventory and Appraised \(SI&A\) sheet](#) (see [Exhibit 16.1](#))
- An approved TTP bridge TIP with the candidate project shown thereon.

NOTE: For **non-BIA TTP bridges**, the application package must also include:

- A copy of a letter from the bridge’s owner approving the project and its PS&E,
- A Tribal resolution supporting the project, and
- Identification of the required minimum 20 percent local funding match.

All environmental and archeological clearances (approved NEPA document) and complete grants of public rights-of-way must be acquired prior to submittal of the construction application package.

FHWA-FLH will review only complete TTP bridge project application packages and place eligible projects in a queue based upon the ranking factors.

Incomplete application packages will not be eligible and will be returned for revision and resubmission along with a notation providing the reason for return.

Funding for the approved eligible projects in the queue will be made available to the Tribe under the FHWA/Tribal agreement based upon their ranking until all funds are exhausted. Projects not funded due to unavailability of funds will remain in the queue for potential funding from future appropriations of TTP Bridge Program funds.

If timely construction of a bridge project is required prior to availability of bridge program funds, other sources of funds (TTP Construction funds, local funds, etc.) may be used for the project and an application submitted for reimbursement of those funds up to the prescribed funding limitations. Such an application **MUST** be submitted prior to completion of construction of the aforementioned bridge project for the project to be considered eligible.

5. Bridge Inspection:

- a. Tribally Owned Bridges.** Procedures for a tribally owned bridge inspection data to be included in the FHWA National Bridge Inventory (NBI):
- i. The Tribe hires a consultant to perform the bridge inspection.
 - ii. Provide FHWA Office of Federal Lands Highway (FLH) the 432 character text file of the bridge inspected.
 - iii. FLH will forward the data to Eastern Federal Lands Highway Division (EFLHD) to review the text file.
 - iv. Once it is approved, the data is sent to FHWA Office of Bridge Technology and the bridge is recorded in the FHWA NBI.

Note: A tribally owned bridge does not need to be recorded in the BIA's Bridge Management System (BMS).

- b. BIA Owned Bridges.** Procedures when FHWA Agreement Tribe performs BIA-owned bridge inspection on behalf of the BIA:
- i. The Tribe hires a consultant to perform the bridge inspection.
 - ii. Provide FLH the bridge inspection report using BIA's pre-filled inspection report form and the 432 character text file of the bridge.
 - iii. FLH will forward the data to EFLHD to review the inspection report and the text file.
 - iv. Once it is approved, FLH will submit the final bridge inspection report with the Professional Engineer's stamp and the 432 character text file to the BIA for inclusion in the BIA's Bridge Management System (BMS).
 - v. BIA will submit the data to FHWA Office of Bridge Technology and the bridge is recorded in the FHWA NBI.

XVII. Tribal High Priority Projects (THPP) Program

Overview. The intent of the THPP program is to provide funding to Tribal governments whose annual TTP allocation is insufficient to complete its highest priority projects and for emergency/disaster projects.

Statutory/Regulatory Requirements. The THPP is a special funding pool that can be used:

1. By a Tribe whose annual allocation is insufficient to complete its highest priority project;
2. By a governmental subdivision of a Tribe that is authorized to administer the Tribe's TTP Program funding and whose annual allocation is insufficient to complete its highest priority project; or
3. By any Tribe for an emergency/disaster on any TTP transportation facility.

Eligible applicants may have only one THPP application pending at any time. This includes emergency/disaster applications.

THPP funds cannot be used for transportation planning, research, routine maintenance activities,

Project funding is limited to a maximum of \$1 million per application.

D. Guidelines/ Procedures.

- A Tribe may apply for THPP funds by submitting a complete application for a non-emergency disaster project (see [Exhibit 17.2](#)) to the FLHHPP Coordinator.
- However, an emergency/disaster application (see [Exhibit 17.3](#)) may be submitted at any time during the fiscal year.
- Eligible applicants may have only one THPP application pending at any time. This includes emergency/disaster applications.
- Projects will be ranked and funded based on the THPP scoring matrix shown on Table 17.1.
- THPP funds cannot be used for transportation planning, research, routine maintenance activities, purchase of equipment, and the condemnation of land for recreational trails.
- Applications are due no sooner than 60 days after funding is made available.
- Within the limit of funding, FHWA and BIA will jointly produce a funding priority list (FPL) approved projects.

XVIII. Safety Programs

Overview. Every year, more than 30,000 motorists die¹ and almost 3,000,000 are injured on roadways in the United States. Fatalities and injuries resulting from motor vehicle crashes are a particular concern within Indian Country. Between 1975 and 2002, the number of fatal crashes on Indian reservations increased more than 50 percent, while the number of fatal crashes in the Nation declined 2 percent.

American Indians suffer far more from motor vehicle related deaths and injuries than would be expected, given their proportion of the population. In general, Native Americans have the highest risk of motor vehicle related deaths of all ethnic groups.² Motor vehicle crashes are the leading cause of death for Native Americans ages 4 to 44. Beyond motor vehicle deaths, other transportation modes such as maritime travel or snow machine use contribute significantly to the transportation safety problem in many tribal communities.

The rest of this chapter is broken into two sections. First, a number of proven strategies are described in the “Tools and Resources” section. Next an overview of available funding programs is provided.

A. Tools and Resources

Several successful strategies are commonly used to evaluate and address transportation safety issues. In addition, some specific initiatives have begun to be implemented in Indian Country. The following is a brief description of the major tools and resources available to address transportation safety issues in Indian Country.

1. Transportation Safety Plans

Tribal Transportation Safety Plans are a tool intended to identify and address those risk factors within a geographical area that are associated with transportation and have a potential of leading to serious injury or death. Safety Plans also organize the efforts of a variety of entities to more effectively reduce risk. Safety Plans can cover multiple transportation modes (roads, maritime, trails, air travel, and others). Safety plans may lead to implementation of a project or program, renewed efforts in an existing program, or further study of a roadway section (such as an engineering study or Road Safety Audit).

A Safety Plan should not be developed with a focus on one particular funding source. Rather, a plan should demonstrate the safety concerns in a community and the strategies that could effectively address those concerns. To the greatest extent possible the concerns demonstrated by a safety plan should be selected based on incident history (data). This allows funding entities to understand the needs and may even compel the funding of the community’s needs.

¹ Source: NHTSA Fatality Analysis Reporting System, <http://www-fars.nhtsa.dot.gov/Main/index.aspx>

² Fatal Motor Vehicle Crashes on Indian Reservation 1975-2002 NCSA, April 2004

The following six step process is one method for arriving at a comprehensive and strategic Tribal Transportation Safety Plan.

Step 1. Identify the Author

The plan author needs to have the ability to obtain the participation of a wide array of safety partners, assign tasks, and document the outcomes. In many situations the author of a Transportation Safety Plan may be the tribe's Transportation Director. In some cases a private consultant, the Tribal Technical Assistance Program, or a federal agency may act as a co-author.

Step 2. Identify Safety Partners

Approaching safety using a collaborative approach across many disciplines is proven as an effective strategy for safety planning. Some initial safety partnerships to consider are with administration (such as Tribal Council), enforcement, emergency medical services (fire, search and rescue, clinics), educators, behavioral specialists, engineers, planners, community special interest groups, and in some cases the public. Where appropriate, partnerships should seek to include the Tribe, City, County, Borough, State, and/or federal agencies. When making initial contact on the topic of developing safety plans, the following topics may be discussed:

- Is the partner interested in a comprehensive transportation safety plan?
- What data sources does the partner know about or maintain?
- Are there additional agencies that this partner would recommend which you have not identified?
- Would this partner commit to attending a community safety summit?

Step 3. Public Involvement

Public Input can be a critical element of identifying safety needs. Often the traveling public can point to near misses or unreported incidents that would never show up in traditional data sets. Public input is an especially critical tool in communities where formal data sets are known to be incomplete or missing.

Step 4. Data Collection and Summarization

Communities that have successfully used transportation safety plans in the past usually point to data based decision making as the key to success. Preparing a summary of the available data prior to a safety planning meeting with the partners allows the summit to be fact based more than opinion based. A summary of incident data should consider both behavioral factors (speeding, impairment, age, etc.) and tangible factors (location, road feature, weather conditions, crash type, etc.)

Incident data always exists. In some communities incident data may look very different than in others. Some potential sources of incident data include:

- Formal police crash reports or incident reports
- Ambulance run reports, clinic records, or search & rescue logs
- City/county complaint registers
- Public input

Step 5. Safety Planning Forum

A Safety Planning Forum gives identified partners a chance to collaboratively develop a safety plan. The forum should include the following topics:

- Review Existing Efforts

- Summary of Available Data
- Identify top risks
- Assign champion to each top risk. Task champion with researching countermeasures and leading implementation.
- Discuss the establishment of a regular safety management system committee to discuss progress and update the plan as needed.

Step 6. Writing the Safety Plan

The final safety plan document should include a summary of the safety plan development process used, a list of the top risks identified and priority initiatives to address the top risks. The document length should be between 2 to 4 pages plus addendums. The following is a sample outline of topics that may be included in the safety plan.

- A. Introduction describing the intent of the plan
- B. List of partners
- C. Brief summary of data analysis
- D. Existing Activities
- E. Top Risk Areas (a.k.a. Emphasis Areas)
 - a. Description of Risk
 - b. Strategies to address risk
 - c. Safety Champion overseeing implementation
 - d. Next step(s) in implementation

References and Resources

- Developing Safety Plans – A Manual for Local Rural Road Owners, FHWA, March 2012, http://safety.fhwa.dot.gov/local_rural/training/fhwasa12017/
- TTAP Centers, <http://www.ltap.org/centers/>
- Sample Completed Tribal Safety Plans, <http://flh.fhwa.dot.gov/programs/irr/safety/sms.htm#plans>

2. Road Safety Audits or Reviews (RSA/RSARs)

A Road Safety Audit is a formal evaluation of a roadway section by an independent, multi-disciplinary team to identify specific recommendations for a section of roadway. The RSA team should be independent from everyday operations of the facility being studied to avoid biases. The most effective RSA teams will consist of a variety of professional disciplines, including engineering, enforcement, and emergency medical services. An RSA team identifies risks using many different information sources such as crash data, maintenance logs, interviews of roadway authorities, public testimony, and multiple field observations before making recommendations. Many Tribal Governments have utilized the RSA program to assist them in determining roadway deficiencies, maintenance issues and to help in the planning for future work and needs. Assistance in coordinating and setting up an RSA is available from the TTAP Centers, Federal Lands, and consultants, and may be available through the state department of transportation.

References and Resources

- FHWA Office of Safety - RSA webpage, <http://safety.fhwa.dot.gov/rsa/>
- Road Safety Audits Peer to Peer Program, <http://safety.fhwa.dot.gov/rsa/resources/p2p/brochure/>
- Road Safety Audits video, <http://safety.fhwa.dot.gov/rsa/video2009/>

- Federal and Tribal Lands Road Safety Audits: Case Studies, <http://safety.fhwa.dot.gov/rsa/resources/casestudiesflh/>

3. Traffic Engineering Safety Study

When a safety problem is known to be related to the engineering of a facility, a traffic engineering safety study may be effective. An engineering study involves an in depth review of a facility by a tribal, municipal, or private engineer with knowledge of traffic engineering to determine roadway features that are contributing to poor safety performance on a facility. Engineering studies may include a review of items such as sight distance, traffic control device operation and placement, posted speed limits, or roadway alignment.

References and Resources

- Sample Traffic Engineering Safety Study from Oglala Sioux.
- Hydaburg Highway Engineering Safety
- Highway Safety Manual Implementation by Chehalis Tribe
- “Mini-RSA” Engineering Study by Stillaguamish

Safety Data Collection

A key component to effective transportation safety efforts is an incident database. The first step to improving transportation safety in your community may be the establishment of incident databases or developing partnerships with agencies that are already collecting data (such as the State DOT).

4. Sign Maintenance and Nighttime Visibility Assessments (Retroreflectivity)

About half of traffic fatalities occur at night, although only about one quarter of travel occurs after dark. Although intoxication and fatigue contribute to the high rate of nighttime crashes, nighttime driving is inherently hazardous because of decreased driver visibility.

Adequately maintained retroreflective signs and pavement markings improve highway safety and prevent roadway departure crashes by making the signs and markings appear brighter and easier to see and read. Because the retroreflective properties of traffic control devices deteriorate over time, highway agencies need to actively manage the maintenance of signs and pavement markings in order to ensure that they are clearly visible at night.

Roadway lighting is another means to increase visibility for drivers and other roadway users. Properly designed roadway lighting allows road users to quickly assess roadway conditions and creates a safe environment within the roadway vicinity.

More information is available on the FHWA retroreflectivity links below in the areas of:

- [Regulations / Standards](#)
- [Technical Guidance](#)
- [Implementation Tools](#) **NEW!**
- [Frequently Asked Questions](#)
- [Funding Assistance](#)
- [Research](#)

The current edition of the Manual on Uniform Traffic Control Devices (MUTCD) contains a standard that requires agencies to implement a method to maintain sign retroreflectivity above prescribed minimum levels. In addition, several methods were identified that agencies can use to meet that requirement. An example method was a pilot assistance program, conducted in partnership with FHWA-FLHD and BIA, in Pendleton, Oregon for the Confederated Tribe of the Umatilla Indian Reservation (CTUIR). The program included a panel that reviewed the CTUIR's traffic sign situation, provided information on the available retroreflectivity maintenance methods and helped the tribe identify a method that is most effective given their resources and constraints. The CTUIR pilot is documented in the final report which can be found at:

<http://www.cflhd.gov/programs/techDevelopment/safety/SignRetroMaintUmatilla/documents/Sign-Retroreflectivity-Maintenance-Umatilla.pdf>

References and Resources

- FHWA Retroreflectivity, <http://www.fhwa.dot.gov/retro/>
- 2009 MUTCD Section 2A.08, <http://MUTCD.fhwa.dot.gov/>

5. Model HSIP project

The Office of Federal Lands Highways has funded a pilot initiative to improve transportation safety on Tribal lands. Their contractor, VHB Inc., is currently working with three Tribes to model the best way for Tribes to improve safety. From the Native Village of Loudon located in Galena, Alaska, to the Lummi Tribe located near Mt. Baker Washington, to the Wind River Indian Reservation in Wyoming, these diverse settings are assisting the project team to develop safety management training toolkits for Tribes.

After the pilots are complete, training toolkits will be available to Tribes to create their own unique Transportation Safety Management Plan. The training toolkits will be multidisciplinary and involve internal and external safety stakeholders who are involved in education, enforcement, engineering and emergency medical services (“the 4-Es”) to target high concentrations of death and injury. The training toolkits will assist Tribes and their partners to be locally-focused and prioritize programs and specific countermeasures to address local Tribal safety needs. It is anticipated the training toolkits will be ready for use in the Summer of 2013.

6. Safety Management System

To address the dire safety needs in Indian Country, FHWA and BIA have developed a Tribal Safety Management System (SMS) with assistance from the Tribes. This is documented in two separate plans, the Strategic Highway Safety Plan for Indian Lands and the Tribal SMS Implementation Plan. These plans, particularly the Implementation Plan, identify strategies that the federal government is undertaking with the Tribes to improve safety for travelers on Indian Lands. These plans can be found at the FHWA FLH TTP website.

References and Resources

- FHWA FLH TTP SMS website, <http://flh.fhwa.dot.gov/programs/ttp/safety/>

7. Other Safety Resources

Numerous other written resources are available. Some of the additional documents that may be of interest include:

- The Highway Safety Manual, AASHTO, <http://www.highwaysafetymanual.org>
- NCHRP 500 Reports, TRB, <http://www.trb.org/Main/Blurbs/152868.aspx>
- Crash Modification Factors Clearinghouse, <http://www.cmfclearinghouse.org/>
- Various resources available from the FHWA Office of Safety, <http://safety.fhwa.dot.gov/>
- TTAP Centers, <http://www.ltap.org/centers/>
- Email the FHWA Tribal Transportation Safety Engineers, TTPSF@dot.gov

8. Tribal Safety Thumb Drives

Tribal Safety Thumb Drives have been developed that have extensive information on Tribal Safety Summits that have been held, completed safety plans, federal and state safety programs, as well as much of the resource information that is included in this section. To request one or more of the thumb drives for your use or to provide to participants at an upcoming tribal safety conference, send an email to the FHWA Tribal Transportation Safety Engineers at:

TTPSF@dot.gov

E. Safety Funding Programs

This section includes a brief description of various safety programs that are administered by the FHWA and the National Highway Traffic Safety Administration (NHTSA). Additional funding programs may be available from state governments or other federal agencies. The programs represent multiple strategies—engineering, education, and enforcement—that collectively help reduce the number of motor vehicle related crash fatalities and injuries.

Tribes are encouraged to solicit information about these programs from state partners. The principals guiding these programs may help to develop higher Safety projects regardless of the funding source used. Tribal Governments are encouraged to use a Tribal Transportation Safety Plan to initiate conversations with State Governments.

1. Tribal Transportation Program Safety Funding (TTPSF)

Overview. MAP-21 provided a 2% set aside from the Tribal Transportation Program for Tribal Safety Efforts. As of this writing the details on implementation of that program have not been released. This program will be administered by the FHWA.

References and Resources

- MAP-21 Sec. 1119
- 23 USC Section 202(e)
- Federal Lands Highway, Tribal Transportation Program Website, <http://flh.fhwa.dot.gov/programs/ttp/>
- Contact the TTPSF Team, TTPSF@dot.gov

2. Highway Safety Improvement Program (HSIP)

Overview. This program is delivered through the FHWA by each state Department of Transportation. The HSIP emphasizes a data-driven, strategic approach to improving highway safety that focuses on results. Each state is required to develop and continually update a Strategic Highway Safety Plan (SHSP) as a part of implementing the HSIP. SHSP's are to be developed based on data analysis and in consultation with safety stakeholders including Tribal Governments (23 U.S.C. 148). Tribal Governments are encouraged to work with State Governments when the State SHSP is being developed since only projects and activities in the SHSP are eligible for HSIP funds.

References and Resources

- MAP-21 §1112
- Section 148 of Title 23 of the United State Code (23 U.S.C. 148)
- Section 924 of Title 23 of the Code of Federal Regulations (23 CFR 924)
- FHWA Office of Safety, HSIP Program, <http://safety.fhwa.dot.gov/hsip/>
- State Strategic Highway Safety Plans, http://safety.fhwa.dot.gov/hsip/shsp/state_links.cfm

3. High Risk Rural Roads Program (HRRRP)

Overview. The purpose of this program is to achieve a significant reduction in traffic fatalities and incapacitating injuries on rural major or minor collectors, and/or rural local roads. The HRRRP Program is a special set-aside that is only implemented in states that had an increase in rural fatalities during the most recent two-years of data. The states where HRRRP set asides will be implemented are re-assessed each year. This program is delivered through the Federal Highway Administration by each state Department of Transportation.

References and Resources

- 23 U.S.C. 148.
- FHWA HRRRP Memorandum, <http://safety.fhwa.dot.gov/safetealu/memos/memo051906.cfm>

4. Elimination of Hazards Relating to Railway-Highway Crossings

Guidelines/Procedures.

This program is a set aside from the HSIP. Funds are for the elimination of hazards and the installation of protective devices at railway-highway crossings. All public rail-highway crossing safety improvement projects meeting the eligibility description in 23 U.S.C. 130 are eligible. This program is delivered through the Federal Highway Administration by each state Department of Transportation.

References and Resources

- 23 USC 130
- 23 CFR 924
- FHWA Railway-Highway Crossing Program, <http://safety.fhwa.dot.gov/xings>

5. Safe Routes to School (Transportation Alternatives Program)

Under MAP-21 states have the option to fund Safe Routes to School (SRTS) projects as one of many options under the Transportation Alternatives Program. The purpose of the Safe Routes To School Program is to enable and encourage children to walk and bicycle to school; to make walking and bicycling to school safe and more appealing; and to facilitate the planning, development, and implementation of projects that will improve safety; and reduce traffic, fuel consumption, and air pollution in the vicinity of schools.

References and Resources

- MAP-21 §1122
- 23 USC 101, 206, 213
- SAFETEA-LU Section 1404 (This section is applicable if a State chooses to implement SRTS)
- FHWA Safe Routes to Schools Program, http://safety.fhwa.dot.gov/safetealu/fact_sheets/ftsht1404.cfm
- National Center for Safe Routes to School, www.saferoutesinfo.org

6. NHTSA Administered Program: State and Community Highway Safety Grant Program

Statutory/Regulatory Requirements

- Chapter 4 of 23 U.S.C §402 as amended by MAP-21 authorizes the State and Community Highway Safety formula grant program. The program is designed to reduce traffic crashes and resulting deaths, injuries, and property damage through State Highway Safety Programs.
- 23 CFR Part 1200.3 Definitions - *Governor's Representative for Highway Safety*...provides that an official appointed by the Governor will implement the State's highway safety program or, for the application of this part to Indian Country as provided in 23 U.S.C. 402(h), an official of the BIA or other DOI official who is duly designated by the Secretary of the Interior will implement the Indian highway safety program.
- 23 CFR Part 1200.3 Definitions – State ... for the application of this part to Indian Country as provided in 23 U.S.C. § 402(h), the Secretary of the Interior.

Guidelines/Procedures

- Funds specifically for Indian Country are administered by the DOI-BIA, Office of Justice Services, and the Indian Highway Safety Program (IHSP). Tribal Governments are also eligible for State and Community highway safety funds as provided for through the planning processes of various State Highway Safety Agencies.
- BIA IHSP is projected to receive approximately \$4.6 million annually for highway safety purposes under the MAP 21 authorization.
- 95 percent of the funds apportioned to the Secretary of the Interior under this section will be expended by Tribes to carry out highway safety programs within their jurisdictions.
- Traffic safety grants are awarded on an annual fiscal year basis. The deadline for submission of proposals each year is May 1st.

Role of Tribal Governments

- Only federally recognized Tribes can apply for these funds through the BIA's Indian Highway Safety Program.

References and Resources

- <https://www.federalregister.gov/articles/2013/01/23/2013-00682/uniform-procedures-for-state-highway-safety-grant-programs>

7. NHTSA Administered Program: State Traffic Safety Information System Improvement Grants Program**Statutory/Regulatory Requirements**

- Chapter 4 of 23 U.S.C §408 of SAFETEA-LU authorized the State Traffic Safety Information System Improvement Grants Program to encourage States to adopt and implement effective programs to improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of State data needed to identify priorities for national, State, and local highway and traffic safety programs; to evaluate the effectiveness of efforts to make such improvements; to link these State data systems, including traffic records, with other data systems within the State; and to improve the compatibility of the State data system with national data systems and data systems of other States to enhance the ability to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.
- Section 408 was rescinded under MAP-21. Funds will continue to be governed by the applicable implementing regulations at the time of grant award until all funds are expended.

Guidelines/Procedures

- These grant funds can only be used to implement data improvement programs.
- Section 408 funds received by the BIA on behalf of the Tribes are administered by the Office of Indian Highway Safety Program.

Role of Tribal Governments:

Tribes can only apply for these funds through the BIA's Office of Indian Highway Safety Program.

XIX. Other Federal-Aid Programs

Overview. The statutes governing the Federal-aid Highway Program are found in Title 23, United States Code (23 U.S.C.). This section highlights a few of the Federal-aid programs found in the Guide to Federal-aid Programs and Projects <http://www.fhwa.dot.gov/federalaid/projects.cfm>

1. CMAQ Congestion Mitigation and Air Quality Improvement Program (CMAQ)

- a. **Statutory/Regulatory Requirements.** USC Title 23, Section 149. This program is to reduce transportation-related emissions in air quality non-attainment and maintenance areas.
- b. **Guidelines/Procedures.** CMAQ funds are apportioned to States by formula based on population and the severity of ozone and carbon monoxide pollution in their non-attainment or maintenance areas.
- c. **Role of Tribal Governments.** Tribes should contact their State DOTs or FHWA division offices in the State when considering applying for funding this program.
- d. **References/Resources.**
<http://www.fhwa.dot.gov/map21/cmaq.cfm>
<http://www.fhwa.dot.gov/environment/cmaqpgs/>

2. **Transportation Alternatives Program (TAP).** MAP-21 established a new program to provide for a variety of alternative transportation projects, including many that were previously eligible under separately funded programs, including Transportation Enhancements, Recreational Trails, Safe Routes to School, and several others, wrapping them into a single funding source.

- a. **Statutory/Regulatory Requirements.** MAP-21 §1122; 23 USC 101, 206, 213; SAFETEA-LU §1404.
- b. **Guidelines/Procedures.** In general, TAP funds are administered by the State DOT. The Recreational Trails portion of the program is administered by a State agency or agencies, which may or may not be the State DOT.
- c. **Role of Tribal Governments.** Tribes should contact their State DOTs. The State, through a competitive process, selects the projects submitted by Tribes and other eligible entities.
- d. **References and Resources.** <http://www.fhwa.dot.gov/map21/tap.cfm>

3. Surface Transportation Program (STP)

- a. **Statutory/Regulatory Requirements.** USC Title 23, Section 133.
- b. **Guidelines/Procedures.** This program provides flexible funding options for a broad array of transportation projects.
- c. **Role of Tribal Governments.** Tribes should contact their State DOTs or FHWA Division Offices in the States when considering applying for funding this program.
- d. **References and Resources.** <http://www.fhwa.dot.gov/map21/stp.cfm>

XX. Summary of Required Forms and Certifications

Overview. The Program Agreement signed between a Tribe and FHWA or BIA highlights several assurances either directly or by reference. Assurances are a positive declaration from a Tribe intended to give confidence to FHWA and BIA that projects and/or other program areas implemented by the Tribe are being carried out in accordance with all Federal requirements. Assurances come in many forms (agreements, certifications, etc.) but are usually documents signed by Tribes. These assurances are provided to FHWA or the BIA by the Tribe. Summary of the key assurances are:

Program Agreement (PA). This is a standardized document between FHWA or BIA and a Tribe which authorizes the Tribe to perform the planning, research, design, engineering, construction, and maintenance of highway, road, bridge, parkway, or transit facility programs or projects that are located on or which provide access to Tribe or a community of the Tribe and are eligible for funding pursuant to 25 CFR Part 170.

Referenced Funding Agreement (RFA). This is a document between FHWA 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.

Tribe Single Agency Audits. This is called the Single Audit, also known as the OMB A-133 audit. This is a rigorous, organization-wide audit or examination of an entity (a Tribe or Tribal Consortium) that expends \$500,000 or more of Federal assistance it receives, which includes TTP funds and all other Federal funds, Federal grants, and Federal awards. Usually performed annually, the Single Audit's objective is to provide assurance to the Federal government as to the management and use of such funds by recipients such as states, cities, universities, and non-profit organizations. The audit is typically performed by an independent certified public accountant (CPA) and encompasses both financial and compliance components. The Single Audits must be submitted to the Federal Audit Clearing house along with a data collection form, Form SF-SAC.

SF-425, Financial Reports (Semi-annual). This documents and records data to track and review how much TTP funds a Tribe is expending.

Indirect Cost Negotiation Agreement. This is a written agreement between the cognizant agency (DOI/BIA) and the Tribe. This agreement formalizes the negotiation process that established the Tribe's indirect cost rate.

Progress Reports (semi-annual) - Serve as a measure of progress achieved on a project and help identify programmatic and administrative problems that may need to be resolved.

Tribal Long Range Transportation Plan (LRTP). This is the documentation from the Tribe that under the guidance of 25 CFR 170, the Tribe provides the vision for meeting transportation needs; plans identify short and long-range transportation improvement strategies that will address current and future transportation needs that should be consistent with Tribal, Federal, and State government policies; plans address various capital investments and inventory current facilities necessary in preserving existing infrastructure and the transportation system as a whole. This is a prerequisite to the expenditure of Federal funds.

Tribal TTIP Certification Statement. This is an assurance to FHWA or the BIA that the Tribe developed the TTIP according to the planning requirements of 25 CFR 170, which include the

following: public involvement for the TTIP has been done; the TTIP is financially constrained; consultation and coordination has been done with States and/or MPO's for a regionally significant project; the TTIP is consistent with the LRTP; and, transportation facilities in the TTIP are on the National Tribal Transportation Facility Inventory.

Tribal Transportation Improvement Program (TTIP). This is a documentation of a multiyear financially constrained list of proposed transportation projects developed by a tribe from the tribal priority list from the long-range transportation plan (LRTP). The purpose of the TTIP is to document where reasonably anticipated or available funding source(s) will be used to implement the transportation project, thus ensuring the completion of that project. Transportation projects that are funded must be listed on an FHWA approved TTIP.

PS&E Package. This provides a mixture of assurances to FHWA or the BIA: Certified stamp on the plans by a State licensed professional engineer that the plans meet or exceed federal design, health, and safety standards; a copy of a PS&E certification letter by a State licensed civil engineer that the PS&E meets applicable health and safety standards as outlined in 25 CFR 170 Appendix B to subpart D; specification that ensure materials and construction techniques will meet acceptable standards; estimates that reasonably anticipate the project cost; certification of ROW clearances; certification that required environmental, archeological, and cultural clearance have been obtained; approved design exceptions; public hearing requirements met; utility agreements.

Tribes Certification on Public Authority Review. This is required only if the facility is owned or maintained by a public authority other than the Tribe or the BIA. It is a statement in writing certifying that the Tribe afforded the public authority an opportunity to review and comment on the PS&E package and received no written comments from the public authority that prevents the Tribe from proceeding with the project.

Procurement. Some type of "written" procedures are needed to describe how the Tribe makes (a) small purchases; (b) sealed bids; (c) competitive proposals; (d) non-competitive proposals. A Tribe may adopt applicable FHWA or BIA procedures, or develop Tribal procedures which meet or exceed federal standards. These procedures will be used for equipment purchasing (cost or price analysis), construction (advertising for bids, award, and contraction), architectural/engineering services, etc. These procedures will be reviewed by the FHWA Financial Manager to ensure they meet federal policies and regulations. Two types are:

- a. Highway Construction Projects.** For contracts for highway construction, direct recipients or sub-recipients must use bidding methods that are effective in securing competition. Example bidding methods may be found in 23 CFR part 635 subpart A. A cost analysis will be necessary when adequate price completion is lacking in contract modifications or change orders unless price reasonableness can be established on the basis of a catalog or market price (49 CFR 18.36).
- b. Non-Highway Construction Projects.** For contract for goods and services (engineering and design), must comply with and be in accordance with procurement requirements in 49 CFR 18.36(b) through (i) (goods and services); A cost analysis must be performed when an offer or is required to submit the elements of estimates cost, e.g., under professional, consulting, and architectural engineering services contracts (49 CFR 18.36).

Construction. Documentation and records are an important part of assurances role which provides an account of the construction activity, quality of work, and accountability of federal funds. An important part of construction process is monitoring and evaluating project activities. The types of

monitoring documentation include: (a) Pre-construction conference; (b) Project Review and monitoring (inspection); (c) Final Inspection; (d) Project Acceptance; (e) Close out and Final Report. See **Chapter XIII Construction**.

XXI. List of Forms

Overview. Below are fill-able forms Tribes may wish to use that are included in the Program Delivery Guide. The fillable versions of these forms are located at <http://flh.fhwa.dot.gov/programs/ttp/guide/> Non-fillable versions of these forms and others are included as Exhibits in [Appendix A](#) of this Program Delivery Guide.

- **SF-3881**
- **Project Charter**
- **Request for Services**
- **Environmental Documentation Checklist**
- **PS&E Certification Checklist**
- **Highway Design Standards Certification**
- **Equipment Acquisition Form**
- **SF-425 Federal Financial Report**
- **IRR Bridge Program Certification Checklist**
- **IRR HPP Project Application**
- **IRR HPP Emergency Project Application**

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Exhibit 3.1 – FHWA Program Agreement

**(NOTE: BIA Program Agreement is slightly
different to reflect BIA references)**

**TRIBAL TRANSPORTATION PROGRAM
AGREEMENT
BETWEEN
THE (INSERT NAME OF TRIBE)
AND THE
UNITED STATES DEPARTMENT OF
TRANSPORTATION**

ARTICLE I – AUTHORITY AND PURPOSE

Section 1. Authority. This Tribal Transportation Program Agreement (hereinafter “the Agreement”) is entered into by the Administrator, Federal Highway Administration, (hereinafter “Administrator”), for and on behalf of the United States Department of Transportation (hereinafter “DOT”) and by the (INSERT NAME OF TRIBE) (hereinafter “the Tribe”) (collectively hereinafter the “Parties”), under the authority of the Constitution and By-Laws of the Tribe and by resolution of the Tribal Government, a copy of which is attached hereto, and under the authority granted by Chapter 2 of Title 23, United States Code, as amended by Section 1119 of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, (July 6, 2012) and the Delegations of Authority set forth in 49 CFR § 1.85. This agreement will be implemented in a manner consistent with Executive Order 13175 (Nov. 6, 2000, 65 Fed. Reg. 67249) (Consultation and Coordination with Indian Tribal Governments); the Presidential Memorandum on Tribal Consultation dated November 5, 2009; the DOT’s Order regarding

Programs, Policies, and Procedures Affecting American Indians, Alaska Natives, and Tribes (DOT 5301.1, November 16, 1999); and the U.S. DOT Tribal Consultation Plan found at <http://www.fhwa.dot.gov/tribal/news/consultation.html>; all as amended by MAP-21. This Agreement authorizes the Tribe to perform the planning, research, design, engineering, construction, and maintenance of highway, road, bridge, parkway, or transit facility programs or projects that are located on or which provide access to the (INSERT NAME OF TRIBE) Reservation (ALASKA NATIVE VILLAGE/CONSORTIUM) or a community of the Tribe and are eligible for funding pursuant to the Indian Reservation Roads (IRR) Program regulations (25 CFR Part 170). This Agreement is made pursuant to 23 U.S.C. § 202(b)(7) and 25 CFR Part 170, as amended by section 1119 of MAP-21, and in accordance with the Indian Self-Determination and Education Assistance Act (hereinafter “the ISDEAA”), Pub. L. 93-638, as amended (25 U.S.C. § 450 et seq.).¹

Section 2. Purpose. The purposes of this Agreement are as follows:

- (1) to transfer to the Tribe all of the functions and duties that the Secretary of the Interior would have performed with respect to a program or project under Chapter 2 of Title 23, United States Code, other than those functions and duties that cannot be legally transferred under the ISDEAA, together with such additional activities as the Tribe may perform under MAP-21 and 25 CFR Part 170;

¹ The Tribe and FHWA have recognized that each Party has a different understanding as to the application of the ISDEAA (Act) and its implementing regulations (25 CFR Parts 900 and 1000) to this Agreement. It is expressly understood that through the execution of this Agreement, neither party waives any rights regarding the application of the aforementioned Act and its regulations to this Agreement and no precedent is established for future agreements with this Tribe or any other Indian Tribe. The parties agree to work in good faith to resolve this issue in future agreements.

- (2) to carry out the Federal Highway Administration's (FHWA) statutory requirements pursuant to section 1119 of MAP-21 and to maintain and improve its unique and continuing government-to-government relationship with and responsibility to the Tribe; and
- (3) to provide the Tribe or its designee, under a Referenced Funding Agreement (RFA), its formula share of TTP funds pursuant to MAP-21 and 25 CFR Part 170, and those additional amounts as the Administrator determines equal the amounts that would have been withheld for the costs of the Bureau of Indian Affairs for administration of the program or project, together with such additional Federal Lands Highways funds as the Tribe may receive or otherwise be entitled to through a formula or competitive grant, award, earmark or other appropriation to the Department of Transportation (DOT). The Bureau of Indian Affairs's (INSERT REGION NAME) Regional Office shall continue to receive the funds identified in 23 U.S.C. § 202(a)(6) for certain program management and oversight (PM&O) activities and project-related administrative expenses as further identified in Article II, Section 2 and in approved RFAs (Attachment A).

ARTICLE II – TERMS, PROVISIONS, and CONDITIONS

Section 1. Effective Date and Term. This agreement shall become effective upon the date of its approval and execution by authorized representatives of the Tribe and the Administrator and shall remain in effect until amended pursuant to Article V, Section 10 (*change to 9 if Article V Section 9 is deleted*) or terminated pursuant to Article V, Section 8.

Section 2. Funding.

A. Subject to the availability of funding and in accordance with 23 U.S.C. § 202(b)(7), the Administrator shall provide to the Tribe or its designee, through an electronic transfer, a single annual lump sum funding amount equal to the amount that the Tribe would otherwise receive for the TTP formula in accordance with 23 U.S.C § 202(b)(3), and such additional amount, as determined by the Administrator that would have been withheld by the BIA for the administration of the Tribe's TTP or projects. The Parties agree to annually provide the Tribe the amounts that would have been withheld for the costs of the BIA for administration of the Tribe's program or projects as provided in 23 U.S.C.§ 202(b)(7)(E) and further identified in Attachment A to this Agreement.

B. Upon the execution of this Agreement and the RFA by both Parties, and subject to the availability of funds and the determination of the Tribe's annual funding percentage per 23 U.S.C § 202(b)(3), the Administrator shall notify the Tribe or its designee, in accordance with Article IV, section 5, that the funds identified in the RFA are available. The Tribe shall submit electronic banking information under an ACH Vendor/Miscellaneous Payment Enrollment Form (see Attachment B) to the Administrator and the Administrator shall provide to the Tribe a single advance payment in the amount identified in the attached RFA within thirty (30) calendar days of his receipt of the Payment Enrollment Form. The Parties agree that the RFA will be renegotiated annually on a Federal fiscal year basis.

C. Pursuant to 23 U.S.C.§ 202(b)(7)(B), all funds shall be paid to the Tribe without regard to the organizational level at which the Department of the Interior or the DOT has previously carried out under the Federal Lands Highways Program, the programs, functions, services, or activities (PFSAs) involved.

D. Pursuant to 25 CFR §§ 170.607 – 170.608, Contract Support Costs are an eligible cost and the Tribe may use their TTP Program allocation to pay such costs. The Tribe shall include a line item for Contract Support Costs in the Tribe's project construction budgets. The

Tribe may also include, as eligible Contract Support Costs, one-time start-up costs and preaward costs incurred by the Tribe in the initial year of this Agreement in accordance with 25 U.S.C. §§ 450j-1(a)(5) and (6). The parties acknowledge that TTP funds are distributed pursuant to a statutory formula to the federally recognized Tribes in the United States. A Tribe's total share of TTP funds includes all direct and indirect costs associated with the TTP. The Parties expressly acknowledge there are no additional TTP funds available for any additional indirect costs which are incurred.

E. Funds advanced to the Tribe under this Agreement shall be used by the Tribe as permitted under 23 U.S.C. § 202(a)(1) and 25 CFR Part 170, as amended by MAP-21, other applicable laws, and as authorized under this Agreement. The Tribe reserves the right to reallocate funds among the eligible projects identified on an FHWA-approved TTP Transportation Improvement Program (TTPTIP), so long as such funds are used in accordance with Federal appropriations law. Funds advanced to the Tribe pending disbursement for a purpose authorized under the Agreement shall be placed in appropriate savings, checking or investment accounts. For purposes of this Agreement, such funds when invested or deposited by the Tribe shall be subject to the following:

(i) Advanced funds not immediately spent for program activities may be invested only in obligations of the United States, in obligations or securities that are guaranteed or insured by the United States, or mutual (or other) funds registered with the Securities and Exchange Commission and which only invest in obligations of the United States or securities that are guaranteed by the United States;

(ii) If not invested, advanced funds must be deposited into accounts that are insured by an agency or instrumentality of the United States or must be fully collateralized to ensure protection of the funds, even in the event of a bank failure;

(iii) Interest and investment income that accrue on any funds provided for by agreement become the property of the Tribe in accordance with the provisions of 25 U.S.C. § 450j(b) and may be used on projects and activities identified on an FHWA approved TTPTIP; and

(iv) Upon the receipt of funds under this Agreement, the Tribe shall expend the funds for the purposes set forth in this Agreement and as authorized by law; provided however that the Tribe may accumulate multiple annual allocations of TTP funds when necessary to fund an eligible project which requires more than one fiscal year of funding and is identified on a tribal TIP or a tribal priority list (25 CFR Part 170).

F. The Tribe may use funds provided under this agreement for flexible financing as provided in 23 U.S.C. § 122; 25 CFR §§ 170.300 – 303, and other applicable laws, as amended by MAP-21.

G. 1. The Tribe may issue bonds or enter into other debt financing instruments under 23 U.S.C. §122, as amended by MAP-21, with the expectation of payment of TTP funds to satisfy the instruments, including, but not limited to, the repayment of loan principal and interest on such debt instruments. When the Tribe elects to use flexible financing to advance construct an eligible project or projects under this Agreement, the Administrator agrees (i) to maintain the project(s) on the FHWA-approved TTPTIP until all debt instruments, including interest thereon, are repaid in full by the Tribe, and (ii) at the option and direction of the Tribe (after receipt of electronic banking information on the Payment Enrollment Form by the Administrator), to provide all or a portion of the funds the Tribe is eligible to receive under this Agreement directly to a trustee or other depository so designated by the Tribe pursuant to the provisions of any RFA received by the Administrator thereunder.

2. The designation of an eligible debt financing instrument for reimbursement with funds awarded under this Agreement shall not –

- a) constitute a commitment, guarantee, or obligation on the part of the United States to provide for payment of principle or interest on the eligible debt financing instrument entered into by the Tribe; or
- b) create any right of a third party against the United States for payment under the eligible debt financing instrument.

H. As authorized by 25 CFR § 170.301, the Tribe may use TTP funds to:

- (i) leverage other funds; and
- (ii) pay back loans or other finance instruments for a project that:
 - (a) the Tribe paid for in advance of the current year using non-TTP funds, including Tribal funds; and
 - (b) was included in an FHWA-approved TTPTIP.

I. The Tribe may use TTP funds awarded under this Agreement to meet matching or cost participation requirements for any Federal or non-Federal transit grant or program.

J. The Parties agree that this Agreement is entered into, and that funds are made available to the Tribe, in accordance with the ISDEAA pursuant to 23 U.S.C. § 202(b)(7), as amended by section 1119(a) of MAP-21. Payments made by the Administrator under this Agreement shall be made in accordance with Article II, Section 2.B. herein. In the event funds

due the Tribe under this Agreement are not paid to the Tribe in accordance with the requirements of Article II, Section 2.B., the Parties shall rely upon the dispute resolution provisions set forth in Article II, Section 4 of this Agreement.¹

Section 3. Powers. The Tribe shall have all powers that the Secretary of the Interior would have exercised in administering the funds provided to the Tribe for such program under 23 U.S.C. § 202(b)(7)(H), except to the extent that such powers are powers that inherently cannot be legally transferred under the ISDEAA. Such powers shall include, but are not limited to the Secretary of the Interior's powers under 25 CFR Part 170, together with such duties and responsibilities as may be performed by an Indian Tribe under the 25 CFR Part 170 regulations or as are otherwise permitted by law.

Section 4. Dispute Resolution. In the event of a dispute arising under this Agreement, the Tribe and the Administrator agree to use mediation, conciliation, arbitration, and other dispute resolution procedures authorized under 25 CFR § 170.934. The goal of these dispute resolution procedures is to provide an inexpensive and expeditious forum to resolve disputes. The Administrator agrees to resolve disputes at the lowest possible staff level and by consent whenever possible.

Section 5. Construction of this Agreement. This Agreement shall be construed in a manner to facilitate and enable the transfer of programs authorized by 23 U.S.C. § 202, as amended by MAP-21.

¹ The language of footnote 1 is incorporated by reference herein.

Section 6. Activities to be Performed. The activities covered by this Agreement are:

- Transportation Planning;
- Construction Management;
- Program Administration;
- Design;
- Construction;
- Road Maintenance as authorized under 23 U.S.C. § 202(a)(8)(A), as amended by MAP-21 (the greater of 25% of the funds allocated to a Tribe through the TTP funding formula as defined in 23 USC 202(b) or \$500,000 may be expended for the purpose of maintenance, excluding road sealing which shall not be subject to any limitation);
- Development and negotiation of Tribal-State Road Maintenance agreements authorized under 23 U.S.C. § 202(a)(8)(C), as amended by MAP-21;
- **(INSERT ANY ADDITIONAL ITEMS);** and
- Other TTP Program-eligible activities authorized under Chapter 2 of Title 23 (including TTP Safety and Bridge) or 25 CFR Part 170, as each may be amended by MAP-21, or other applicable law.

Section 7. Limitation of Costs. The Tribe shall not be obligated to continue performance under this Agreement that requires an expenditure of funds in excess of the amount of funds awarded under this Agreement or the RFA. If, at any time, the Tribe has reason to believe that the total amount required for performance of this Agreement, or a specific activity conducted under this Agreement or the RFA would be greater than the amount of funds provided under this Agreement or the RFA, the Tribe shall provide reasonable notice to the Administrator. If the Administrator does not increase the amount of funds allocated under this Agreement or the RFA, the Tribe may suspend performance of the Agreement until such time as additional funds are made available.

Section 8. Carryover. Any funds provided to the Tribe under this Agreement or the RFA which have not been expended at the conclusion of the fiscal year in which such funds were

allocated shall remain in the custody of the Tribe and be used for the purposes authorized under this Agreement. Determination of the priority and amount of funds to be used for each program, function, service or activity shall be the responsibility of the Tribe, except as limited by law or otherwise proscribed by this Agreement.

Section 9. Applicable Regulations. 25 CFR Part 170, and any amendments thereto apply to this Agreement.¹ The Tribe may seek a waiver of these regulations to the extent permitted by law and as set out in 25 CFR §§ 170.625 and 170.626.

Section 10. Use of Tribal Facilities and Equipment. (INSERT ANY SPECIAL EQUIPMENT ISSUES) The Parties agree that the Tribe shall be permitted to utilize TTP and other Federal Lands Highway funds awarded under this Agreement to pay such lease/rental rates, as well as to maintain such facilities and equipment when performing PFSAs under this Agreement. For purposes of this Agreement, in those cases where the Tribe reasonably determines, and provides written notice and analysis documentation to the Administrator that the purchase of equipment is more cost effective than the leasing of equipment, the Parties agree that the purchase of construction equipment shall be an allowable cost to the Tribe, as permitted under 25 CFR Part 170, Appendix A to Subpart G, so long as not more than 25% of the Tribe's TTP Program funds or a maximum of \$500,000 are used for this purpose.

ARTICLE III – RESPONSIBILITIES OF THE TRIBE

Section 1. A. Health and Safety. In exercising responsibility for carrying out the eligible programs and projects under this Agreement, the Tribe assures the Administrator that within available funding, they will meet all applicable health, safety, and labor standards related to the administration, planning, engineering and construction activities performed. To this end,

¹ The language of footnote 1 is incorporated by reference herein.

and within available funding, the Tribe agrees to obtain or provide qualified personnel, equipment, materials, and services necessary to administer the transportation programs, including opportunities that provide for Indian preference in employment and sub-contracting as mandated by 25 U.S.C. § 450e(b).

B. Program Standards and Regulations. The Tribe agrees to initiate and perform the contracted programs and projects in accordance with the requirements of 25 CFR Part 170, as amended by MAP-21. Additionally, the Tribe may, at its sole option, adopt applicable FHWA or BIA policies, procedures, program guidelines and memoranda, or develop tribal policies, procedures, program guidelines and memoranda which meet or exceed federal standards to facilitate operation or administration of any aspect of the programs assumed by or delegated to the Tribe under this Agreement.

C. Plans, Specifications and Estimate (PS&E) Approval Authority.

(1) Tribal and BIA-owned facilities. The Tribe is authorized to review and approve plans, specifications and estimates (“PS&E”) project packages in accordance with the requirements of 25 CFR §§ 170.460 through 170.463, as amended by 23 U.S.C. § 202(b)(5), and will provide a copy of said PS&E approval to the facility owner and FHWA. The Tribe hereby:

- a) provides assurances under this Agreement that the construction will meet or exceed applicable health and safety standards;
- b) agrees to obtain the advance review of the PS&E from a State-licensed civil engineer who has certified that the PS&E meets or exceeds the applicable health and safety standards; and
- c) agrees to provide a copy of the State-licensed civil engineer’s certification to the Deputy Assistant Secretary for Tribal Government Affairs, with a copy to the Federal Lands Highways Associate Administrator and BIA.

(2) Facilities owned or maintained by a public authority other than the Tribe or the BIA. In the interest of building stronger government-to-government relations in transportation planning and coordination, the Tribe voluntarily agrees to perform its PS&E review and approval function as to facilities owned or maintained by a public authority, as that term is defined in 23 U.S.C. § 101(a)(20), as follows. For a facility owned or maintained by a public authority other than the BIA or the Tribe, in addition to satisfying the requirements of paragraph (C)(1) herein, the Tribe further agrees to:

- (a) provide the public authority an opportunity to review and comment on the Tribe's PS&E package when it is between 75 and 95 percent complete, unless an agreement between the Tribe and the public authority states otherwise;
- (b) allow the public authority at least 30 days for review and comment on the PS&E package, unless the Tribe and the public authority agree upon a longer period of time;
- (c) before soliciting bids for the project(s), certify in writing to the Administrator that it afforded the public authority an opportunity to review and comment on the PS&E package and received no written comments from the public authority that prevent the Tribe from proceeding with the project.¹

¹ The Parties agree that these procedures establish no precedent for future agreements with this Tribe or any other Indian Tribe, nor waives any rights of the Parties.

D. Transportation Planning and Inventory. Within available funding, the Tribe further agrees to carry out a transportation planning process and provide this information to the BIA, with courtesy copies to FHWA, as may be reasonably necessary for the BIA to maintain an updated inventory of TTP eligible facilities per 23 U.S.C. § 202(b)(1), and to develop the annual TTP Transportation Improvement Program (TTPTIP).

E. Easements, Maintenance and Utility Agreements, Environmental Assessments. In coordination with local jurisdictions and to the extent required by Federal law and 25 CFR Part 170, the Tribe agrees to develop appropriate construction easements, maintenance and utility agreements needed for the construction of TTP facilities carried out under this Agreement. The Tribe agrees to perform all environmental and archeological review functions under this Agreement in accordance with 25 CFR Part 170, Section 6002 of SAFETEA-LU, codified at 23 U.S.C. § 139, and other applicable laws, as amended by MAP-21.

F. Construction.

1) In accordance with the FHWA-approved TTPTIP, the Tribe agrees to initiate and complete TTP construction projects in accordance with the approved PS&E and any Tribally-approved change orders and shall periodically ensure that construction engineering is performed according to applicable FHWA, BIA or Tribal standards which meet or exceed federal standards.

2) The Tribe agrees to expend TTP funds on:

(a) program and administrative expenses authorized under:

- (i) this Agreement;
- (ii) 25 CFR Part 170, as amended by MAP-21;
- (iii) OMB Circular A-87; or
- (iv) other applicable laws; and

(b) construction activities on projects that are listed on an FHWA-approved TTPTIP.

3) Once a TTP construction project is completed, the Tribe will prepare for the Administrator a final construction report and as-built plans for final inspection in accordance with 25 CFR Part 170.

4) The Tribe agrees to allow FHWA Officials or by mutual agreement, a delegated representative of FHWA, the opportunity to visit project sites on a monthly basis or at critical project milestones, provided that FHWA gives the Tribe reasonable advance written notice. These visits are intended to allow FHWA to carry out its oversight and stewardship responsibilities for the TTP or project(s) assumed by the Tribe under this Agreement. FHWA will not provide direction or instruction to the Tribe's contractor or any subcontractor at any time.

G. Reporting Requirements. The Tribe shall provide the Administrator a courtesy copy of its annual single agency audit report; semi-annual progress reports which contain a narrative of the work accomplished; and semi-annual financial status reports using an SF 425 – Federal Financial Report or such similar form as designated by the DOT. The Tribe shall provide the Administrator the semi-annual reports within ninety (90) days following the conclusion of the reporting period, which shall run from October 1 to March 31 and from April 1 to September 30. The Tribe understands the stewardship and oversight responsibilities of the FHWA and recognizes that the success of this Program Agreement requires that the FHWA receive timely all required reports in a timely manner.

ARTICLE IV – RESPONSIBILITIES OF THE ADMINISTRATOR

Section 1. Provision of Funds. The Administrator shall provide funds pursuant to the RFA to the Tribe to carry out this Agreement in accordance with Article II, Section 2 of this Agreement.

Section 2. Authorize Project Work. The Administrator authorizes the Tribe to carry out preliminary engineering, construction engineering, development of management systems, construction, and maintenance of the programs and projects carried out by the Tribe under this Agreement for PFSAs and projects/facilities included on an FHWA-approved TTPTIP in accordance with the approved PS&E packages, this Agreement, and applicable laws and regulations.

Section 3. Coordination with BIA.

A. The Administrator shall coordinate with the Bureau of Indian Affairs (BIA) concerning transportation functions and activities delegated by law to that agency to aide the Tribe in the proper and efficient administration of the PFSAs performed by the Tribe under this Agreement.

B. The Administrator will encourage a representative of the BIA, with knowledge of the TTP Program, to meet at least annually with a designee of the Tribe and the Administrator to review their respective duties and obligations under MAP-21, the TTP, applicable regulations, and this Agreement with the goal of identifying actions which the Tribe, the Administrator and the BIA can take to ensure the Tribe's successful administration of the transportation PFSAs carried out under this Agreement.

Section 4. Coordination with Public Authorities. The Administrator, or his authorized FHWA representative, upon the Tribe's request, shall coordinate with representatives of a public authority to assist the Tribe during the public authority's review of a PS&E package or final

inspection of a completed project to ensure that the public authority's input during the review and comment period, or during the final inspection does not interfere with the Tribe's efficient administration of projects performed under this Agreement.

Section 5. Designated Officials. All notices, proposed amendments, and other written correspondence between the Parties shall be submitted to the following officials:

To the Tribe:

Chairman/President
(INSERT NAME OF TRIBE)
(INSERT ADDRESS)

To the FHWA:

Associate Administrator
Federal Lands Highways (HFL-1)
U.S. Department of Transportation
1200 New Jersey Ave, SE, Room E61-316
Washington, D.C. 20590

With a copy to:

Tribal Transportation Director
(INSERT NAME OF TRIBE)
(INSERT ADDRESS)

With a copy to:

Tribal Transportation Program Manager
(HFPA-9)
Federal Highway Administration
U.S. Department of Transportation
1200 New Jersey Ave, SE, Room E61-311
Washington, D.C. 20590

Section 6. Federal Construction Standards. The Administrator may provide information about Federal construction standards as early as possible in the construction process. If Tribal construction standards are consistent with or exceed applicable federal standards, the Tribe's proposed standards will be accepted. The Administrator may also accept commonly used industry construction standards, including design and construction standards adopted by the State of (INSERT STATE LOCATION).

Section 7. Joint Inspection. The Administrator shall conduct the final project inspection jointly with the Tribe and facility owner and shall notify the BIA Regional Office that construction has been completed in accordance with the project plans and specifications for the purpose of project acceptance, inclusion, or data update in the BIA's TTP Inventory.

Section 8. Technical Assistance. Upon the request of the Tribe and subject to the availability of funds, the Administrator shall provide or make available technical assistance to the Tribe to aide the Tribe in carrying out its responsibilities under this Agreement.

Section 9. Reporting. The Administrator shall provide the Tribe with semi-annual reports on program matters of common concern to the parties. The times for these reports are identical to those set out in Article III, Section 1(G).

Section 10. Notice of Additional Funds. If the Administrator receives notice of the availability of additional funding for any purpose authorized under this Agreement, including the availability of unspent TTP funds, the Administrator shall promptly notify the Tribe regarding such funding so that the Tribe may apply for any funds they may be eligible to receive on the same basis as any other Indian Tribe.

ARTICLE V – OTHER PROVISIONS

Section 1. Eligibility for Additional Funding and Services. The Tribe shall be eligible, under this Agreement, to receive additional TTP funds on the same basis as other Indian Tribes according to the Tribal Transportation Allocation Methodology (TTAM) set forth in 25 CFR Part 170, as well as other funds of the DOT, not included in this Agreement, which are available to Tribe on a competitive, formula, or other basis, including non-recurring funding such as High Priority Project funding, and Congressional earmarks such as Public Lands Highways Discretionary grants. Whenever there are errors in calculations or other mistakes regarding estimates of available funding which may need to be renegotiated, both Parties agree to take action as necessary to correct such errors.

Section 2. Access to Data Available to the Administrator to Administer the Program. The Tribe is administering a federal program under the authority of MAP-21, in accordance with the ISDEAA, and by resolution of the Tribal government. In order for the Tribe to carry out this program effectively and without diminishment of federal services to program beneficiaries, and

consistent with this Agreement, the Administrator shall provide the Tribe with all releasable data and information necessary to carry out the PFSAs assumed by the Tribe under this Agreement.

Section 3. Sovereign Immunity. Nothing in this Agreement shall be construed as—

- (1) affecting, modifying, diminishing, or otherwise impairing the sovereign immunity from suit enjoyed by the Tribe; or
- (2) authorizing or requiring the termination of any existing trust responsibility of the United States with respect to the Indian people.

Section 4. Trust Responsibility. Nothing in this Agreement shall absolve the United States from any responsibility to individual Indians and the Tribe, including responsibilities derived from the trust relationship and any treaty, executive order, or agreement between the United States and the Tribe.

Section 5. Federal Tort Claims Act/Insurance. In accordance with the provisions of Pub.L. 101-512, Title III, § 314, 104 Stat. 1959, as amended Pub.L. 103-138, Title III, § 308, 107 Stat. 1416 (25 U.S.C. § 450f, note), for purposes of Federal Tort Claims Act coverage under this Agreement, the Tribe and its employees are deemed to be employees of the Federal government while performing work under this Agreement. This status is not changed by the source of the funds used by the Tribe to pay the employee's salary and benefits unless the employee receives additional compensation for performing covered services from anyone other than the Tribe. The Tribe is also authorized to use the funds provided under this Agreement to purchase such insurance coverage as may be necessary and prudent, in the determination of the Tribe. In full recognition of and without undermining the federal tort claims protection provided in this section, the Parties understand and agree that prudent project management requires that Tribal contractors purchase adequate workers compensation, auto and general liability insurance when completing construction projects funded under this Agreement. Accordingly, the Tribe shall include in any construction contracts entered into with funds provided under this

Agreement a requirement that Tribal contractors maintain workers compensation, auto and general liability insurance coverage consistent with statutory minimums and local construction industry standards. The Parties understand and agree that this insurance requirement does not apply to the Tribe itself.

Section 6. Indian and Tribal Preference.

A. Federal law gives hiring and training preferences, to the greatest extent feasible, to Indians for all work performed under the TTP. Under 25 U.S.C. § 450e(b), Indian organizations and Indian-owned economic enterprises are entitled to a preference, to the greatest extent feasible, in the award of contracts, subcontracts, and sub-grants for all work performed under the TTP.

B. The Tribe's employment rights and contracting preference laws, including tribal preference laws, apply to this Agreement.

C. With respect to 23 U.S.C. 202(a)(10), the Tribe shall have established procurement management standards which shall provide for full and open competition in accordance with 25 C.F.R. Part 900, Subpart F, as authorized by 23 U.S.C. 202(b)(7)(G) and (H). Tribal labor and tribal force account procedures may be employed on any tribal transportation project pursuant to 23 U.S.C. 202 (a)(3). If the Tribe wishes to use a procurement method that is not provided for in its established procurement management standards or its tribal force account procedures for a particular tribal transportation project, the FHWA shall promptly review and respond to a written request from the Tribe justifying the alternative procurement method. In making its decision, FHWA shall work within the project procurement schedule and comply with the liberal construction requirements of 25 C.F.R. 170.2(h) and the federal obligations set forth in 25 C.F.R. 170.103.

Section 7. Severability. Should any portion or provision of this Agreement be held invalid, it is the intent of the Parties that the remaining portions or provisions thereof continue in full force and effect.

Section 8. Termination of the Agreement. On the date of the termination of the Agreement by the Tribe as authorized under 23 U.S.C. § 202(b)(7)(J), as amended by MAP-21, or if the Administrator makes a specific written finding and provides notice to the Tribe in accordance with this Agreement that the Tribe is no longer eligible to receive funding under this section as authorized under MAP-21, the Administrator shall allocate the funds that would have been provided to the Tribe under the Agreement to the Secretary of the Interior to provide continued transportation services in accordance with applicable law; provided however, that if the Tribe disputes the Administrator's eligibility determination, the Parties may utilize the dispute remedies available under Article II, Section 4 herein, and the Administrator shall suspend any decision to transfer funds to the Secretary of the Interior pending the outcome of the dispute. At the Tribe's election, the Tribe may perform such functions, services and activities as it chooses to include in an ISDEAA contract or agreement to be entered into with the Secretary of the Interior upon the termination of this Agreement.

Section 9. (INSERT ANY SPECIAL CONDITIONS/ISSUES, OTHERWISE DELETE and RENUMBER SUBSEQUENT SECTIONS)

Section 10. Amendments. Any modification of this Agreement shall be in the form of a written amendment and shall require the signed agreement of a duly authorized representative of the Tribe and the Administrator. The Parties agree to work together in good faith, following the implementation of this Agreement, to identify additional issues or matters that should be addressed in this Agreement subject to the Parties' mutual written consent.

Section 11. Good Faith. The Parties agree to exercise the utmost good faith in the implementation and interpretation of this Agreement and agree to consider and negotiate such additional provisions as may be required to improve the delivery and cost-effectiveness of transportation services.

Section 12. Successor Agreements.

A. Tribal Transportation Program Agreement. No later than six months prior to the expiration of this Agreement, the Parties shall commence negotiation of a successor Tribal Transportation Program Agreement. It is the intent of the Parties to have a successor Agreement in place to run concurrent with the highway reauthorization legislation which succeeds MAP-21.

B. Referenced Funding Agreement. Ninety (90) days before the expiration of each year’s RFA, the Parties shall commence negotiation of the subsequent year’s RFA.

(INSERT NAME OF TRIBE)

**U.S. Department of Transportation
Federal Highway Administration**

By _____
(INSERT NAME OF SIGNATORY)
(INSERT TITLE)

By _____
Victor M. Mendez, Administrator

Date

Date

Exhibit 3.2 – Example Tribal Resolution

[Insert Tribe name]
[Insert address]
[Insert City, State Zip Code]
[Insert Ph: (xxx) xxx-xxxx]
[Insert Email: www.xyz.xxx]

RESOLUTION: 13-??

Approving the [insert Tribe name]'s Assumption of Transportation Functions under Moving Ahead for Progress in the 21st Century Act (MAP-21), and Approving the Issuance of a Notice of Intent to FHWA and BIA.

WHEREAS, [insert Tribe name] Council is the governing body of the [insert Tribe name], a federally recognized Native Tribe; and

WHEREAS, the [insert Tribe name] Council finds that rebuilding roads, trails and bridges on, or which provide access to [insert Tribe name] improves the safety and security of Tribal members and nonmembers who live or work in the [insert Tribe name], and renews the sense of pride that all members have for our Tribe; and

WHEREAS, the Congress passed and the President signed the highway reauthorization MAP-21, the Moving Ahead for Progress in the 21st Century Act, Public Law No. 112-141; and

WHEREAS, MAP-21 authorizes the Secretary of Transportation to contract directly with Native Tribes to assume the responsibilities of and the associated funding for the Tribal Transportation Program (TTP) serving a Tribe; and

WHEREAS, 23 U.S.C. § 202(b)(7), as amended by Section 1119 of MAP-21, provides that a Native tribal government may carry out any TTP Program or project through a contract or agreement with the Secretary of Transportation in accordance with the Native Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) and further provides that the Tribal government may assume "all functions and duties that the Secretary of the Interior would have performed" for the benefit of the Tribal government, with the exception of certain inherent federal functions; and

WHEREAS, the Tribe believes that establishing a comprehensive transportation program for the Tribe will further the long-term interests of the Tribe, afford the Tribe greater flexibility and control to prioritize transportation needs for the [insert Tribe name], and permit the Tribe to utilize flexible financing arrangements available by law to speed the development of transportation infrastructure in Native Village [insert village name]; and

WHEREAS, the [insert Tribe name] Council desires to assume the Secretary of the Interior's duties and functions with respect to the TTP Program serving the Native Village of [insert village name] and such other Tribal transportation programs-as may be appropriate under 23 U.S.C. § 202(b)(7), as amended by Section 1119 of MAP-21; and

WHEREAS, the Tribal Transportation Department possesses the financial stability and management capability required by section 1119 of MAP-21, and possesses the expertise and experience to assume the Secretary of the Interior's responsibilities in the area of transportation planning, design, construction and maintenance;

NOW, THEREFORE BE IT RESOLVED, that the [insert Tribe name] Council does hereby approve the Tribe issuing a Notice of Intent to the Secretary of the Interior and the Administrator of the Federal Highways Administration to assume the transportation duties of the Secretary of the Interior under the TTP Program, together with transportation-related activities for the Native Village of [insert village name], and instructs the Tribal President, the Tribal Transportation Services Consultant to take all necessary actions to develop with the Federal Highway Administration a mutually acceptable government-to-government agreement to administer the TTP Program serving the Village; and

BE IT FURTHER RESOLVED, that the Tribal President is hereby authorized and instructed to sign this Resolution and all necessary agreements and contracts for and on behalf of the Tribe in order to establish and assume the transportation duties of the Secretary of the Interior serving the Native Village of [insert village name].

CERTIFICATION

The [insert Tribe name] Council adopted this resolution numbered 13-?? during a special meeting held on this day the [insert date] in the Tribal Office with a quorum present.

For ?; Against ?; Abstain ?

Present ?; Absent ?

Dated this ? day of [insert month, year]

[insert Tribe name] President

Exhibit 4.1 – FHWA RFA**(NOTE: BIA RFA is slightly different to reflect BIA references)**Agreement Number: **DTFH69-(insert FY)-H-000XX****REFERENCED FUNDING AGREEMENT****Pursuant to **(INSERT NAME OF TRIBE)**'s
Tribal Transportation Program Agreement
With the Department of Transportation
for Fiscal Year **20XX****

(a) Authority.- This agreement, denoted a Referenced Funding Agreement (hereinafter “RFA”) is entered into by the Administrator, Federal Highway Administration (hereinafter “FHWA”) on behalf of the Secretary of Transportation, and by the **(INSERT NAME OF TRIBE)** (hereinafter the “Tribe”) (collectively hereinafter the “Parties”), pursuant to the Tribal Transportation Program Agreement (hereinafter “Program Agreement”) between the parties for comprehensive transportation planning, research, design, engineering, construction, and maintenance of highway, road, bridge, parkway, or transit facility programs or projects that are located on or which provide access to **(INSERT NAME OF TRIBE/Reservation/Alaska Native Village/Consortium)** along with related program administration activities, and associated transportation services authorized by Chapter 2 of title 23, United States Code, as amended by Section 1119 of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, (July 6, 2012) and in accordance with the Indian Self-Determination and Education Assistance Act, Pub. L. 93-638, as amended (25 U.S.C. § 450 et seq.), and the Delegations of Authority set forth in 49 C.F.R. 1.85, and by resolution of the Tribal Council.

(b) Effective Date.- This RFA shall be effective as of October 1, 2012, following its approval and execution by authorized representatives of the Tribe and FHWA.

(c) Purpose.- The purpose of this RFA is to set forth specific conditions for Fiscal Year 2013 funding under the Program Agreement, including 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 such other provisions to which the Parties agree.

(d) Activities to be Performed.- The activities covered by this RFA and as further detailed in the Tribally-approved Transportation Improvement Program (TIP) attached hereto as an Exhibit are:

(Insert FY).(insert number of RFA; 1 for initial RFA, 2 for the first amendment, etc.)

Page 1

Tribe_____ FHWA_____

- Transportation Planning, including National Tribal Transportation Facility Inventory update;
- Construction Management;
- Program Administration;
- Design;
- Construction;
- Road Maintenance as authorized by section 202(a)(8)(A) of title 23;
- Repayment of Financing Instruments and IRR Program eligible costs as defined in the Tribe's Advance Construction Agreement;
- Development and negotiation of Tribal-State Road Maintenance agreements as authorized by section 202(a)(8)(C) of title 23.
- Other IRR Program-eligible activities authorized under Chapter 2 of Title 23 or 25 CFR, Part 170, as each may be amended by MAP-21, or other applicable law.

(e) Summary of Funds to be Provided.- The total amount of funding provided under this Funding Agreement is identified below:

Prior Year Funds

IRR Program Tribal Shares:	\$	TBD
IRR Transportation Planning Funds (2%)	\$	TBD
Other Funding (as described):	\$	TBD
<hr/>		
<hr/>		
Tribe's share of Program/Project-related administrative funds as authorized by section 202(b)(7)(E) of title 23	\$	<u>TBD</u>
Total Prior Year Funding		\$ TBD

FY 2013 Tribal Transportation Program Funding and other FLH funds:

TTP Funds	\$	TBD
TTP Transportation Planning Funds (2%)	\$	TBD
Tribal High Priority Projects Program Funds	\$	00.00
Tribal Transportation Facility Bridge Funds	\$	00.00
TTP Tribal Safety Program Funds	\$	00.00
Other Chapter 2 (FLH Program) Funds (as described)	\$	00.00

Tribe's share of Program/Project-related

(Insert FY).(insert number of RFA; 1 for initial RFA, 2 for the first amendment, etc.)

Page 1

Tribe_____ FHWA_____

administrative funds as authorized by section 202(b)(7)(E) of title 23	\$	<u>TBD</u>
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Total FY 2013 Funds:	\$	TBD
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<u>Total Amount for this RFA:</u>		<u>\$ TBD</u>
--	--	----------------------

SUMMARY

Amount of this RFA	\$	TBD
Amount provided through prior FY 2013 RFAs	\$	<u>0.00</u>
Total Amount provided to date through FY 2013 RFAs	\$	TBD

(f) Eligibility for Additional Funding and Services.- The Tribe shall be eligible for additional TTP funds on the same basis as other Indian Tribes according to the statutory distribution set forth in section 202(b) of title 23, as well as other funds, not included in this RFA, which are made available to Tribes on a competitive, formula, or other basis, including non-recurring funding. Whenever there are errors in calculations or other mistakes regarding estimates of available funding which may need to be renegotiated, both Parties agree to take action as necessary to correct such errors.

(g) Time and Method of Payment.- Subject to the availability of funds, and the execution of this RFA by both Parties, the Administrator shall provide to the Tribe or its designee the funds identified in Section (e) of this RFA in a single advance payment within thirty (30) calendar days. This transfer shall be made electronically. The final amounts available in the fiscal year are subject to the determination of the Tribe's share under Article II, Section 2.B of the TTP Agreement.

(h) Other Provisions.-

(1) Use of Funds Advanced.- Funds advanced to the Tribe shall be used by the Tribe as permitted under 23 U.S.C. § 202(a) and 25 CFR Part 170, both as amended by MAP-21, other applicable laws, and for the purposes authorized under the Program Agreement. The Tribe reserves the right to reallocate funds among the eligible projects identified on its FHWA-approved Transportation Improvement Program (TIP), so long as such funds are used in accordance with Federal appropriations law. Further, funds advanced to the Tribe pending disbursement for a purpose authorized under the Program Agreement shall be placed in appropriate savings, checking or investment accounts as further detailed in the Program Agreement. As provided in 25 CFR § 170.607, contract support costs are an eligible item out of the Tribe's Program

(Insert FY).(insert number of RFA; 1 for initial RFA, 2 for the first amendment, etc.)

Page 1

Tribe_____ FHWA_____

allocation and will be included in project construction budgets prepared by the Tribe. The Tribe may apply its most current negotiated Indirect Cost Rate to the funds paid under this RFA to determine the amount of funds that may be used by the Tribe to pay eligible contract support cost expenses associated with carrying out the Program Agreement.

(2) Carryover.- As provided in Article II, Sec. 8 of the Program Agreement, any funds which are paid to the Tribe under this RFA which have not been expended by the Tribe at the conclusion of the Federal fiscal year shall remain in the custody of the Tribe and be used for the purposes authorized herein and under the Program Agreement.

(i) **Amendments**.- Except as otherwise provided by the Program Agreement, any modification of this RFA shall be in the form of a written amendment and shall require the signed agreement of the Tribe and the Administrator.

(j) **Notice of Additional Funds**.- If the Department of Transportation receives notice of the availability of additional FY 2013 funding for any purpose authorized under the Program Agreement and RFA, including the availability of unspent TTP funds, the Administrator shall promptly notify the Tribe regarding such funding so that the Tribe may access and apply for any funds they may be eligible to receive.

(k) **Successor Funding Agreements**.- Ninety (90) days before the expiration of this RFA, the Parties shall commence negotiation of a successor RFA.

(INSERT NAME OF TRIBE)

**U.S. Department of Transportation
Federal Highway Administration**

By _____
(INSERT NAME OF SIGNATORY),
(INSERT TITLE)

By _____
Joyce A. Curtis, Associate Administrator,
for Office of Federal Lands Highway

Date

Date

LOA: Fund (15X0G60050); Budget Year (0000); BPAC (114G600500); Object Class Code (25304)

(Insert FY).(insert number of RFA; 1 for initial RFA, 2 for the first amendment, etc.)

Exhibit 5.1 – ACH Bank Form (SF 3881) and Instructions

ACH VENDOR/MISCELLANEOUS PAYMENT ENROLLMENT FORM

OMB No. 1510-0056

This form is used for Automated Clearing House (ACH) payments with an addendum record that contains payment-related information processed through the Vendor Express Program. Recipients of these payments should bring this information to the attention of their financial institution when presenting this form for completion. See reverse for additional instructions.

PRIVACY ACT STATEMENT	
<p>The following information is provided to comply with the Privacy Act of 1974 (P.L. 93-579). All information collected on this form is required under the provisions of 31 U.S.C. 3322 and 31 CFR 210. This information will be used by the Treasury Department to transmit payment data, by electronic means to vendor's financial institution. Failure to provide the requested information may delay or prevent the receipt of payments through the Automated Clearing House Payment System.</p>	

AGENCY INFORMATION	
FEDERAL PROGRAM AGENCY	
<input type="text"/>	
AGENCY IDENTIFIER:	AGENCY LOCATION CODE (ALC):
<input type="text"/>	<input type="text"/>
ACH FORMAT:	
<input type="checkbox"/> CCD+ <input type="checkbox"/> CTX	
ADDRESS:	
<input type="text"/> <input type="text"/>	
CONTACT PERSON NAME:	
<input type="text"/>	
TELEPHONE NUMBER:	
<input type="text"/> (<input type="text"/>)	
ADDITIONAL INFORMATION:	
<input type="text"/>	

PAYEE/COMPANY INFORMATION	
NAME	SSN NO. OR TAXPAYER ID NO.
<input type="text"/>	<input type="text"/>
ADDRESS	
<input type="text"/> <input type="text"/>	
CONTACT PERSON NAME:	
<input type="text"/>	
TELEPHONE NUMBER:	
<input type="text"/> (<input type="text"/>)	

FINANCIAL INSTITUTION INFORMATION	
NAME:	
<input type="text"/>	
ADDRESS:	
<input type="text"/> <input type="text"/>	
ACH COORDINATOR NAME:	
<input type="text"/>	
TELEPHONE NUMBER:	
<input type="text"/> (<input type="text"/>)	
NINE-DIGIT ROUTING TRANSIT NUMBER:	
<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	
DEPOSITOR ACCOUNT TITLE:	
<input type="text"/>	
DEPOSITOR ACCOUNT NUMBER:	
<input type="text"/>	
LOCKBOX NUMBER:	
<input type="text"/>	
TYPE OF ACCOUNT:	
<input type="checkbox"/> CHECKING <input type="checkbox"/> SAVINGS <input type="checkbox"/> LOCKBOX	
SIGNATURE AND TITLE OF AUTHORIZED OFFICIAL: (Could be the same as ACH Coordinator)	
<input type="text"/>	
TELEPHONE NUMBER:	
<input type="text"/> (<input type="text"/>)	

AUTHORIZED FOR LOCAL REPRODUCTION

SF 3881 (Rev. 2/2003)
Prescribed by Department of Treasury
31 U.S.C. 3322; 31 CFR 210

Save Data Only

Clear Form

Save Data & Form

Instructions for Completing ACH Banking Form (SF 3881)

1. Obtain this form at <http://www.gsa.gov/portal/forms/download/116290>
2. Agency Information Section - Federal agency prints or types the name and address of the Federal program agency originating the vendor/miscellaneous payment, agency identifier, agency location code, contact person name and telephone number of the agency. Also, the appropriate box for ACH format is checked.
3. Payee/Company Information Section - Payee prints or types the name of the payee/company and address that will receive ACH vendor/miscellaneous payments, social security or taxpayer ID number, and contact person name and telephone number of the payee/company. Payee also verifies depositor account number, account title, and type of account entered by your financial institution in the Financial Institution Information Section.
4. Financial Institution Information Section - Financial institution prints or types the name and address of the payee/company's financial institution who will receive the ACH payment, ACH coordinator name and telephone number, nine-digit routing transit number, depositor (payee/company) account title and account number. Also, the box for type of account is checked, and the signature, title, and telephone number of the appropriate financial institution official are included.

Exhibit 7.1 - Projected Program Amount Letter

The Honorable [insert Tribal chairperson name]
[insert name of Tribal Government]
[insert Tribal address]

[date]

Dear Chairperson [name]

In accordance with 25 CFR 170.425 the Federal Highway Administration (FHWA) Federal Land Highways (FLH) (or the BIA) is providing the [insert Tribe's name] with a *projected* Tribal Transportation Program (TTP) amount to aid the [insert Tribe's name] in programming the [insert TTIP year] Tribal Transportation Improvement Program (TTIP).

The projected program amount is [insert projected \$ amount].

The amount is not to be construed as an official Federal allocation nor is it to be used as leverage for other funding. According to the Program Agreement between the [insert Tribe's name] and the FHWA (or the BIA), the Referenced Funding Agreement (RFA) provides the funding amount to be received for the program. The projected program amount is not the RFA amount. *The projected amount is to be used for planning purposes only in assisting the [insert Tribe's name] in developing the TTIP.*

Please contact me if you have any questions concerning this letter.

Sincerely,

[insert name]
Transportation Planning Specialist

Exhibit 7.2 – FHWA or BIA Approved TTIP Form

FHWA Approved TTIP Form

Example: Transportation Improvement Plan spreadsheet for IRR funds (four years financially constrained). Identify funding for core construction categories. Preliminary Engineering (PE), Construction Engineering (CE), Construction (CN), Transit, and Maintenance. If you are using IRR construction funds for general planning or maintenance, include as an individual project.

FLHIRRTIP SUBMITTAL DOCUMENT

Date:

TRIBE:

Current FY:

FUNDING SOURCE: (examples: IRR, IRRBP, 2% Planning, PLH-D)

PROJECT INFORMATION:

PROJECT NAME

PROJECT NUMBER

LOCATION

TYPE OF WORK

LENGTH (miles) COUNTY (name)

STATE (name) CONSTRUCTION YEAR (fiscal year)

COMMENTS:

Activity	CURRENT FY	CURRENT FY+1	CURRENT FY+2	CURRENT FY+3	CURRENT FY+4	TOTAL
Administration						\$0
Planning						\$0
Preliminary Engineering						\$0
Construction						\$0
Construction Engineering						\$0
Transit						\$0
Maintenance						\$0
TOTAL	\$0	\$0	\$0	\$0	\$0	\$0

Exhibit 7.3 - TTIP Certification

Transportation Planning Process and Tribal Transportation Improvement Program (TTIP) Certification Statement

As agreed upon in the Tribal Transportation Program (TTP) Agreement with the United States Department of Transportation for the [insert reservation name, Alaska native village, or service area], the [Tribe] hereby certifies that it has fulfilled the functions and duties of the Secretary of the Interior in accordance with the requirements of 25 CFR 170 in carrying out a planning process and in developing the Tribal Transportation Improvement Program including:

1. Facilitating Public Involvement on the TTIP with all stakeholders,
2. All projects in the TTIP are consistent with the Tribal Long Range Transportation Plan,
3. All projects listed in TTIP are on the National Tribal Transportation Facility Inventory (NTTFI),
4. TTIP contains all TTP program funded projects programmed for construction in the next 4 years,
5. TTIP is financially constrained,
6. TTIP contains uncompleted project(s) from previous TTIP carried-over,
7. Consultation and coordination with State DOT and/or MPO's for regionally significant projects are complete (if applicable).

[Name and title]

[Entity]

[Date]

Exhibit 7.4 - Microsoft Access TTIP Data Base File


 Office of Federal Lands Highway US Department of Transportation - Federal Highway Administration		Indian Reservation Roads Program Transportation Improvement Program																																																																		
Consortium: _____ Tribe: _____		Date: _____		Current FY: <input type="text" value="0"/>																																																																
Funding Source: _____ (examples: IRR, IRRBP, 2% Planning, PLH-D)																																																																				
PROJECT INFORMATION:		Include In STIP <input type="checkbox"/>		STIP Amount <input type="text" value="\$0"/>																																																																
Project Name: _____ Location: _____ Type of Work: _____ Route Number: _____																																																																				
Length: <input type="text" value="0"/> Miles		Project Number: _____		County: _____																																																																
State: _____		Construction Year: _____		Comments: _____																																																																
<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:15%;">Activity</th> <th style="width:15%;">CURRENT FY</th> <th style="width:15%;">CURRENT FY+1</th> <th style="width:15%;">CURRENT FY+2</th> <th style="width:15%;">CURRENT FY+3</th> <th style="width:15%;">CURRENT FY+4</th> <th style="width:10%;">TOTAL</th> </tr> </thead> <tbody> <tr> <td>Administration</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td></td> </tr> <tr> <td>Planning</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td></td> </tr> <tr> <td>Preliminary Engineering</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td></td> </tr> <tr> <td>Construction</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td></td> </tr> <tr> <td>Construction Engineering</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td></td> </tr> <tr> <td>Transit</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td></td> </tr> <tr> <td>Maintenance</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td></td> </tr> <tr> <td>TOTAL</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>						Activity	CURRENT FY	CURRENT FY+1	CURRENT FY+2	CURRENT FY+3	CURRENT FY+4	TOTAL	Administration	\$0	\$0	\$0	\$0	\$0		Planning	\$0	\$0	\$0	\$0	\$0		Preliminary Engineering	\$0	\$0	\$0	\$0	\$0		Construction	\$0	\$0	\$0	\$0	\$0		Construction Engineering	\$0	\$0	\$0	\$0	\$0		Transit	\$0	\$0	\$0	\$0	\$0		Maintenance	\$0	\$0	\$0	\$0	\$0		TOTAL						
Activity	CURRENT FY	CURRENT FY+1	CURRENT FY+2	CURRENT FY+3	CURRENT FY+4	TOTAL																																																														
Administration	\$0	\$0	\$0	\$0	\$0																																																															
Planning	\$0	\$0	\$0	\$0	\$0																																																															
Preliminary Engineering	\$0	\$0	\$0	\$0	\$0																																																															
Construction	\$0	\$0	\$0	\$0	\$0																																																															
Construction Engineering	\$0	\$0	\$0	\$0	\$0																																																															
Transit	\$0	\$0	\$0	\$0	\$0																																																															
Maintenance	\$0	\$0	\$0	\$0	\$0																																																															
TOTAL																																																																				
APPROVED _____		IRR Program Manager, FHWA FLH		DATE _____																																																																
CONCURRED _____		Bureau of Indian Affairs		DATE _____																																																																

Exhibit 7.5 - Pre-Project Planning Score Worksheet

I. General Project Information

1. Project name: _____

2. TTP route number: _____

3. Type of work: _____

(Resurfacing, signalization, reconstruction, etc.)

Length or area: _____

Historical cost for type of work: _____

PS&E (usually between 10-25% of the overall project costs) \$_____

CE (usually between 10-15% of the overall project costs) \$_____

Estimated Project Cost: \$_____

(Use these estimates for documenting the project in the TTIP)

II. Purpose and need of project: (Answer these two questions: (1) What is the problem? (2) What are the consequences of not addressing the problem?)

.

.

Cooperation with other government agencies needed? Yes No

Agency name: _____

Is project regionally significant? Yes No

Note: Regionally significant projects are typically projects anywhere in the State that have direct impact on a regional transportation system or those projects that serve regional transportation needs (e.g., major activity centers, major planned developments such as major retail malls, sport complexes, employment centers, or transportation terminals) and are normally part of the metropolitan or regional transportation network model. For more information contact the State Department of Transportation or the Metropolitan Planning Organization in your area.

III. Existing Facility: Will facilities be impacted? Example: utilities, culverts, bridges, etc. If so, what will the cost be for removing / replacing?

Type	Estimate Cost (\$)

IV. Socioeconomic/Environmental: Are any expected to be impacted?

Type	Yes	No
Endangered Species		
Historical/Archeological		
Wetlands		
Public hearing needed		
Other?		

V. Proposed Project Development: (place a check mark next to the proposed entity to perform the work)

Type	Tribe	BIA Region/Agency	FLH	Estimate Cost (\$)
Survey				
NEPA*				
Preparing NEPA Documents				
Preparing environmental resource documents				
Design				
Safety Audit				
Power line – Overhead				
Other Cost				
Right-of-Way Relocation				
Type of ROW	Fee ___ Non-Fee ___			

* FLH and BIA are Lead Federal agencies responsible for writing NEPA decision

Exhibit 7.6 - TTIP Approval Letter

The Honorable [insert Tribal chairperson name]
[insert name of Tribal Government]
[insert Tribal address]

[date]

Dear Chairperson [name]

The Federal Highway Administration (FHWA) Federal Land Highways (FLH) received the [date of TTIP] Tribal Transportation Improvement Program (TTIP) and supporting documents from [Tribe] requesting approval.

In accordance with 25 CFR 170.426, the FHWA and the Bureau of Indian Affairs (BIA) have reviewed the [date of TTIP] TTIP, as transmitted by your email dated [date].

Based on your certification of the transportation planning process, review of self-certification supporting documentation, and our involvement in the your Tribal planning processes, the FHWA (or BIA) hereby finds that the TTIP is based on a transportation planning process that substantially meets the requirements of 25 CFR 170, and is therefore approved.

Approval of the TTIP is not to be construed as an eligibility determination. Each project must satisfy the specific requirements of the program from which Federal funds are solicited as well as other Federal requirements before funds are expended.

If you have any questions concerning our transportation planning finding and the TTIP approval, please contact me at [insert phone number]

Sincerely,

[insert name]
Transportation Planning Specialist

Exhibit 8.1 – Project Charter Form

PROJECT CHARTER					
This Project Charter is entered into between the undersigned parties.					
Tribal Government:		Project No:			
State:		TTP Route No. & Section:			
County:		Project Length (miles):			
		Surface Type:			
Project Background Information					
Project Location(s):					
Road Ownership:					
Inventory Data:					
Proposed project Purpose and Need:					
Design Standards					
Design speed:		Design ADT:		Terrain:	
Design loading:		Percent Trucks		Maximum Superelevation:	
Bridge width:		Accident data:			
NEPA					
Documents			Lead Agency		
NEPA Studies:					
NEPA Document compilation:					
NEPA Document approval:					
Roles & Responsibilities					
Work Tasks	Reviews	Approvals	POC contact	Milestone Date	Estimate Cost
Survey & Mapping					
Geotechnical-Sampling, Testing, Reporting					
Design and PS&E					
Contract Documents					
Right-of-Way					
Utility Relocation					
Advertise & Award Project					
Administer Construction Contract					
Construction					

Inspections					
Engineering Services					
Permits-monitoring & termination					
Maintenance Activities					
Compliance w/environmental commitments					
Final Inspections					
Project Close out					

Amendments

This Project Charter may be modified by mutual agreement of the parties. The Charter shall be effective as of **xx** day of **(insert month, year)**.

Tribal Government:

By:
 Title:

County:

By:
 Title:

BIA Region:

By:
 Title:

FHWA Division:

By:
 Title:

State:

By:
 Title:

Exhibit 9.1 - OUTLINE FOR A DOCUMENTED CATEGORICAL EXCLUSION (CE)

The following format generally complies with requirements for documented categorical exclusions (CEs) (23 CFR 771.117 (d)).

INTRODUCTION - The CE begins with an introduction with a brief description of the:

- proposed project,
- project location,
- project sponsors, and
- project funding.

PURPOSE AND NEED - This section briefly describes the condition or conditions that require relief and the purpose in taking action.

PROPOSED ACTION - In this section of the CE, the project details are identified. This includes the actions for the entire footprint of the project that will be awarded under contract, including but not limited to:

- type of work,
- corridor location,
- length,
- road width,
- number of lanes,
- design speed,
- surface type,
- major structures,
- material sources,
- staging areas,
- waste areas,
- mitigation areas, and
- any other major features.

It should be clear to the reader how the proposed action will address the problem identified in the purpose and need.

ENVIRONMENTAL ACTIVITIES - To demonstrate that a federally-funded action is categorically excluded under the National Environmental Policy Act (NEPA), the project must demonstrate compliance with the following related environmental laws and Executive Orders. In analyzing the project impacts for compliance with these laws, you must consider the effects of the entire area of the proposed action described above. Please note that this is not a comprehensive list of all environmental laws but a list of those that are typically addressed.

Clean Water Act and Executive Order 11990- Wetlands Finding – The Clean Water Act regulates any discharge of a pollutant into waters of the United States. The most common type of discharge from road construction projects is fill material into wetland areas and waters of the U.S. If wetlands are determined to be in the area of potential construction impact, a wetland delineation, if required, must be completed following the methods in the 1987 Army Corps of Engineers Wetland Delineation Manual. Executive Order (EO) 11990 requires a finding must demonstrate that there is no practical alternative to the proposed construction in wetlands, and

the proposed action includes all practicable measures to minimize harm to wetlands that may result from such use.

For this requirement, the CE must identify the number of wetlands identified from the delineation that will be impacted by the proposed action and any mitigation, if applicable. Furthermore, FHWA must demonstrate compliance with EO 11990 by providing a finding that there is no practicable alternative to construction in wetlands.

Coastal Zone Management Act- If the project is within an area with an approved coastal zone management plan, the CE must have a consistency determination to demonstrate that the project is consistent to the maximum extent practicable with the enforceable policies of the plan. Coordination with the agency responsible for the State's Coastal Zone Management Plan must occur. If possible, the CE should show the date of responsible agency's concurrence with the consistency determination.

Endangered Species Act- The Endangered Species Act (ESA) provides for the conservation of endangered and threatened species and the ecosystems upon which they depend. Section 7 of the act requires Federal agencies to consult with the U.S. Fish and Wildlife Service (USFWS) and National Oceanic Atmospheric Administration (NOAA) -Fisheries, as appropriate, to insure that actions they authorize, fund or carry out are not likely to jeopardize the continued existence of threatened or endangered (T&E) species or result in the destruction or adverse modification of critical habitat for these species. A Biological Assessment may need to be prepared if there are known listed species in the project area. Contact USFWS and NOAA for a listing of these species in your area.

The CE should document what T&E species are in the project area and the project's effect to these species. The CE should use the effect determinations as provided in the ESA and document when the consulting agency (NOAA Fisheries or USFWS) concurred with FHWA's effect determination if the project was determined to have a potential effect to T&E species. The CE should describe any commitments and mitigation if applicable.

National Historic Preservation Act- The National Historic Preservation Act (NHPA) applies to all properties on or eligible for inclusion on the National Register of Historic Places (NRHP). A cultural resources survey, if required, must be completed to identify potentially eligible properties. Consultation with the State Historic Preservation Officer (SHPO), and/or the Tribal Historic Preservation Officer (THPO) as appropriate will result in concurrence on the identification and assessment of these properties.

The CE needs to document compliance with Section 106 of the NHPA by documenting what the project's effects are to properties on or eligible to NRHP and the date SHPO/THPO concurred with the effect determinations. The CE should describe any mitigation, if applicable.

Section 4(f)- A Section 4(f) analysis is needed only when an alternative uses a resource protected under Section 4(f) of the US DOT ACT 1966. These resources include publicly owned land from a public park, recreation area, or wildlife and waterfowl refuge of national, state, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from a historic site of national, state, or local significance as determined by such officials. A use is defined as permanently incorporating the 4(f) resource into a transportation facility. A 4(f) analysis must document that (1) there is no prudent and feasible alternative to the use of such land, and (2) such program includes all possible planning

to minimize harm to such park, recreation area, wildlife and waterfowl refuge, or historic site resulting from such use.

The CE should demonstrate compliance with Section 4(f). If it was a full or programmatic Section 4(f), it should briefly describe the activities conducted and how the conclusions were reached. If a *de-minimis* 4(f) applied to the project, this Section should document how the requirements of the *de-minimis* were met.

Public Involvement - In this section of the CE, there should be a brief discussion of the agency coordination and public involvement activities.

Permits - This section should list all permits and any stipulations known at this time. This could include, but is not limited to:

- 404 authorization from the U.S. Army Corps of Engineers for dredge or fill materials into waters of the U.S.
- Water quality certification may be required from the appropriate Regional Water Quality Control Board (Section 401).

Environmental Commitments - This section should describe any environmental commitments agreed to in order to avoid, minimize, or mitigate impacts. These commitments are often identified during the design of the project, recommended in environmental studies/evaluations, and/or result from public involvement or agency consultations.

CONCLUSION - On a separate and last page of the CE, provide the conclusion that project qualifies as a categorical exclusion. The CE should reference categorical exclusion justifications in 40 CFR 1508 and 23 CFR 771.117. The language normally used is:

Based on the information listed above, FHWA has determined this project; (1) will not have a significant effect on the human environment, and (2) falls within the category of actions covered by FHWA's categorical exclusion regulations. Therefore, this work meets the definition of a Categorical Exclusion (CE) contained in 40 CFR 1508.4. FHWA finds this work constitutes an action covered under the National Listing of Categorical Exclusions, 23 CFR 771.117 (a) because: 1) the action will not induce significant impacts to planned growth or land use for the area; 2) the action will not require the relocation of any people; 3) the action will not have a significant impact on any natural, cultural, recreational, historic, or other resource; 4) the action will not involve significant air, noise, or water quality impacts; 5) the action will not have significant impacts on travel; and 6) the action will not otherwise, either individually or cumulatively, have any significant environmental impacts. Furthermore, FHWA finds this work constitutes an action within the National Listing of Categorical Exclusions, 23 CFR 771.117 (d)(1), modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (e.g. parking, weaving, turning, climbing). The proposed rehabilitation does not include any unusual circumstances as listed in 23 CFR 771.117(b) that would make the CE classification improper.

In the **yellow-highlighted section**, the CE should reference which category the project qualifies, in this example it is 23 CFR 771.117 (d) (1).

SIGNATURES – Following the **CONCLUSION**, the CE should have two signature blocks as shown below. Fill in the yellow highlighted areas as appropriate.

RECOMMENDED BY:

Name of Tribal representative,
Title of Tribal representative,
Name of Tribe

Date

APPROVED BY:

Name of TTP Environmental Protection Specialist,
Environmental Protection Specialist,
Tribal Transportation Program,
Federal Highway Administration

Date

Exhibit 9.2 – CE CHECKLIST

(NOTE: EXAMPLE FORM ONLY; THIS FORM MAY BE REVISED PERIODICALLY TO IMPROVE FORMAT AND CONTENT; CONTACT FHWA TTP SPECIALIST FOR CURRENT VERSION)

Environmental Documentation Form for TTP* Projects

Please complete the following form. The information provided in this form will help FHWA obtain most of the information necessary to approve a NEPA project, and will subsequently reduce the number of questions and information requests. Following a YES or NO response or where indicated, provide a description of the potential impact. Document all consultation with resource agencies. Attach all supporting documentation including descriptions of resources, type of impact expected, what measures were taken to avoid or minimize the impact, why the impact is not significant, **and the source of information used to make these determinations.** Use additional sheets to respond to questions, as needed.

*TTP- Tribal Transportation Program (formerly Indian Reservation Road (IRR) Program)

Block 1. Project Description and Design Information	
Date: _____	
Project Name: _____	
Project Number: _____	
IRR Route/Section Number(s): _____ (attach map)	
BIA Route/Section Number(s): _____ (attach map)	
Project Contact (include name, phone number, street address and email address): 	
Project Name and Location (include county, township, municipality, etc.). Please attach Project Vicinity map and photos of the project area: 	
Latitude: _____	Longitude: _____
Section: _____	Township: _____ Range: _____
Limits of Work:	
Start: _____	End: _____ Total Length: _____
Project Description Include narrative to describe project scope of work - include type of construction, logical termini, setting, and distinct project features. Please include in your project description any culverts/bridges or other project features being replaced or repaired, if applicable. Please compare the proposed changes to what currently exists. If developed, please provide current plans showing construction limits and right-of-way (ROW) boundaries:	

Purpose and Need for Project Include narrative on why the project is needed, what is to be achieved, and what would happen if the project was not constructed:

Design Criteria for Roadway:
 Functional Classification: _____
 Current ADT: _____ vpd ()
 Design Year ADT: _____ vpd ()
 DHV: _____ Trucks: _____ % Directional Distribution _____ %
 Design Speed: _____
 Posted Speed: _____
 Setting: Urban Suburban Rural
 Topography: Flat Rolling Other Explain: _____

Roadway Character (Existing and Proposed):

	Existing	Proposed
Number of Lanes:	_____	_____
Surface Type:	_____	_____
Travel Lane Width (ft):	_____	_____
Shoulder Width (ft):	_____	_____
Median Width (ft):	_____	_____
Clear zone (ft):	_____	_____
Average ROW Width (ft):	_____	_____

Design Criteria for Bridges / Culverts (if known):

	Existing	Proposed
Bridge Number:	_____	_____
Sufficiency Rating:	_____	_____
Estimated Remaining Life:	_____	_____
Bridge Type:	_____	_____
Number of Spans:	_____	_____
Structure Length:	_____	_____

Are any substructure elements (e.g., piers, abutments, wingwalls, footers, etc.) below the Ordinary High Water Mark (OHWM)? Yes No

Will additional rip-rap be added? Yes No

1a). TTIP
 Is the project in the Tribal Transportation Improvement Plan (TTIP)? Yes No

If yes: Phase: _____ Date: _____

Block 2. Alternatives Considered	
<p>2) Were other alternatives considered for the proposed action?</p> <p>If YES, describe all reasonable alternatives considered including a description of the preferred:</p> <p>Does the project impact wetlands, floodplains, Section 4(f) properties, or threatened and endangered species?</p> <p>If YES, describe all avoidance, minimization, and mitigation considered including a description of the preferred:</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
Block 3. Right-of-Way, Relocations, Utility Coordination	
<p>3a) Will the proposed action require new right-of-way (ROW) or easement or temporary construction easement?</p> <p>If YES, provide the following information:</p> <p> Approximate area of temporary ROW/easement: _____ acre(s)</p> <p> Approximate area of permanent ROW/easement: _____ acre(s)</p> <p> Reason for ROW/easement:</p> <p> Current Land Use:</p> <p>Will any tribal trust, individual trust or individual restricted land be involved in this project?</p> <p>Will the project use any Public Park ROW?</p> <p>Is it anticipated that construction will require a borrow site, construction staging area for batch plant or equipment, or a waste site outside the project area?</p> <p>Provide additional information for questions answered yes:</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>

<p>3b) Will the proposed action cause relocation of any residential homes, businesses, farms, or public institutions?</p> <p>NOTE: If relocations are anticipated, relocation services will need to be provided per the Uniform Relocation Assistance Act.</p> <p>If YES, indicate the following:</p> <p>Number of displacements:</p> <p>Residential: _____ Businesses: _____ Farms: _____ Public Institutions: _____</p> <p>Discuss displacements:</p> <p>Are there properties within the local area available for relocation? If YES, describe:</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>3c) Will the proposed action need to accommodate for utilities in the study area?</p> <p>If YES, state type of utilities and anticipated work involved (e.g., relocation, temporary disruption of service). Note if utility providers have been consulted.</p> <p>If known, indicate if utility crossing(s) will have the potential to impact stream, open water, or wetlands, or if the proposed action will require clearing and grubbing by utilities:</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>3d) Describe the involvement with any railroad (active or inactive) including all rail lines, crossing, bridges, or signals.</p>	
<p>Block 4. Socio-Economic</p>	
<p>4a) Environmental Justice: Are the anticipated environmental impacts resulting from the proposed action likely to fall disproportionately on the minority and/or low income populations, including populations with Limited English Proficiency (LEP)?</p> <p>If YES, describe any potential adverse effects and the affected population (e.g., minority, low-income, elderly, or disabled), and describe proposed measures to mitigate for any adverse impacts:</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>4b) Will the proposed action require temporary and/or permanent access changes?</p> <p>If YES, describe the access changes (temporary or permanent) and impacts to businesses (disruption, loss or restricted parking), residential neighborhoods, or individual residents:</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>4c) Will the proposed action have an impact on travel patterns (e.g., does the action include a bypass or convert a local street into a higher order roadway)?</p> <p>If YES, describe any permanent traffic diversion or change of traffic patterns that would occur:</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>4d) Is the proposed action consistent with local land use plans?</p> <p>If YES, identify area plans and assess consistency:</p> <p>If NO, provide details of coordination with local government:</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>

<p>4e) Will the proposed action cause economic impacts (temporary or permanent, positive or negative) to the local economy (e.g., adjacent highway-related and other businesses, employment gains or losses, etc.), local tax base or property values?</p> <p>If YES, describe impacts and any proposed measures to minimize economic impacts:</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>4f) Will the proposed action result in impacts on fire, police, emergency services, health and educational facilities, school bus route, religious institutions, public transportation, or pedestrian and bicycle facilities?</p> <p>If YES, describe impacts and any proposed measures to minimize impacts:</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>4g) Will the proposed action result in impacts to community cohesion (e.g., separation from community facilities or isolated portions of a neighborhood)?</p> <p>If YES, describe impacts and any proposed measures to minimize community division or separation:</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>4h) Will the proposed action induce secondary growth?</p> <p>If Yes, explain:</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>4i) Does the project incorporate bicycle or pedestrian facilities into the overall design or operations.</p> <p>If Yes, explain:</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Block 5. Historic and Cultural Resources (Section 106) (SHPO/THPO CONCURRENCE REQUIRED)</p>	
<p>5) Describe the Area of Potential Effect (APE) and attach a figure showing the APE. (The Area of Potential Effect for highway projects is typically the limit of highway construction where there could be surface disturbance extending out to the clear zone. The APE may extend further in some instances due to visual or noise impacts.)</p> <p>Will there be any new ground disturbance associated with the project? If so, the SHPO/THPO (THPO with formal assumption of SHPO responsibilities) must be consulted under Section 106. An archaeological survey will likely be necessary.</p> <p>Are there any historic, cultural, Traditional Cultural, burial, or archaeological resources, <u>including historic bridges or roads</u>, that are/or may be eligible for or listed in the National Register of Historic Places (NRHP) (i.e., older than 50 years old)? If so, the SHPO/THPO must concur with eligibility determination. If no, please provide a summary of how this was determined.</p> <p>For any resources listed in or eligible for listing in the NRHP, will the proposed action have an effect on these resources?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>NOTE: FHWA, in coordination with the Tribe, will need to complete Section 106 consultation & documentation <u>separately</u> from the CE Process. Please contact FHWA to initiate the Section 106 process.</p>	

PRESENCE/LEVEL OF EFFECT DOCUMENTATION							
If YES: Describe properties or resources impacted by project:							
	Presence				Level of Effects		
	Not Present	Potentially Eligible Resource Present	Eligible Resource Present	Listed Resource Present	No Historic Properties Affected	No Adverse Effect	Adverse Effect
Cultural Resources	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes
Prehistoric Archaeology	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes
Historic Archaeology	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes
Historic Structure	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes
Historic District	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes
Historic Transportation Corridor	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes	<input type="checkbox"/> Yes
Is SHPO/THPO Coordination complete?						<input type="checkbox"/> Yes <input type="checkbox"/> No	
Attach concurrence(s) letter: Date(s) received:							
NOTE: If Section 106 consultation results in an "adverse effect" finding, then additional consultation will be needed.							
Block 6. Section 4(f) and Section 6(f)							
6a) Will the proposed action have a constructive use or a temporary or permanent occupancy of any Section 4(f) resource (publicly owned parks, recreation areas, and wildlife/waterfowl refuges, and NRHP eligible or listed historic properties)?						<input type="checkbox"/> Yes <input type="checkbox"/> No	
Avoidance is always preferred. If YES, a Section 4(f) individual, programmatic, or <i>de minimis</i> evaluation will need to be prepared. Consult with FHWA to determine appropriate 4(f) document.							
Describe all 4(f) mitigation alternatives, including variations in design, used to minimize impacts:							
NOTE: FHWA, in coordination with the Tribe, will need to complete 4(f) documentation <u>separately</u> from the CE Process. Section 4(f) has a public information component.							
6b) Does the proposed action require the use of any property (public recreation sites or facilities) protected by Section 6(f) of the Land & Water Conservation Fund Act (LWCFA)?						<input type="checkbox"/> Yes <input type="checkbox"/> No	
If YES, describe any property that may be impacted that was purchased or improved through the LWCFA, size /acreage impacted, and the impact (e.g., temporary or permanent, conversion to non-recreation uses).							
Concurrence from official with jurisdiction of resource obtained?							
Attach correspondence: Date received: _____						<input type="checkbox"/> Yes <input type="checkbox"/> No	
NOTE: FHWA, in coordination with the Tribe, will need to complete 6(f) documentation <u>separately</u> from the CE Process.							

Block 7. Threatened and Endangered Species	
<p>7a) Are there any federally listed threatened or endangered species with potential to occur in the project area? This list is obtained from the USFWS Ecological Services Field Office website.</p> <p>If yes, is there any potential suitable habitat located within or near the project area? If NO, please provide FHWA with a brief rationale of this determination for the project file.</p> <p>Will the proposed action affect any federally threatened or endangered species or protected critical habitat? If YES (“may affect”), FHWA will NEED to consult with USFWS for concurrence. If NO (“no effect”), please provide FHWA with a brief rationale of this determination for the project file.</p> <p>If YES, and it was previously a BIA project, please provide a summary of the informal consultation with the USFWS. Please attach USFWS concurrence letters of effect determination.</p> <p>USFWS Concurrence, Date Received: _____</p> <p>If a determination was made that adverse impacts may occur, contact FHWA for further guidance.</p> <p>NOTE: Summary of project commitments need to be described in Block 18b- Environmental Commitments.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> No, “No effect”</p> <p><input type="checkbox"/> Yes, “May affect, but not likely to adversely affect”</p> <p><input type="checkbox"/> Yes, “May affect, and is likely to adversely affect”</p>
<p>7b) Will the proposed action affect any of the following:</p> <p>Birds or bird nesting areas?</p> <p>Water that is important for fish or wildlife?</p> <p>Bald or Golden Eagles or potential habitat?</p> <p>If YES, please describe any measures to avoid or minimize impacts:</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>NOTE: FHWA will need to complete all Section 7 consultation & documentation <u>separately</u> from the CE Process.</p>	
Block 8. Farmland	
<p>8) Does the proposed action involve acquisition of prime, unique, statewide or local important farmland or use of farmland that would be converted to non-agricultural use?</p> <p>If YES, Indicate the size of area impacted: Farmland: _____ acres</p> <p>Describe or attach:</p> <ul style="list-style-type: none"> • Farmland conversion impacts or coordination with the Natural Resources Conservation Service (NRCS) • Farmland Conversion Impact Rating Sheet (Form AD-1006). 	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>

Block 9. Wetlands / Waters of the U.S.																																																								
<p>9a) If there are no wetlands or waters of the U.S. located within the study area, check "N/A":</p> <p style="margin-left: 40px;">Individual/Organization that made the determination: _____</p> <p style="margin-left: 40px;">Date of Field Visit: _____</p> <p style="margin-left: 40px; color: blue;">Please provide FHWA with a memo documenting the absence of waters of the U.S.</p> <p style="margin-left: 40px;">Are wetlands/waters of the U.S. <u>present</u> within the study area <u>but will be avoided</u> by construction?</p> <p style="margin-left: 40px;">Discussion:</p>	<p><input type="checkbox"/> N/A</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>																																																							
<p>9b) Does the proposed action involve impacts to wetlands? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p style="margin-left: 40px;">If YES, what is the total wetland area impacted: _____ acre(s)</p>																																																								
<table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th rowspan="2"></th> <th colspan="2">Presence</th> <th colspan="2">Impacts</th> </tr> <tr> <th>Not Present</th> <th>Present</th> <th>No</th> <th>Yes</th> </tr> </thead> <tbody> <tr> <td>Wetlands</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>Open Water</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>Vegetated</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td style="padding-left: 20px;">Emergent</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td style="padding-left: 20px;">Scrub Shrub</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td style="padding-left: 20px;">Forested</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>Rain Water Basin</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>Saline</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> <tr> <td>Western Alkaline</td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> <td><input type="checkbox"/></td> </tr> </tbody> </table> <p style="margin-left: 40px;">Discussion:</p> <p style="margin-left: 80px;"><u>Documentation</u></p> <p style="margin-left: 80px;">Wetland Delineation Report (if wetlands in project area anticipated)</p> <p style="margin-left: 80px;">USACE Jurisdictional Determination, if applicable</p> <p style="margin-left: 80px;">Mitigation Plan, if applicable</p> <p style="margin-left: 40px;">Attach aerial photo map or plan showing wetland areas for the study area.</p>			Presence		Impacts		Not Present	Present	No	Yes	Wetlands	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Open Water	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Vegetated					Emergent	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Scrub Shrub	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Forested	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Rain Water Basin	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Saline	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Western Alkaline	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
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<p>9c) Are stream(s) present within the project area?</p> <p>If YES, will the stream(s) be impacted? (i.e., work will occur below ordinary high watermark)</p> <p>Name stream(s) impacted:</p> <p>Is the stream(s) identified as wild and scenic, national recreation, or listed on the National Rivers Inventory (NRI)?</p> <p>Is there impact(s) to navigable waters of the U.S?</p> <p>Is the stream(s) intermittent, ephemeral or perennial?</p> <p>Discussion:</p> <p>Are there other surface waters present within the project area?</p> <p>If YES, will the water body (s) be impacted?</p> <p>Name of water body:</p> <p>What type of water body (lake, pond, sand pit, or reservoir):</p> <p>What is the size of the water body impact:</p> <p>Discussion:</p> <p>Provide measures evaluated or proposed to avoid or minimize impacts to waters of the U.S:</p> <p>NOTE: Attach photos and plan sheets that show the location of the stream channel or water bodies. The photos should be taken up and down the impacted stream channel and of any adjacent ditches.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>9d) Will the proposed action require the following permits under the Clean Water Act?</p> <ul style="list-style-type: none"> • Section 404 Nationwide Permit (USACE) • Section 404 Individual Permit (USACE) • Section 401 Individual Water Quality Certification <p>Has coordination with USACE been initiated?</p> <p>If YES, attach any coordination with USACE or other applicable resource agency.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Water related permits such as Section 404 and 401 are typically acquired after approval of the CE during final design. This is typically handled by the Tribe. Tribes would be responsible for determining appropriate mitigation and developing a mitigation and monitoring plan if necessary.</p>	

Block 10. Floodplains

<p>10a) Is the proposed action located within the 100-year base floodplain?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>10b) Will the proposed action cause an encroachment or impacts to the 100-year Zone A floodplain? If YES, describe potential impacts and include the Federal Emergency Management Agency (FEMA) map with the project location identified. Include any consultation with the floodplain administrators for the project area:</p> <p>If there is encroachment to the 100-year floodplain, FHWA should be contacted to determine appropriate level of documentation.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Block 11. Regulated Materials</p>	
<p>11a) Is there any known or potential contamination at the project site (e.g., previous land uses with possible hazardous waste involvement), or additional remediation work that has to be done regarding hazardous or contaminated material?</p> <p>Will a building (age) or insulated pipe possibly containing asbestos or lead based paint be removed as part of this project?</p> <p>If a bridge replacement is part of the proposed action, is there the potential that lead paint was used on the structure?</p> <p>Discussion:</p> <p>NOTE: If YES, and there is the potential for CERCLA, SARA, RCRA, TSCA, UST/LUST, lead, or asbestos issues on the project, notify and coordinate with FHWA.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>11b) Will the project action impact any registered or known groundwater monitoring wells? If Yes, identify any groundwater monitoring wells in the right of way, in the adjacent right of way, and the owner of said wells.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Block 12. Air Quality / Noise</p>	
<p>12a) Is the proposed action in an air quality non-attainment or maintenance area?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>12b) Will the project involve the addition of one or more through lanes?</p> <p>Will the project involve a change in vehicle mix or speed?</p> <p>Will the project involve a change in vertical or horizontal alignment?</p> <p>Will the project involve new roadways or change the shielding effect of existing roadways?</p> <p>If YES to any of the questions above, then a noise analysis is warranted, provided there are noise sensitive land uses in the project area. Attach Noise Analysis to CE Form.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>12c) If yes to any of the questions in 12b, are there possible sensitive noise receptors present? If Yes, how many noise sensitive receptors are within the proposed action area? _____ If Yes, what type(s) of noise sensitive receptors are present? List below:</p> <p>Attach a map of the sensitive noise receptors.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>12d) If a noise analysis was performed, are the predicted noise levels approaching or exceeding noise abatement criteria stated in 23 CFR 772 Table 1 for the appropriate land use activity category?</p> <p>Will there be a substantial increase in decibels over existing level?</p> <p>If YES, describe impacts and mitigation measures, if applicable.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>

<p>NOTE: Mitigation for noise impacts has a public information component.</p>	
<p>Block 13. Water Quality</p>	
<p>13a) Indicate if any of the groundwater resources, drinking and/or non-drinking water resources listed below are present in the project area:</p> <p><u>Groundwater Resources:</u></p> <p>Well Head Protection Area</p> <p>Community Wells</p> <p>Residential Wells</p> <p>Sole Source Aquifer(s)</p> <p><u>Drinking Water:</u></p> <p>Surface water intake structures</p> <p><u>Non-Drinking water:</u></p> <p>Agricultural groundwater wells and surface water intake structures</p> <p>Irrigation re-use pit; Irrigation canal;</p> <p>Storm water detention impoundments;</p> <p>Agricultural waste impoundments;</p> <p>Ground water connected wetlands & surface water</p> <p><u>Water Quality Impacts:</u></p> <p>For the resources marked Yes above, discuss the following.</p> <p>If the resource is present but will not be impacted, state how the impact will be avoided.</p> <p>If an impact to water quality will occur, indicate which water resource will be impacted and list any mitigation measures proposed to minimize impacts.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>13b) Does the proposed action require a NPDES storm water permit?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Note: Water related permits such as NPDES can be acquired by the Tribe after approval of the CE during final design.</p>	
<p>Block 14. Wild and Scenic Rivers / Nationwide Rivers Inventory</p>	
<p>14a) Will the project involve construction in, across, or adjacent to a river designated as a component of, or proposed for inclusion in the Wild and Scenic River System? (i.e. Is the project is within 1/2 mile of a protected river area)</p> <p>If YES, discuss or attach record of consultation with the responsible agency for managing the listed or study river:</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>14b) Will the project cross over a river or portion of river that is listed on the Nationwide Rivers Inventory (NRI)?</p> <p>If Yes, list in Block 18b the Best Management Practices or recommendations by NPS to be</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>

<p>implemented to reduce impacts to these rivers.</p>	
<p>Block 15. Construction Impacts</p>	
<p>15a) Will the proposed action involve construction-related impacts such as detours, lane/road closures, loss of parking, air quality impacts (dust), etc.?</p> <p>If YES, provide details of proposed measures to minimize impacts (erosion control, Best Management Practices, dust abatement).</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>15b) Will the proposed action require temporary channel crossing structures such as shoofly, work platform, causeway, or crossing?</p> <p>If YES, provide details on temporary structure alternatives (type of structure, temporary impacts involved, how long needed, etc):</p> <p>Are impacts caused by the:</p> <p>Installation before or during active aquatic life migration periods?</p> <p>Impacts to streambed or width of channel?</p> <p>Flow characteristics of the stream – frequency and duration of flow?</p> <p>If impacts are YES, provide mapping and photos showing following information:</p> <ul style="list-style-type: none"> • Identify maximum limits of impacts below the ordinary high water mark. Identify ordinary high water mark on photos. • Identify maximum limits of impacts within the floodway. • Identify any fringe or adjacent wetlands. <p>Discussion:</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>15c) Maintenance of Traffic During Construction (if applicable)</p> <p>Is a temporary bridge proposed?</p> <p>Is a temporary roadway proposed?</p> <p>Will the project involve the use of a detour or require a ramp closure?</p> <p>Will provisions be made for access by emergency services?</p> <p>Will provisions be made for access by local traffic and so posted?</p> <p>Will provisions be made for through-traffic dependent of businesses?</p> <p>Will provisions be made to accommodate any local special events or festivals?</p> <p>Will the proposed Maintenance of Traffic substantially change the environmental consequences of the</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>

<p>action?</p> <p>Is there controversy associated with the proposed method for maintenance of traffic?</p> <p>Are there impacts to bicycles or pedestrian routes?</p> <p>If YES to any of the above questions, provide additional discussion.</p> <p>List in Block 18b the commitments or recommendations for maintenance of traffic to be implemented to reduce impacts.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>15d) Detours Attach a detour map.</p> <p>Approximate length of detour: _____</p> <p>Select the best description of the planned detour:</p> <p><input type="checkbox"/> Detour will use local roads with no improvements.</p> <p><input type="checkbox"/> Detour will involve improvements to local roads with no resulting impacts on safety or the environment.</p> <p><input type="checkbox"/> Detour will involve improvements to local roads and will impact safety and/or the environment.</p> <p><input type="checkbox"/> Detour will use only state owned road</p> <p>Describe impacts:</p>	
<p>Block 16. Public Involvement</p>	
<p>16a) Will the project involve controversy concerning community and /or natural resource impacts?</p> <p>Discussion:</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>16b) Is a public information meeting held or tentatively planned?</p> <p>If YES, give Date & Location:</p> <p>Discussion:</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Block 17. Aesthetics and other values</p>	
<p>17a) Will the project be visually intrusive to the surrounding environment?</p> <p>If Yes, discuss.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>17b) Will the project provide multiple use opportunities?</p> <p>If Yes, discuss.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>Block 18. Permitting and Environmental Commitments</p>	

18a) Indicate whether the proposed action is likely to require actions by agencies listed above or by other Agencies (e.g., permits, approval) and attach correspondence.	
USACE Section 404 Permit	<input type="checkbox"/> Yes <input type="checkbox"/> No
Floodplain Development Permit	<input type="checkbox"/> Yes <input type="checkbox"/> No
Section 401 Water Quality Certificate	<input type="checkbox"/> Yes <input type="checkbox"/> No
NPDES / SWPPP	<input type="checkbox"/> Yes <input type="checkbox"/> No
Section 106 – Historic and Culturally Significant Properties	<input type="checkbox"/> Yes <input type="checkbox"/> No
Section 4(f) – Parklands, Recreation Areas, Refuges, Historic	<input type="checkbox"/> Yes <input type="checkbox"/> No
Section 6(f) – Land & Water Conservation Funds	<input type="checkbox"/> Yes <input type="checkbox"/> No
Coast Guard Permit	<input type="checkbox"/> Yes <input type="checkbox"/> No
Local Building or Site Development Permits	<input type="checkbox"/> Yes <input type="checkbox"/> No
Local Clearing and Grubbing Permit	<input type="checkbox"/> Yes <input type="checkbox"/> No
Erosion and Sediment Control Plan	<input type="checkbox"/> Yes <input type="checkbox"/> No
Others (list below):	<input type="checkbox"/> Yes <input type="checkbox"/> No
18b) Environmental Commitments: Describe any measures, including Best Management Practices, recommended by resource agencies through informal consultation or those measures to be taken to mitigate project impacts. Include any environmental commitments agreed upon or those resources to be avoided. All commitments made and documented in this form are to be listed here.	

Enclosed Attachments

- Project Vicinity Map (State, local, and project maps)
- State Historic Preservation Office (SHPO) letter(s) of concurrence
- FHWA Section 4(f) approval documentation
- U.S. Fish and Wildlife Service letter(s) of concurrence
- Wetland Determination Memorandum
- U.S. Army Corps of Engineers / Clean Water Act correspondence
- Natural Resource Conservation Service Farmland Conversion Form AD1006
- Tribal consultation letter(s)
- Other Agencies (e.g., USEPA, NPS, BIA, USCG)

INSERT Tribe Name/Project Name & Number:

19. Environmental Documentation Recommendation

19a. The Project is listed as a CE, per FHWA 23 CFR 771.117(c), and is recommended for FHWA approval. Yes No N/A

The Project is listed as a CE, per FHWA 23 CFR 771.117(d), and is recommended for FHWA approval. Yes No N/A

Prepared by: _____ **Date:** _____
 (print) (sign)

Title & Organization*: _____
 Phone & email: _____

Reviewed by:** _____ **Date:** _____
 (print) (sign)

Title & Organization*: _____
 Phone & email: _____

Tribal Review/Concurrence of Environmental Documentation Recommendation:**

Reviewed/Concurred by: _____ **Date:** _____
 (print) (sign)

Title & Name of Tribe: _____
 Phone & email: _____

*Organization refers to either the Contractor or the Tribe, depending on who prepared the Form.

**Add additional "Reviewed by" and "Concurred by" as necessary, per Tribal processes.

Exhibit 9.3 - OUTLINE FOR AN ENVIRONMENTAL ASSESSMENT (EA)

The following format generally complies with requirements for EAs and finding of no significant impacts (FONSI) as specified in 23 CFR 771.119 and 771.123 and in FHWA's Technical Advisory T6640.8A, "Guidance for Preparing and Processing

Environmental and Section 4(f) Documents” at
<http://environment.fhwa.dot.gov/projdev/impta6640.asp>

The following outline is generally used for chapters when preparing an EA.

1. Cover Sheet
2. Signatory Sheet
3. Table of Contents
4. List of Abbreviations
5. Description of the Proposed Action
6. Purpose of and Need for the Project
7. Alternatives
8. Affected Environment or Environmental Setting
9. Environmental Consequences ⁷
10. Section 4(f) (if applicable)
11. Coordination
12. Appendices

1. **COVER SHEET**- The cover sheet lists the title of the project, the type of NEPA document (Environmental Assessment), the location, the project sponsor, and the date (month & year).

2. **SIGNATORY SHEET** - The signatory sheet contains the following:

- a. The title, *Environmental Assessment*
- b. The information, *Submitted Pursuant to Public Law 91-190, National Environmental Policy Act*
- c. *Our* full title, *U.S. Department of Transportation, Federal Highway Administration*
- d. The list of cooperating agencies
- e. A signature block, including the date, for the TTP Field Team Leader.
- f. The contact person, including address and phone number.

3. **TABLE OF CONTENTS**

4. **LIST OF ABBREVIATIONS** – Provides a list of abbreviations one would find listed in the EA for the reader to easily reference.

5. **DESCRIPTION OF THE PROPOSED ACTION** – This is the opening chapter of the EA that contains introductory information such as a brief project description, lead, cooperating, and partner agencies, funding and a description of the following items:

⁷ The Chapters on *Affected Environment* and *Environmental Consequences* can be combined.

- a. ***Location of the Proposed Project*** – This text is often accompanied by maps and figures.
- b. ***Scope and Nature of the Proposed Work***

- i. **Funding**
- ii. **Planning by Others**

6. ***PURPOSE OF AND NEED FOR THE PROJECT*** - This chapter of the EA describes the condition or conditions requiring relief and purpose in taking action. Often the EA describes the problems and the consequences of not taking action. This section should clearly demonstrate that a need exists and should define the need in terms understandable to the general public. It is critically important to provide sufficient data to convince the reader that the need exists. Therefore, it is recommended that each need be discussed in turn, with accompanying data. The purpose and need will be the basis for development of the alternatives, including the identification of the preferred alternative. Charts, tables, maps, and other illustrations are encouraged as useful presentation techniques.

7. ***ALTERNATIVES*** – This chapter identifies the alternatives developed throughout the scoping and NEPA process. In it, it describes the:

- a. ***No Action Alternative*** – The no action alternative provides the baseline and the consequences should nothing be done to address the conditions requiring relief. It is preferable to give an estimated cost for the *no action* alternative.
- b. ***All Reasonable Alternatives*** – All reasonable alternatives should be developed to a comparable level of detail. If a preferred alternative has been identified, this should be documented in this chapter, and the reasons should be stated why it is preferred. It is preferable to give estimated costs.
- c. ***Other Alternatives - Alternatives*** that were considered but rejected should be briefly discussed with the reasons why they were eliminated or rejected.
- d. ***Entire Action*** – As stated for CEs, the alternatives should take into account the entire action, not just the road project itself. This would include, but would not be limited, to the following:

- i. **Type of work**
- ii. **Corridor location**
- iii. **Length**
- iv. **Road width**
- v. **Number of lanes**
- vi. **Design speed**
- vii. **Surface type**
- viii. **Major structures**
- ix. **Material sources**
- x. **Staging areas**
- xi. **Waste areas**
- xii. **Mitigation areas**
- xiii. **Other major features**

- 8. *AFFECTED ENVIRONMENT OR ENVIRONMENTAL SETTING.*** In this chapter of the EA, there needs to be a description of the environmental conditions in the study area. For this chapter, the study area needs to be defined, and it may need to be defined differently depending on the resource described. The setting topic areas usually covered are (only topics applicable to the particular project should be covered):
- a. *Geology*
 - b. *Soils*
 - c. *Climate*
 - d. *Air Quality*
 - e. *Noise*
 - f. *Waters and Water Quality*
 - g. *Wetlands*
 - h. *Vegetation, including T&E species*
 - i. *Wildlife and Fish, including T&E species*
 - j. *Land Use*
 - k. *Socioeconomics*
 - l. *Transportation*
 - m. *Historic and Archaeological Resources*
 - n. *Hazardous Materials*
 - o. *Public Services and Utilities*
 - p. *Recreation*
 - q. *Aesthetics*
- 9. *ENVIRONMENTAL CONSEQUENCES*** – In this chapter, the EA describes how the environmental topic areas listed in the chapter above will be affected by all the reasonable alternatives. The discussion should be limited to information and issues that have a bearing on potential important impacts, including the mitigation. Impacts may be adverse or beneficial, and the data and analyses should be commensurate with the importance of the impacts. Cumulative and secondary impacts need to be summarized for each alternative. In this chapter of the EA, the text must show how all applicable executive orders and environmental laws and regulations were met (some are listed in the text on CEs). Photographs, illustrations, tables, figures, and other graphics should be used with the text.
- 10. *SECTION 4(F)*** – In the EA, insert a section for 4(f) analysis if needed. Some of the 4(f) discussion may be pertinent to both the *Environmental Setting* and *Environmental Consequences* chapters also.
- 11. *COORDINATION*** – Comments received from public involvement efforts should be described in this chapter. Usually a chronology of coordination and consultation efforts is provided.
- 12. *APPENDICES*** – Usually pertinent coordination results are provided in the appendices such as concurrence letters under Section 7 of the ESA, Section 106 of the NHPA, Consistency Concurrence for the Coastal Zone Management Act, etc.

Exhibit 9.4 – EXAMPLE NOTICE OF AVAILABILITY**PUBLIC NOTICE OF AVAILABILITY
& SOLICITATION OF PUBLIC COMMENT**

For

**Petty Creek Road Improvement Project
Missoula County, Montana**

The Western Federal Lands Highway Division (WFLHD) of the Federal Highway Administration (FHWA), in partnership with the United States Forest Service (USFS), the Montana Department of Transportation (MDT), and Missoula County, MT is pleased to announce the availability of the Environmental Assessment (EA) for the Petty Creek Road Improvement Project. The proposed project involves improvements to an 11.8-mile segment of the Petty Creek Road.

The purpose of this public notice is to announce the availability of the Petty Creek Road Improvement Project EA for public review and comment.

The Amended EA and Section 4(f) de minimis evaluation will be available for review starting **May 7th, 2010** at the following locations:

- Alberton, MT Town Hall/Library, 607 Railroad Ave, Alberton, MT 59820.
- Lolo National Forest, Fort Missoula Building 24, Missoula, MT, 59804.
- Missoula County Public Works Department, 60889 Training Dr, Missoula, MT 59808.
- Federal Highway Administration, 610 East 5th St, Vancouver, WA 98661.

The EA is also available online at <http://www.wfl.fhwa.dot.gov/projects/mt/>. A copy of the EA may also be requested by contacting the Federal Highway Administration at 360-619-7700. Send comments by email to pettycreek@mail.wfl.fhwa.dot.gov or by mail to the address below by **June 7th, 2010**.

A public meeting will be held on **May 11, 2010**. The public meeting will be located at Alberton School at 306 Railroad Ave., Alberton, MT at 7 pm. This meeting will be a question and answer format. FHWA representatives will do a brief presentation of the status of the project at 7 pm and then answer any project-related questions.

Contact Information

Western Federal Lands Highway Division
610 East 5th St • Vancouver, WA 98661
(360) 619-7700

Exhibit 9.5 – EXAMPLE REEVALUATION**RE-EVALUATION OF VALIDITY OF CATEGORICAL EXCLUSION**
FOR [Insert Tribe Name], [Insert Project Name], [Insert TTP Route #(s)/section #(s)]

Purpose of Re-Evaluation: FHWA’s NEPA-implementing regulations in 23 CFR 771.129 require the following:

§ 771.129 Re-evaluations.

(c) After approval of the ROD, FONSI, or CE designation, the applicant shall consult with the Administration prior to requesting any major approvals or grants to establish whether or not the approved environmental document or CE designation remains valid for the requested Administration action. These consultations will be documented when determined necessary by the Administration.

Proposed improvements to [Insert Name of Road project] were approved by FHWA under a Categorical Exclusion (CE) on [Insert date of approval of CE] for [Insert Name of project].

The CE authorized improvements to [length of road] miles of [Insert Name of Road project] for the following actions:

- [Insert description of CE approved improvements, either in bullet format or as paragraph text, include beginning and ending points]
- xxx
- xxx

Re-Evaluation of CE:

The following information should be completed by [Insert Name of Tribe] and submitted to FHWA:

Approved Scope of Work, described above, has changed: ____YES ____NO

If YES*, describe changes:

Environmental effects described in the original CE have changed: ____YES ____NO

Discussion (explain why there are changes or no changes to environmental effects):

***If there are changes to scope or environmental effects, then additional evaluation may be required; discuss with FHWA on course of action.**

Recommendation on CE Validity:

The Tribe recommends that the CE is still valid*: ___ YES ___ NO

*If there are changes to scope or environmental effects, then additional evaluation may be required.

DESCRIBE JUSTIFICATION FOR RECOMMENDATION:

Prepared by:

_____ Date: _____
(print) (sign)

Title & Organization*: _____
Phone & _____
email: _____

Tribe Review/Concurrence of Environmental Documentation Recommendation:**

Reviewed/Concurred by: _____ Date: _____
(print) (sign)

Title & Name of _____
Tribe: _____
Phone & email: _____

FHWA REVIEW/APPROVAL BY:

_____ Date: _____
(print) (sign)

Title & Organization: _____
Phone & _____
email: _____

*Organization refers to either the Contractor or the Tribe, depending on who prepared the Form.

**Add additional "Reviewed by" and "Concurred by" as necessary, per Tribal processes.

ATTACHMENTS:

Map of proposed project [provide map showing Begin & End, smaller vicinity map]

Original CE, dated [Insert date of originally approved CE]

Supporting Documentation, as appropriate (submit separately to FHWA), if none insert "N/A".

Exhibit 11.1 - PS&E Certification Letter

The Honorable [insert Tribal chairperson name]
[insert name of Tribal Government]
[insert Tribal address]

[date]

Dear Chairperson [name]

The purpose of this letter is to provide a certification of the Plans, Specifications and Engineer's Estimate (PS&E) for the [insert project name] project.

I certify that the PS&E:

- Meets or exceeds all the design, health, and safety standards in accordance with 25 CFR 170.454, 455, 456, and Appendix B to Subpart D – Design Standards for the TTP;
- Meets or exceeds all the design, health, and safety standards in accordance with USC 23 Chapter 1, 109(a);
- Meets or exceeds all the design, health, and safety standards in accordance and in compliance with all the [insert State name] design standards; and

Please contact me if you have any questions concerning this letter.

Sincerely,

[Insert name], P.E.
Project Engineer

State of Registration:
Expiration Date:
Registration Number:

Exhibit 11.2 - HIGHWAY DESIGN STANDARDS CERTIFICATION

Project Number and Name: _____

Route, Section Number(s) and Location: _____

Type of Project: New Construction Reconstruction RRR Other (describe)

Description of Work: _____

- System:**
- | | |
|---|--|
| <input type="checkbox"/> TTP BIA | <input type="checkbox"/> National Highway System (NHS) |
| <input type="checkbox"/> TTP Tribal | <input type="checkbox"/> State Transportation Plan Non NHS |
| <input type="checkbox"/> TTP County, Borough or Municipal | <input type="checkbox"/> Off State Transportation Plan |
| <input type="checkbox"/> TTP State | <input type="checkbox"/> Other (describe) |

Functional Classification Description: _____

Owner Agency & Address: _____

Terrain: ...select...

Design Vehicle: _____

ADT - Show Station Range						
TRAFFIC	YEAR	AVERAGE	SEASONAL	DHV	PERCENT TRUCKS	D
Current						
Design						

Design Standards: AASHTO (type)..select.. County/Borough State Other (describe)

GEOMETRIC AND BRIDGE CRITERIA - Show Station Range			
GEOMETRIC AND BRIDGE CRITERIA	STANDARD	AS DESIGNED	EXCEPTION
1. Design Speed	Minimum = Design Speed should equal or exceed Posted or Regulatory Speed of completed facility	Posted or Regulatory = ?	Example: Yes - see (1) below

GEOMETRIC AND BRIDGE CRITERIA - Show Station Range			
GEOMETRIC AND BRIDGE CRITERIA	STANDARD	AS DESIGNED	EXCEPTION
2. Traveled Way Width			Example: Yes - see (2) below
3. Shoulder Width			Example: No
4. Crown	? %	? %	Example: N/A
5. Horizontal Curvature			
6. Superelevation	e(max) = ?% Δ = 0.??%	e(max) = ?% Δ = 0.??%	
7. Grades	?%	?%	
8. Vertical Curvature	K (crest) = K (sag) =	K (crest) = K (sag) =	
9. Stopping Sight Distance			
10. Horizontal Clearance to structure (not clear zone)			
11. Vertical Clearance to Structure			
12. Bridge Width			
13. Bridge Loading			
14. Bridge Railing	NCHRP 350		
15. Design Flood	FLH Project Development and Design Manual Exhibit 7.1-A	Example: No	
16. Pavement Design Service Life	?-year	?-year	Example: N/A

Descriptions of and reasons for exceptions to standards (list separately):

(1)

Analysis of risks and design features proposed to mitigate exceptions (list separately):

Describe guidelines used and any variances from recommended Roadside Design (clear zone, guardrail) guidelines:

Approval of Design Exceptions:

There are no exceptions to applicable standards.

The exceptions to the design standards as noted and their related risks have been reviewed with the appropriate agencies and parties and are considered acceptable for this project.

PREPARED BY: _____
Lead Designer, Consultant Firm Stamp and Date

APPROVAL IS RECOMMENDED: _____
Design Manager or Project Manager, Consultant Firm Stamp and Date

Tribal Road Department: _____ Date: _____
I CONCUR WITH THE ABOVE RECOMMENDATIONS (optional):

Owning Agency: _____ Date: _____

Maintaining Agency: _____ Date: _____
(if different from above)

THE ABOVE RECOMMENDATIONS ARE APPROVED:

Tribal Transportation Program, Federal Lands Highway Office Date: _____

Exhibit 11.3 - PS&E CERTIFICATION CHECKLIST

PS&E Certification Checklist	
Tribe:	
Agency with Jurisdiction over Facility:	
Project Name:	
Project Location:	
Type of Work:	
State: County or Borough:	
Action Item	v
1. The project facility is included in the National Tribal Transportation Facility Inventory.	
2. The project is on a FHWA approved TTIP.	
3. Public involvement has been completed in accordance with 25 CFR 170.435 through 170.441.	
4. Appropriate construction easements, maintenance and utility agreements have been obtained in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 for fee lands and 25 CFR 169 for trust lands.	
5. Cultural resources and environmental requirements listed in Appendix A to Subpart D of 25 CFR 170 have been met.	
6. This PE&E package meets or exceeds applicable design, health and safety standards listed in Appendix B to Subpart D of 25 CFR 170.	
7. No design exceptions are required for the design or specifications in this PS&E.	

<p>8. For other than facilities under Tribal and BIA jurisdiction, the owner public authority was provided an opportunity to review and comment on the Tribe's PS&E package when it was between 75 and 95 percent complete.</p>	
<p>9. All applicable federal, state, and local permits (environmental, land use, etc.) have been obtained, and the resulting relevant conditions/commitments have been incorporated into the PS&E as appropriate.</p>	
<p>Tribal Signature: _____ Date: _____</p>	

EXHIBIT 11.4 - TRIBAL REQUEST FOR SERVICES

from: _____

(Insert Name of Federal agency you are requesting services from)

NOTE: Before using this form, please check with the Federal Agency you are requesting services from.

Please provide the information requested below. **Be as detailed and specific as possible.** Your answers will help determine whether we have the ability to meet your needs.

Name of Project: _____

Location of Project: (Please attach a map.)

State: _____

County/Borough/Tribal Lands: _____

GPS Coordinates: Latitude _____ Longitude _____

Purpose, Need, and Major Objectives of Project:

What transportation need does the existing road serve?

What transportation need will the new project solve?

What type of vehicles will use this transportation project?

What is the population base or traffic volume that it will serve?

What is the desired season of use? (e.g. year round all weather, seasonal use only, etc.)

Why is this project so important?

What would result if the project does not get delivered?

Is this project adjacent to or associated with other anticipated work?

Existing Conditions: (Please attach photos.)

What does the existing road template look like? Width, road surface type, road surface condition, drainage conditions, culvert condition, slope condition, bridge condition:

Scope of Project: (Attach any scope defining documents.)

Starting point of project: _____

Ending point of project: _____

Length of project: _____

Major items of work anticipated: Check all that apply.

- | | |
|--|---|
| <input type="checkbox"/> reconstruct new roadway | <input type="checkbox"/> recondition existing roadway |
| <input type="checkbox"/> spot alignment improvements | <input type="checkbox"/> bridges |
| <input type="checkbox"/> large culverts | <input type="checkbox"/> fish passage culverts |
| <input type="checkbox"/> slope stabilization | <input type="checkbox"/> retaining walls |
| <input type="checkbox"/> repairing frost heaves/soft spots | <input type="checkbox"/> aggregate surface |
| <input type="checkbox"/> paved surface | <input type="checkbox"/> Other: _____ |

Is a current Right-of-Way or are Easements in place for construction and maintenance of the entire new project?

- Yes No

Who are the underlying landowners?

Do the landowners support the project?

Are utilities located within the roadway template that would be affected when constructing the new project?

Where are the closest material sources and disposal sites?

When are the typical construction months?

Work accomplished to date either by you, or work to have been known performed by others: (Please attach work documents. Check all that apply.)

- | | | |
|--|---|--|
| <input type="checkbox"/> scoping reports | <input type="checkbox"/> conceptual studies | <input type="checkbox"/> technical reports |
| <input type="checkbox"/> alternative analysis clearances | <input type="checkbox"/> environmental studies | <input type="checkbox"/> environmental |
| <input type="checkbox"/> construction permits clearance | <input type="checkbox"/> plan sets | <input type="checkbox"/> right-of-way |
| <input type="checkbox"/> utility relocation | <input type="checkbox"/> construction procurement | <input type="checkbox"/> construction |

Requested development activities and deliverables: (Specify activities and objectives you want the requested Federal Agency to perform. Check all that apply.)

- | | | |
|--|---|--|
| <input type="checkbox"/> scoping reports | <input type="checkbox"/> conceptual studies | <input type="checkbox"/> technical reports |
| <input type="checkbox"/> alternative analysis clearances | <input type="checkbox"/> environmental studies | <input type="checkbox"/> environmental |
| <input type="checkbox"/> construction permits clearance | <input type="checkbox"/> design plan sets | <input type="checkbox"/> right-of-way |
| <input type="checkbox"/> utility relocation | <input type="checkbox"/> construction procurement | <input type="checkbox"/> construction |
| <input type="checkbox"/> Other: _____ | | |

Critical delivery dates of major deliverables listed above:

<u>Major Deliverable</u>	<u>Critical Date</u>	<u>Reason for criticality</u>
<i>Design plans completed</i>		
<i>Construction end</i>		
<i>Construction start</i>		

What work will you perform: (Specify activities and objectives you will perform. Check all that apply.)

- staff*
- technical reports*
- environmental clearances*
- right-of-way clearance procurement*
- construction*
- scoping reports*
- alternative analysis*
- construction permits*
- utility relocation*
- conceptual studies*
- environmental*
- plan sets*
- construction*

Current cost estimate for this project:

Engineering: _____

Construction: _____

Construction Administration: _____

What guidelines to be followed: Include requirements such as road standards, agency specific regulations, MOUs with regulatory agencies, etc. Please be specific: (e.g., 36 CFR NEPA, AASHTO Very Low Volume Local Roads Guidelines, etc.)

Issues or unusual aspects of this project that we need to be aware of:

(Risks, environmental issues, public controversy, realty issues, etc.)

Funding Information:

Is the project approved through federal/state/local/tribal planning committee? (Attach supporting STIP, Tribal Transportation Improvement Program, or approval document.)

What specific type and amount of the funds are to be used for this work?

Who has the funds at the current time?

Is there any time criteria or expiration date limit associated with the funding?

How will you compensate the Federal Agency performing this work (transfer funds, check, etc.)?

Requestor Information

Contact for technical questions:

Name: _____

Phone Number: _____

E-mail Address: _____

Authorized person to enter into agreement:

Name: _____

Phone Number: _____

E-mail address: _____

Date submitted: _____

Attach Additional Pages for Comments or to provide more information.

Please return completed form to an FHWA Tribal Coordinator, or it email to TTP_FIELD@dot.gov

Exhibit 12.1 - Tribe Certification Letter for Soliciting Bids

Victor M. Mendez
FHWA Administrator

[date]

Dear Mr. Mendez,

I certify that we afforded the public authority an opportunity to review and comment on the PS&E package for at least 30 days and received no written comments from the public authority that prevent the Tribe from proceeding with the project (Program Agreement - Article III, Section 1C(2)(c)).

In addition, we agree to initiate and complete TTP construction projects in accordance with the approved PS&E (Program Agreement - Article III, Section 1B).

Further, we confirm that we have Contracting Procedures (advertise bids, award, and contracts) documented and in place in order to perform the contracted programs and projects in accordance with the requirements of 25 CFR Part 170, as amended by MAP-21 (Program Agreement – Article III, Section 1B).

Please contact me if you have any questions concerning this letter.

Sincerely,

[Insert name],
[Tribe Name]

Tribal Representative

Exhibit 12.2 – TTP PS&E Advertisement Checklist

TTP PS&E ADVERTISEMENT CHECKLIST

Project Name: **Project Number:**

National Tribal Transportation Facility Inventory Route No.:

National Tribal Transportation Facility Inventory Sections:

DOCUMENT or MILESTONE

DATE

Project Agreement (with Owner for Maintenance)

TTP Design Standards Certification Form signed.....

Environmental Clearance (CE___ EA___ or EIS___)

Environmental Commitment Review by:_____

(Verified all commitments incorporated into the PS&E)

Permits (if applicable):

404 Permit (Individual No._____, or Nationwide No._____)

401 Permit

NPDES Permit (Notice of Intent).....

SWPPP filed

Encroachment Permit (State DOT, County, Municipality).....

Special Use Permit (for USFS projects).....

Other: (Any additional items to be included in SCRs)

[Right-of-Way and Utility Certification](#) (Certification Level ___)

Right-of-Way Agreements w/landowners or others

Right-of-Entry/Letter of Consent (if applicable).....

[Utility Data Quality Level Certification](#)

Utility Agreements.....

Fire Plan (USFS Projects).....

External Review Distribution (Agency:_____)

External PS&E Review comments reviewed/incorporated

Approvals (attach Standards Certification Form):

State.....

County

Other

Internal PS&E Review comments reviewed/incorporated

PS&E QA/QC Completed by: _____

Engineer Estimate (EE) Check by: _____

Unit Price Analysis performed by: _____

IF DEVELOPED BY A/E FIRM:

All Plan Sheets Stamped, Sealed and
..... Signed.....

Front Page of SCRs Stamped, Sealed and Signed
..... Instrument in place for A/E design support during construction.....

Name, phone #, and e-mail address of A/E Firm Contact:

Anticipated Advertisement Date.....

Recommended for Approval by Tribal Official

Signature: _____

Date: _____

Title: _____

Exhibit 13.1 – Project Monitoring Checklist**PROJECT STATUS DATA**

Tribe	
Project Name and Number	
Date on Inspection	
Route Number, Section and/or Mileposts	
County	
Project Description	
Percent Work Completed	
Percent Time Elapsed	
Original Contract Completion Date	
Current Contract Completion Date	
Award Amount	
Current Contract Estimate	

WORKMANSHIP

Item		Yes	No	N/A
General				
	Quality control plan has been prepared for the project	X		
	Contractor is undertaking processes included in approved QC plan	X		
	Personnel performing inspection work are qualified per the approved qualification program, or otherwise suitably experienced to perform successfully	X		
	Tribe or owner's representative is conducting sampling and testing to verify contractor data as defined in the quality assurance program.	X		
	Materials are tested according to applicable specifications.	X		
Environmental				
	Erosion and sediment control devices are installed properly and are well maintained (erosion control plan being followed)	X		
	Contract specific environmental requirements are in compliance	X		
	Inspections are conducted in accordance with contract requirements	X		
	Environmental permits are available onsite (SWPPP,/NPDES, 404, 401, etc.)	X		

Earthwork				
	Contract requirement being followed			
	Fill placement complies with contract requirements	X		
	Compaction test being performed and documented	X		
	Sampling and testing (frequency/location) are conducted in accordance with contract requirements	X		
Structures				
	Contract requirements being followed			
	Pile Driving records are on file (including welder certifications and procedures)			X
	Placement, tying, and cover of reinforcing steel comply with contract requirements	X		
	Bolt certifications are on file along with test results			X
	Curing process complies with specifications	X		
	Sampling and testing (frequency/location) are conducted in accordance with contract requirements	X		
Asphalt				
	Base is in good condition	X		
	Mix is delivered at proper temperature	X		
	Tacking complies with specifications	X		
	Mix is spread properly (thickness, crown, joints, uniform texture, continuous operation of paver)	X		
	Proper density is being obtained	X		
	Ride quality is in conformance with specifications			X
	Sampling, testing and overall operations (frequency/location) are conducted in accordance with contract requirements	X		
PCC				
	Mix spread to correct thickness			X
	Curing and tining applied in timely manner			X
	Dowel baskets properly installed			X
	Ride quality is in conformance with specifications			X
	Sampling and testing (frequency/location) are conducted in accordance with contract requirements			X
Work Zone				
	Traffic control devices installed in accordance with Traffic Control Plan	X		
	Traffic control devices are clean and well maintained	X		
	Travel way is well delineated	X		
	Work zone inspections are completed and documented in accordance with contract requirements	X		
	Flaggers certified and properly attired			

DOCUMENTATION AND RECORD KEEPING

	Item	Yes	No	N/A
	Project field records support quantities submitted for payment	<u>X</u>		
	Inspector Daily Reports and Project Diary adequately support work progress, time charges etc. and filed properly	<u>X</u>		
	Contract modifications approved and documented	<u>X</u>		
	Acceptance sampling and testing reports are on file	<u>X</u>		
	Materials sampling and testing conducted as required	<u>X</u>		
	Failed tests are documented with cross-references to re-tests	<u>X</u>		
	Materials Certifications are on file	<u>X</u>		
	Approved mix designs are on file	<u>X</u>		

Comments/Photos:

	ACTION ITEM	RESPONSIBLE PARTY	DUE DATE	STATUS
1)				
2)				
3)				
4)				
5)				
6)				

Reported by:
Date:


Exhibit 13.2 – Safety Checklist

SAFETY CHECKLIST for Construction Projects	
Date of Review:	Conducted by:
General	
Is the project constructible using the construction Traffic Control Plan (TCP) as shown in the PS&E?	Y/N
Does the traffic control affect the design, such as material requirements from roadways used for public use during the construction?	Y/N
Are there traffic restrictions?	Y/N
Is there enough work area and staging areas for the Contractor to do the necessary construction operations?	Y/N
Does the construction traffic control allow for Contractor access?	Y/N
Is the speed based on the existing posted speed?	Y/N
Is the work site safe for both traffic and workers?	Y/N
Comments:	
Signing	
Are the signs being used per the new MUTCD?	Y/N
Do the sign messages convey the intended actions that are required to be taken?	Y/N
Do the signs have the proper legends, sizes, color combinations, and reflectivity?	Y/N
Do the signs have the proper legends, sizes, color combinations, and reflectivity?	Y/N
Is the location of the sign per the MUTCD?	Y/N
Are the signs properly spaced?	Y/N
Are the layout measurements tied to a physical feature so the Contractor can do the layout in the field?	Y/N
Is there proper sight distance to the sign?	Y/N
Is it physically possible to place the sign where indicated?	Y/N
Is there sufficient horizontal clearance?	Y/N
Any existing signing that needs to be replaced to be in accordance with the MUTCD?	Y/N
Any conflicting existing signing?	Y/N
Markings	
Have passing zones been verified?	Y/N
Matching existing?	Y/N
Handicap parking meets ADA requirements?	Y/N
Striping requirements per the new MUTCD?	Y/N
Meets Centerline warrants?	Y/N
Meets edge line warrants?	Y/N
Comments:	
Construction Signing	
Are the signs being used per the MUTCD?	Y/N
If the situation calls for a standard traffic control scheme, do the advance warning signs match those shown in the standard layouts in the MUTCD?	Y/N

SAFETY CHECKLIST for Construction Projects	
Do the sign messages convey the intended actions that are required to be taken?	Y/N
Do the signs have the proper legends, sizes, color combinations, and reflectivity? (The MUTCD provides that the minimum letter size for signs should not be less than five inches for low volume traffic.)	Y/N
Is the location of the sign per the MUTCD?	Y/N
Are the signs properly spaced?	Y/N
Are the layout measurements tied to a physical feature so the Contractor can do the layout in the field?	Y/N
Are there existing signs within the construction zone that may conflict with the Traffic Control Plan?	Y/N
Do any of the existing signs obscure the view of advance warning signs?	Y/N
If stage construction is used, is the signing from stage to stage consistent (sign types and locations)?	Y/N
If a numbered route, are the numbered routes used for the detour?	Y/N
If a detour is not provided could a detour work?	Y/N
Are all access points properly signed?	Y/N
Is it physically possible to place the sign where indicated?	Y/N
Is there sufficient horizontal clearance?	Y/N
Is there a need for any pedestrian or bicycle signing?	Y/N
Comments:	
Channelizing Devices	
Are the correct devices used for a particular operation? (Drums should be used instead of barricades, type II; Temporary concrete barriers should not be used as a channelizing device.)	Y/N
Are channelizing tapers located correctly?	Y/N
Are channelizing tapers the correct length?	Y/N
Are devices spaced correctly in the taper?	Y/N
Are devices spaced correctly in the work area?	Y/N
Do the devices meet MUTCD requirements for size, type, color, and reflectivity?	Y/N
Are the devices properly ballasted (weighted down)?	Y/N
Comments:	
Pavement Markings	
If short-term markings required, do they coincide with MUTCD 6D and Federal Lands Highway policy?	Y/N
Is marking consistent, especially during stage construction?	Y/N
Do existing pavement markings conflict with the proposed temporary markings?	Y/N
Comments:	
Lighting Devices	
Are warning lights used correctly? (Warning lights, type A should be used on drums or barricades to mark point hazards, or on the first two devices in a taper: Warning lights, type B, if used, should be used on signs and the batteries should be placed no higher than 12 inches off the ground: Warning lights, type C should be used on drums or barricades used in a series for delineation.)	Y/N

SAFETY CHECKLIST for Construction Projects	
Are arrow panels placed on the shoulder adjacent to the beginning of the taper? (If there is limited shoulder, the arrow board should be placed in the closed lane towards the beginning of the taper.)	Y/N
Is there adequate sight distance for the arrow board?	Y/N
Is the arrow panel being used correctly? (Arrow panels should not be used in "passing arrow" mode on two-lane two-way roadways, shoulder closures, or lanes shifts: For the cases listed above the arrow board can be used in the "caution" mode.)	Y/N
Comments:	
Barriers	
Are untreated temporary barrier ends exposed to traffic?	Y/N
Is the area between the barrier and the travel lanes relatively flat (approximately 10:1)?	Y/N
Are temporary barriers required due to drop-off close to the travel lanes?	Y/N
Are existing barriers being removed such that the hazards they were protecting are now a hazard during the construction?	Y/N
Is temporary barrier properly accounted for? (For stage construction, use the greatest amount of barrier required for a particular stage as the barrier quantity, and remember to account for storing barrier during stages with less than the greatest amount for moving barrier.)	Y/N
Are construction areas properly shielded?	Y/N
Should temporary barrier be bolted to the pavement or bridge deck do to their deflection?	Y/N
Are barriers flared away from the roadway in accordance with AASHTO Roadside Design Guide?	Y/N
Comments:	
Flaggers	
If flaggers are being used are the proper warning signs displayed?	Y/N
Is the flagging station visible to oncoming traffic?	Y/N
When the flagger is not on station, is the flagger sign covered or removed?	Y/N
Comments:	
Miscellaneous	
Does the Project Engineer have names and phone numbers of persons to contact in case of emergencies?	Y/N
If there are special construction events (i.e., roadway closures) are there provisions for the Contractor to notify the Project Engineer in advance so the Engineer can notify authorities?	Y/N
Are roadway drop-offs excessive?	Y/N
Does the Contract identify time restrictions placed so that the Contractor can only perform work during certain times?	Y/N
Is there a possibility of pedestrians and cyclists in the project area?	Y/N
For projects with stage construction, when the traffic control is switched from one stage to the next, are there provisions in the Contract to accomplish that operation?	Y/N
Can the traffic control switching be accomplished under traffic?	Y/N

Exhibit 13.3 – Construction Inspection Report

 CONSTRUCTION INSPECTION REPORT					
U. S. Department of Transportation Federal Highway Administration					
DIVISION	REPORT NO.	DATE OF INSPECTION	DATE OF REPORT	PROJECT NUMBER	
INSPECTION MADE BY		QUALITY OF WORK <input type="checkbox"/> Unsatisfactory <input type="checkbox"/> Satisfactory	PROGRESS OF WORK <input type="checkbox"/> Unsatisfactory <input type="checkbox"/> Satisfactory	TIME ELAPSED %	WORK COMPLETED %
IN COMPANY WITH					
(check appropriate box) <input type="checkbox"/> Process Review / Product Evaluation <input type="checkbox"/> Inspection-In-Depth <input type="checkbox"/> Project <input type="checkbox"/> Final					
DESCRIPTION OF WORK GENERAL DISCUSSION EROSION CONTROL TRAFFIC CONTROL FOLLOW-UP PROCEDURE CONCLUSION					



U. S. Department of
Transportation
**Federal Highway
Administration**

CONSTRUCTION INSPECTION REPORT

(Continued)

Exhibit 13.4 - Final Letter of Acceptance

XY&Z Construction Company

[Insert address]

[Insert address]

[date]

RE: DPW Project No. [Insert project number]

Dear [name],

This letter is an acceptance to your work and acknowledges that all work on the project has been completed in accordance with the terms and conditions of the contract documents dated [Insert date]. This releases you on any further responsibilities. Further, the due to work performed is included as requested in your final request for payment.

Please contact me if you have any questions concerning this letter.

Sincerely,

[insert name]

Tribal Representative

cc: FHWA

Exhibit 13.5 - Final Letter of Acceptance For BIA Owned Facility

[Insert Tribe]
[Insert Tribal address]
[Insert Tribal address]

[date]

RE: DPW Project No. [Insert project number]

Dear [name],

This letter is an acceptance of all work on the referenced project. This acceptance is based on our review of daily and weekly status reports; participation in interim project construction reviews and final inspection; our review of progress reports, subcontracts, as-built-drawings, contract modifications, material certifications/testing reports; completion of contract modifications, final estimates, and no pending claims; and verification of environmental commits.

In summary, we find that all work on the project has been completed with the terms and conditions of the contract documents dated [Insert date]. Further, this releases you on any further responsibilities.

As a reminder, forward us the final as-built plans when completed.

Please contact me if you have any questions concerning this letter.

Sincerely,

[insert name]
BIA Representative

cc: FHWA

Exhibit 14.1 - Equipment Acquisition Request Form

This form is to be utilized for all construction/maintenance equipment acquisition by Tribal Governments who have an Indian Reservation Road Program Agreement with the Federal Highway Administration.

1. How will this equipment be utilized for the TTP program? (If more space is needed, provide attachment)

2. Cost Comparison:

Lease/Rent	Item	Purchase
		\$
		\$

3. Enter 25 percent of the annual TTP funds to be allocated to the Tribe this fiscal year, or \$500,000, whichever is greater. \$_____
4. What is the amount of TTP funds to be utilized for this acquisition?
\$_____
5. Attach cost analysis of all equipment both purchase and lease/rent. (Attach vendor quotes. Quotes may be provided in email and/or letter on company letter head)

Requestor: _____
Name/Title

Date: _____

FHWA Approved By: _____
Name/Title

Date: _____

Exhibit 15.1 – Progress Report

[Name of Tribe] Progress Report

Reporting Period: October 1 – March 31 or April 1 –September 30	Total Program Fund Received (during the Reporting Period):	Date Submitted:
Design Projects (Discuss each individual project as listed in the approved TTIP)		
Project Number: Location: Type of Work/Description: Consultant/Contractor: % Complete: Estimated Completion Date: On Time: Y/N Estimated Cost: Work Completed/In Progress/Status: Critical Issues/Problems:		
Construction Projects (Discuss each individual project as listed in the approved TTIP)		
Project Number: Location: Type of Work/Description: Contractor: % Complete: Estimated Completion Date: On Time: Y/N Amount Awarded: Work Completed/In Progress/Status: Critical Issues/Problems:		

Planning Activities
<p>Funds Programmed:</p> <p>Funds Utilized:</p> <p>Activities Undertaken & Status (National Tribal Transportation Facility Inventory; LRTP, TTIP, Studies, etc.):</p> <ul style="list-style-type: none"> • • • <p>Critical Issues/Problems:</p>
Maintenance Activities
<p>(Discuss maintenance activities as a summary, or discuss each individual project if listed as separate project(s) in the approved TTIP)</p>
<p>Funds Programmed:</p> <p>Funds Utilized:</p> <p>Activities Undertaken & Status (Mowing, Patching, Snow Removal, New Equipment, etc):</p> <ul style="list-style-type: none"> • • • <p>Critical Issues/Problems:</p>
Transportation Department Operations
<p>Funds Programmed:</p> <p>Funds Utilized:</p> <p>Activities Undertaken & Status Utilities, Salaries, Computers, etc):</p> <ul style="list-style-type: none"> • • • <p>Critical Issues/Problems:</p> <p>Funding Status:</p>
Other Items
<ul style="list-style-type: none"> • •

Technical Assistance		
<p>Identify any Technical Assistance (Financial, Planning ROW, Design, Construction, etc.) needed:</p> <ul style="list-style-type: none"> • (Type and identify POC, phone and email address) • • 		
Submitted By		
Submitted by:	Signature:	Date:

Exhibit 15.2 – Example Narrative Progress Report



All Nations Tribal Transportation Consortium, LLC FY2010 Yearend Contract Narrative Report Indian Reservation Roads Program

**Submitted to the Federal Lands Highway, Federal Highway Administration
Copies to: Alaska Region Bureau of Indian Affairs
Bureau of Indian Affairs, Department of Transportation
Hoonah Indian Association
Wrangell Cooperative Association
Yakutat Tlingit Tribe**

This is the Fifth report of the All Nations Tribal Transportation Consortium, LLC. Significant progress continues to be made on projects during FY2010.

Members of the ANTTTC in 2008:

1. Hoonah Indian Association (HIA)
2. Organized Village of Saxman (OVS)
3. Wrangell Cooperative Association (WCA)
4. Yakutat Tlingit Tribe (YTT)

Members of the ANTTTC in 2009:

1. Hoonah Indian Association (HIA)
2. King Island Native Community (KINC)
3. Wrangell Cooperative Association (WCA)
4. Yakutat Tlingit Tribe (YTT)

Members of the ANTTTC in 2010:

1. Hoonah Indian Association (HIA)
2. Wrangell Cooperative Association (WCA)
3. Yakutat Tlingit Tribe (YTT)*

* Withdrawal Resolution Received April 2010

As of September 30, 2010 payments received by the ANTTTC from the FHWA are shown below:

Date	Payments	Total
4/3/08	RFA #1 FY2008	\$322,876.01
6/12/08	RFA #2 FY2008	\$249,500.00
9/30/08	RFA #3 FY2008	\$594,329.96
10/1/08	RFA #4 advance on FY2009	\$435,000.00
5/14/09	RFA #1 FY2009	\$1,248,342.56
8/13/09	KINC Repayment RFA #1 2009	\$81,745.44
12/3/10	RFA #1 FY2010	\$322,871.00
6/15/10	ARRA RFA FY2009	\$1,182,361.00
7/29/10	RFA Amendment 1 FY2010	\$1,581,427.00
9/9/10	RFA Amendment 2 FY2010	\$122,022.66
9/30/10	Duplicate Pmt: Advance on FY2011	\$122,022.66
Total		\$6,262,498.29

In 2010 the ANTTTC members signed the negotiated agreement with Central Council Tlingit and Haida Indian Tribes of Alaska. The return of ANTTTC member funds held by the Central Council Tlingit and Haida Indian Tribes of Alaska were received in June of 2010. These funds have been distributed as follows to approve IRRTIP projects:

TRIBE NAME	RNDF Construction Funds - distribution
King Island Native Community	\$0.00
Hoonah Indian Association	\$395,195.00
Saxman, Organized Village of	0.00
Wrangell Cooperative Association	\$236,093.00
Yakutat Tlingit Tribe	\$70,811.80
Organization PM&O	\$123,900.20
Totals	\$826,000.00

Redistribution of Saxman Funds held by ANTTTC (CCTHITA Agreement)

TRIBE NAME	RNDF Construction Funds - distribution
King Island Native Community	\$0.00
Hoonah Indian Association	\$0.00
Saxman, Organized Village of	-\$52,906.00
Wrangell Cooperative Association	\$0.00
Yakutat Tlingit Tribe	\$0.00
Organization PM&O	\$52,906.00
Totals	\$0.00

FHWA FY2008 IRR Fund Distribution by Member

TRIBE NAME	Construction Funds	Population Adjustment Factor	2% Transportation Planning	IRRHPP	Total IRR 2008
Hoonah Indian Association	\$265,363	\$24,522	\$6,610		\$296,495.00
Saxman, Organized Village of	\$41,422	\$24,522	\$1,032		\$66,976.00
Wrangell Cooperative Association	\$274,459	\$24,522	\$6,836	\$249,500	\$555,317.00
Yakutat Tlingit Tribe	\$209,324	\$24,522	\$5,214		\$239,060.00
Organization PM&O					\$8,858.00
Totals	\$790,568	\$98,088	\$19,692		\$1,166,706.00

FHWA FY2009 IRR Fund Distribution by Member

TRIBE NAME	Construction Funds	Population Adjustment Factor	2% Transportation Planning	IRRHPP	Total IRR 2008
King Island Native Community		\$32,428.00	\$12,433.00		\$44,861.00
Hoonah Indian Association	\$457,486.00	\$32,428.00	\$11,514.00		\$501,428.00
Wrangell Cooperative Association	\$732,451.00	\$32,428.00	\$18,434.00		\$783,313.00
Yakutat Tlingit Tribe	\$210,266.00	\$32,428.00	\$5,292.00	\$187,500.00	\$435,486.00
Organization PM&O					
Totals	\$1,400,203.00	\$129,712.00	\$47,673.00	\$187,500.00	\$1,765,088

FY2009 IRR American Recovery and Reinvestment Act

TRIBE NAME	ARRA	ARRA PAF	Total ARRA
Hoonah Indian Association	\$379,119.00	\$7,337.00	\$386,456.00
Wrangell Cooperative Association	\$606,983.00	\$7,337.00	\$614,320.00
Yakutat Tlingit Tribe	\$174,248.00	\$7,337.00	\$181,585.00
Organization PM&O			\$0.00
Totals	\$1,160,350.00	\$22,011.00	\$1,182,361.00

FY2010 Funding Shares

Member Tribe	RNDF Construction Funds	PAF	Total Construction	2% Planning	Total IRR
King Island Native Community			\$0.00		\$0.00
Hoonah Indian Association	\$400,966.34	\$32,104.00	\$433,070.34	\$10,081.72	\$443,152.06
Saxman, Organized Village of			\$0.00		\$0.00
Wrangell Cooperative Association	\$641,518.57	\$32,104.00	\$673,622.57	\$16,130.06	\$689,752.63
Yakutat Tlingit Tribe	\$45,510.00	\$0.00	\$45,510.00	\$1,145.00	\$46,655.00
Organization PM&O	\$20,761.00		\$20,761.00		\$20,761.00
Totals	\$1,108,755.91	\$64,208.00	\$1,172,963.91	\$27,356.78	\$1,200,320.69

FHWA FY2008-2010 IRR Funding for IRR TIP

<i>TRIBE NAME</i>	RNDF + PAF Construction Funds	IRR 2% Planning	IRRHPP	IRR Construction ARRA	2010 Advance on 2011	Accumulated Funding Received To Date
King Island Native Community	\$32,428	\$12,433	\$0	\$0		\$44,861
Hoonah Indian Association	\$1,608,064	\$28,206	\$0	\$386,456		\$2,022,726
Organized Village of Saxman	\$13,038	\$1,032	\$0	\$0		\$14,070
Wrangell Cooperative Association	\$1,973,576	\$41,400	\$249,500	\$614,320		\$2,878,796
Yakutat Tlingit Tribe	\$592,862	\$11,651	\$187,500	\$181,585		\$973,598
Organization PM&O	\$206,425	\$0	\$0	\$0	\$122,023	\$328,448
Totals	\$4,426,393	\$94,722	\$437,000	\$1,182,361		\$6,262,498

Expenditure Report:**September 30, 2010 Project Expenses to Date by Tribe**

Tribe/Project I.D.	Total	Expenditures	Balance
King Island Native Community			
KINC Transportation Planning E0425320	12,433	27,446	-15,013
KINC PM&C E0425330	32,428	17,479	14,949
KINC Woolley Crete Creek Road E0425321*	0	7,551	-7,551
KINC Totals	44,861	52,476	-7,615
Hoonah Indian Association			
HIA TP E0919820	105,000	62,446	42,554
HIA Transit E0919821	152,000	0	152,000
HIA Cannery Sidewalk Imp E0919824	109,000	0	109,000
HIA Community Safety E0919825	757,320	7,351	749,969
HIA Planning Study Access Road to Pelican E0919826	30,000	0	30,000
HIA Safety Enhancement E0919827	25,000	0	25,000
HIA Front Street Retaining Wall E0919828	276,381	0	276,381
HIA Sidewalk and Street Light Extension E0919829	75,724	0	75,724
HIA PM&C E0919830	187,109	163,109	24,000
HIA Ferry E0919840	10,000	0	10,000
HIA Maintenance E09RM198 AN TTC	295,192	35,502	259,690
HIA Totals	2,022,726	268,407	1,754,318
Organized Village of Saxman (Subject to AN TTC C C TH I T A Agreement)			
OVS Transportation Planning E0942720	3,674	3,674	0
OVS PM&C E0942730	10,396	10,396	0
OVS Totals	14,070	14,070	0
Wrangell Cooperative Association			
WCA TP E0953220	105,000	43,868	61,132
WCA Rd Rehab E0953222	2,262,665	424,493	1,838,172
WCA Cassiar-Webber Recon E0953223	5,000	0	5,000
WCA Transit E0953225	10,000	0	10,000
WCA PM&C E0953230	251,370	215,370	36,000
WCA Maintenance E09RM532 AN TTC	244,760	4,700	240,060
WCA Totals	2,878,795	688,431	2,190,364

Tribe/Project I.D.	Total	Expenditures	Balance
Yakutat Tlingit Tribe			
YTT TP E0953320	71,145	13,811	57,334
YTT Rd Rehab E0953321	675,111	238,854	436,256
YTT Transit E0953325	5,000	0	5,000
YTT PM&C E0953330	103,208	103,208	0
YTT Maintenance E09RM533 ANTTC	119,136	20,000	99,136
YTT Totals	973,600	375,873	597,726
Program Management and Oversight			
Total ANTTC PM&O E0999930	206,425	75,114	131,311
ANTTC Advance on FY2011 E0999950	122,023	0	122,023
ANTTC Totals	328,448	75,114	253,334
Total	6,262,498	1,474,371	4,788,127

Project Narratives (does not include projects where no work was performed):

E0425321 King Island Native Community Project

KINC had been paying the ANTTC contractor for the ongoing work of developing the plans and specification. This has been done without notification to the ANTTC and without a contract with the engineering firm.

The ANTTC contract for the archaeology work was completed, and the ANTTC has submitted an invoice to KINC for payment.

The FHWA issued a categorical exclusion, and all PS&E package work was completed for KINC to take the project forward to construction.

E0919820 Hoonah Transportation Planning including 2%

A change has occurred in the makeup of the HIA tribal council and they have hired a tribal administrator. We are still pending a meeting to review and confirm their highest priority transportation projects before moving potential projects to the PS&E development stage.

The Tribal Administrator attended the Q-10 Consultation Meeting held in Anchorage in September.

E09RM198 Hoonah Indian Association Maintenance

We entered into a 3-way agreement with the City and Tribe for the performance of road maintenance activities.

The Tribe also worked with the City to address a safety issue associated with access along the piers. The ANTTC provided reimbursement to the Tribe for the work performed.

E0919825 Hoonah Indian Association Community Safety

A proposal for development of the PS&E was acquired, but all action has been postponed pending action by the HIA.

E0953220 Wrangell Transportation Planning including 2%

Worked with the BIA to finalize the addition of Shakes Island Bridge into the IRR Inventory. Action by BIADOT still pending.

E0953222 Wrangell Cooperative Association's Community Street Rehabilitation and Paving

Construction work began in July. We hired a project liaison and a project liaison trainee. In addition, the AN TTC took over the traffic control plan development. AN TTC hired 2 flaggers. All other work is being performed by the Southeast Road Builders, under contract. We also have a construction management contract with Bristol Environmental and Engineering Services.



Excavation on Etolin Street

The project has run into a number of issues which have caused delays including water and sewer lines shallower than shown on the as-built plans. All effort is underway to complete the project, but winter weather may cause us to enter into winter shutdown.

E0953321 Yakutat Road Rehabilitation

The PS&E development is in progress.

E0999930, E0425330, E0919830, E0953230, and E0953330 Program Administration and Compliance

All administrative costs are identified as direct costs under a project identified as Program Management and Compliance (PM&C). In the ANTTTC IRRTIP, these are identified as projects. The member tribes share the cost of Management and Program Administration through a simple percentage calculation based on what each member tribe generates in the construction and 2% transportation planning portion of the Relative Need Distribution Formula plus the Population Adjustment Factor, and then divided by the members' sum of these same numbers to calculate the percentage to be applied to administrative expenditures.

ANTTTC Administrative Costs include but are not limited to:

1. Salary and Benefit Package of Manager
2. Board Operational Costs
3. Board Travel Costs
4. Board Meeting Stipend
5. Manager Travel for non-project specific meetings
6. Office Supplies
7. Postage and Shipping Costs
8. Administrative Equipment purchase or lease
9. Financial Services
10. Legal Services for non-project specific activities
11. Memberships, licenses, and fees

Under ongoing implementation, the ANTTTC negotiated a number of Memorandums of Agreements, and either amended its existing Indefinite Delivery Contract for Services, or entered into new contracts for services for project development work that needs to be performed to implement our numerous construction projects.

Meetings attended by the ANTTTC Board and staff included:

1. IRRPCC meetings
2. Q-10 Consultation Meetings in Anchorage

ISSUES

Loss of Yakutat Tlingit Tribe as a member caused additional challenges to the ANTTTC, when the resolution to withdraw was received the first week in April. The ANTTTC contacted YTT in an effort to determine how they wanted to proceed. The ANTTTC policy has always been to complete work for withdrawing tribes for existing sub-contracts, but to provide no additional work unless requested.

When notice of an upcoming June RFA was issued by FHWA, we contacted YTT and asked if they had begun the process of entering into an IRR Agreement. When we learned that they had, we asked if they would like us to have FHWA hold their portion of the RFA. Upon affirmation from YTT, we contacted FHWA and requested they withhold YTT's funds from the RFA.

We believe the least liability risk for the ANTTTC is to return funds of withdrawing tribes to the FHWA.

FINAL OBSERVATION

We continue to be very pleased with the technical assistance provided by FHWA.

Report Submitted by:

/s/

Julianne E. Baltar, CEO ANTTTC
December 31, 2010

Exhibit 15.3 – Standard Form 425, Federal Financial Report

Reset Form

FEDERAL FINANCIAL REPORT

(Follow form instructions)

1. Federal Agency and Organizational Element to Which Report is Submitted		2. Federal Grant or Other Identifying Number Assigned by Federal Agency (To report multiple grants, use FFR Attachment)			Page 1	of		
pages								
3. Recipient Organization (Name and complete address including Zip code)								
4a. DUNS Number	4b. EIN	5. Recipient Account Number or Identifying Number (To report multiple grants, use FFR Attachment)			6. Report Type <input type="radio"/> Quarterly <input type="radio"/> Semi-Annual <input type="radio"/> Annual <input type="radio"/> Final	7. Basis of Accounting <input type="checkbox"/> Cash <input type="checkbox"/> Accrual		
8. Project/Grant Period From: (Month, Day, Year) To: (Month, Day, Year)				9. Reporting Period End Date (Month, Day, Year)				
10. Transactions						Cumulative		
<i>(Use lines a-c for single or multiple grant reporting)</i>								
Federal Cash (To report multiple grants, also use FFR Attachment):								
a. Cash Receipts								
b. Cash Disbursements								
c. Cash on Hand (line a minus b)								
<i>(Use lines d-o for single grant reporting)</i>								
Federal Expenditures and Unobligated Balance:								
d. Total Federal funds authorized								
e. Federal share of expenditures								
f. Federal share of unliquidated obligations								
g. Total Federal share (sum of lines e and f)								
h. Unobligated balance of Federal funds (line d minus g)								
Recipient Share:								
i. Total recipient share required								
j. Recipient share of expenditures								
k. Remaining recipient share to be provided (line i minus j)								
Program Income:								
l. Total Federal program income earned								
m. Program income expended in accordance with the deduction alternative								
n. Program income expended in accordance with the addition alternative								
o. Unexpended program income (line l minus line m or line n)								
11. Indirect Expense		a. Type	b. Rate	c. Period From	Period To	d. Base	e. Amount Charged	f. Federal Share
		g. Totals:						
12. Remarks: Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation:								
13. Certification: By signing this report, I certify that it is true, complete, and accurate to the best of my knowledge. I am aware that any false, fictitious, or fraudulent information may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 18, Section 1001)								
a. Typed or Printed Name and Title of Authorized Certifying Official					c. Telephone (Area code, number and extension)			
					d. Email address			
b. Signature of Authorized Certifying Official					e. Date Report Submitted (Month, Day, Year)			
					14. Agency use only:			

Standard Form 425
 OMB Approval Number: 0348-0061
 Expiration Date: 10/31/2011

Paperwork Burden Statement

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is 0348-0061. Public reporting burden for this collection of information is estimated to average 1.5 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0060), Washington, DC 20503.

Exhibit 15.4 – Instructions for SF 425 Used for Semi-Annual Reports

Line Number	Reporting Item	Instructions
Cover Information		
1	Federal Agency and Organizational Element to Which Report is Submitted	Enter "U.S. Dept of Transportation – FHWA"
2	Federal Grant or Other Identifying Number Assigned by Federal Agency	Enter the Agreement number from the top right of the Tribe's current year Referenced Funding Agreement.
3	Recipient Organization	Enter the name and complete address of the recipient organization including zip code. This is the Tribe or Tribal Consortium.
4a	DUNS Number	Enter the recipient organization's Data Universal Numbering System (DUNS) number or Central Contract Registry extended DUNS number.
4b	EIN	Enter the recipient organization's Employer Identification Number (EIN).
5	Recipient Account Number or Identifying Number	For the TTP program, leave this blank.
6	Report Type	Mark the "Semi-Annual" box, unless another reporting period requirement is listed in the Tribe's Program Agreement.
7	Basis of Accounting (Cash/Accrual)	Specify whether a cash or accrual basis was used for recording transactions related to the award(s) and for preparing this FFR. For cash basis accounting, expenses are recorded when they are paid. For accrual basis of accounting, expenses are recorded when incurred.
8	Project/Grant Period, From: (Month, Day, Year) To: (Month, Day, Year)	For the "From" date, enter the date the first Program Agreement with FHWA was approved by FHWA. For the "To" date, enter the ending date of this 6-month semi-annual report, which will be March 31 or September 30. If a Tribe is ending the FHWA Program Agreement, then the "To" date is the date that the Tribal Resolution was passed to end the Program Agreement.
9	Reporting Period End Date: (Month, Day, Year)	Enter the "To" date from line 8.
10	Transactions Enter cumulative amounts covering the time period listed on line 8.	
FHWA TTP Program Federal Cash		
10a	Cash Receipts	Enter the cumulative amount of actual cash received from FHWA under the TTP program during the time period listed in line 8. This should be the sum of all the amounts authorized by the executed Referenced Funding Agreements (RFA's) and RFA Amendments during that time period. Include funds received under ERFO, ACCESS, HPP, TTP Bridge, and TTP Safety in addition to the regular TTP, 2% planning and PRAE funds.
10b	Cash Disbursements	Enter the cumulative amount of disbursements of FHWA TTP funds (such as cash or checks) during the time period listed in line 8. Disbursements are the sum of actual cash disbursements for direct charges for goods and services, the amount of indirect expenses charged to the award, and the amount of cash advances and payments made to subrecipients and contractors.
10c	Cash On Hand (Line 10a Minus Line 10b)	Enter the amount of Line 10a minus Line 10b.

Line Number	Reporting Item	Instructions
10d	Total Federal Funds Authorized	Enter the total FHWA TTP Program Federal funds authorized during the time period listed in line 8. This will be the same amount listed in line 10a.
10e	Federal Share of Expenditures	Enter the amount of expenditures of FHWA TTP Program funding during the time period listed in line 8. For reports prepared on a cash basis, this line will be the same amount as listed on line 10b. For reports prepared on an accrual basis, enter the expenditures that are the sum of cash disbursements for direct charges for property and services; the amount of indirect expense incurred; the value of in-kind contributions applied; and the net increase or decrease in the amounts owed by the recipient for (1) goods and other property received; (2) services performed by employees, contractors, subrecipients, and other payees; and (3) programs for which no current services or performance are required. Do not include program income expended in accordance with the deduction alternative, rebates, refunds, or other credits. (Program income expended in accordance with the deduction alternative should be reported separately on Line 10o.)
10f	Federal Share of Unliquidated Obligations	Unliquidated obligations on a cash basis are obligations incurred, but not yet paid. On an accrual basis, they are obligations incurred, but for which an expenditure has not yet been recorded. Enter the unliquidated obligations for the FHWA TTP Program funding during the time period listed in line 8. Those unliquidated obligations include direct and indirect expenses incurred but not yet paid or charged to the award, including amounts due to subrecipients and contractors. On the final report, this line should be zero. <i>Do not include any amount in Line 10f that has been reported in Line 10e. Do not include any amount in Line 10f for a future commitment of funds (such as a long-term contract) for which an obligation or expense has not been incurred.</i>
10g	Total Federal Share (Sum of Lines 10e and 10f)	Enter the sum of Lines 10e and 10f.
10h	Unobligated Balance of Federal Funds (Line 10d Minus Line 10g)	Enter the amount of Line 10d minus Line 10g.
Recipient Share: Do not complete Lines 10i, 10j and 10k for the TTP program.		
10i	Total Recipient Share Required	Enter zero
10j	Recipient Share of Expenditures	Enter zero
10k	Remaining Recipient Share to be Provided (Line 10i Minus Line 10j)	Enter zero
Program Income		
10l	Total Federal Program Income Earned	Enter the cumulative amount of interest or dividends earned from FHWA TTP Program funds during the time period listed in line 8..
10m	Program Income Expended in Accordance With the Deduction Alternative.	Enter zero. This does not apply to the TTP funds.
10n	Program Income Expended in Accordance With the Addition Alternative	Enter the amount of program income from line 10l that was added to funds committed to the total project costs and expended to further eligible FHWA TTP project or program activities, during the time period listed in line 8.

Line Number	Reporting Item	Instructions
10o	Unexpended Program Income (Line 10l Minus Line 10m or Line 10n)	Enter the amount of Line 10l minus Line 10n. This amount equals the program income that has been earned but not expended, as of the reporting period end date.
11	Indirect Expense , also called "Indirect Cost".	
11a	Type of Rate(s)	<p><u>First Line:</u></p> <p>Enter the indirect cost rate (ICR) negotiated by the Tribe with Department of the Interior National Business Center (NBC). State whether the indirect cost rate entered here is Final, Provisional, Predetermined, or Fixed.</p> <p>A Final rate is the most typically used type. This is an indirect cost rate applicable to a specific time period that is based on the actual, allowable costs of that period. Once established, a final, audited rate cannot be adjusted. A</p> <p>A Provisional rate is a temporary indirect cost rate that is applied to a limited time period that is used until a "final" rate is established with NBC for that same period. Provisional rates can be used for funding, interim reimbursement, and reporting of indirect costs. They must be finalized by submitting an "Indirect Cost Rate Proposal for a Final Rate" to NBC once the actual costs for the specified time period are known and can be verified through audited financial statements.</p> <p>A Predetermined rate is an indirect cost rate that applies to a specific current or future time period (usually the organization's fiscal year). Except under very unusual circumstances, a predetermined rate cannot be adjusted. Predetermined indirect cost rates may be negotiated for periods of up to 2 to 4 years.</p> <p>A fixed rate (also known as a fixed carry forward rate) is an indirect cost rate that applies to a specific current or future time period (usually the organization's fiscal year). It differs from the predetermined rate in that it is subject to later adjustment. Initially, the fixed rate is based on estimated costs for a set, future time period. When the actual costs for that period become available, a carry forward adjustment is used. A carry forward adjustment is the amount required to reconcile the difference between the estimated costs and the actual costs incurred for the agreed-upon time period.</p> <p><u>Second Line:</u></p> <p>Enter "Pass-through".</p>
11b	Rate %	<p><u>First Line:</u> Enter the indirect cost rate (ICR) in effect during the reporting period.</p> <p><u>Second line:</u> Enter the rate used on "pass-through" funds. A maximum rate of 3% is allowed.</p>
11c	Period From; Period To	Enter the beginning and ending effective dates for each of the rates.

Line Number	Reporting Item	Instructions
11d	The Base amount against which the rate(s) are being applied.	First Line: Enter the total direct costs during the time period listed in line 8. This is usually the total direct salaries and wages for administrative and planning, with or without fringe benefits. The Base does <u>not</u> include pass-through funds.
		Second line: Enter the total "pass through" funds during the time period listed in line 8.. This is all TTP-funded project related costs including major contracts or subcontracts, payments to participants, as well as all direct labor, equipment, and materials costs for TTP-funded projects carried out by the Tribe.
11e	Amount Charged	Enter the amount of indirect costs charged during the time period specified. (Multiply 11b. x 11d.)
11f	Federal Share	Enter the same amount as line 11e.
11g	Totals	Enter the totals for columns 11d, 11e, and 11f.
Note: If more than one indirect cost rate (ICR) has been used, enter the additional rates, calculations and indirect costs on a second attached sheet.		
Remarks and Certification		
12	Remarks	Enter any information deemed necessary to support or explain <i>FFR</i> data. Enter any explanations or additional information required by the Federal sponsoring agency including excess cash as stated in line 10c.
13a	Typed or Printed Name and Title of Authorized Certifying Official	Enter the name and title of the authorized certifying official.
13b	Signature of Authorized Certifying Official	The authorized certifying official must sign here.
13c	Telephone (Area Code, Number and Extension)	Enter the telephone number (including area code and extension) of the individual listed in Line 13a.
13d	E-mail Address	Enter the e-mail address of the individual listed in Line 13a.
13e	Date Report Submitted (Month, Day, Year)	Enter the date the <i>FFR</i> is submitted to the Federal agency using the month, day, year format.
14	Agency Use Only	This section is reserved for FHWA use.

Exhibit 16.1 – National Bridge Inventory Structure Inventory and Appraisal Sheet

Year:	State:	Structure:	Federal Agency:
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USE OF THIS DOCUMENT IS SUBJECT TO 23 USC SEC 409.

*****IDENTIFICATION*****				*****CLASSIFICATION*****	CODE
(1) STATE NAME:	CODE:			SUFFICIENCY RATING:	
(8) STRUCTURE NUMBER:				STATUS:	
(5) INVENTORY ROUTE (ON/UNDER):				(112) NBIS BRIDGE LENGTH:	
(2) HIGHWAY AGENCY DISTRICT:				(104) HIGHWAY SYSTEM:	
(3) COUNTY CODE:	(4) PLACE CODE:			(26) FUNCTIONAL CLASS:	
(6) FEATURES INTERSECTED:				(100) STRAHNET HIGHWAY:	
(7) FACILITY CARRIED:				(101) PARALLEL STRUCTURE:	
(9) LOCATION:				(102) DIRECTION OF TRAFFIC:	
(11) KILOMETERPOINT:				(103) TEMPORARY STRUCTURE:	
(12) BASE HIGHWAY NETWORK:	CODE			(105) FEDERAL LANDS HIGHWAYS:	
(13) LRS INVENTORY ROUTE & SUBROUTE:				(110) DESIGNATED NATIONAL NETWORK:	
(16) LATITUDE:	DEG	MIN	SEC	(20) TOLL:	
(17) LONGITUDE:	DEG	MIN	SEC	(21) MAINTAIN:	
(98) BORDER BRIDGE STATE CODE:		% SHARE:		(22) OWNER:	
(99) BORDER BRIDGE STRUCTURE NUMBER:				(37) HISTORICAL SIGNIFICANCE:	
*****STRUCTURE TYPE AND MATERIAL*****				*****CONDITION*****	CODE
(43) STRUCTURE TYPE MAIN - MATERIAL:				(58) DECK:	
	CODE			(59) SUPERSTRUCTURE:	
(44) STRUCTURE TYPE APPR - MATERIAL:				(60) SUBSTRUCTURE:	
	CODE			(61) CHANNEL AND CHANNEL PROTECTION:	
(45) NUMBER OF SPANS IN MAIN UNIT:				(62) CULVERTS:	
(46) NUMBER OF APPROACH SPANS:				*****LOAD RATING AND POSTING*****	
(107) DECK STRUCTURE TYPE:	CODE:			(31) DESIGN LOAD:	
(108) WEARING SURFACE / PROTECTIVE SYSTEM:				(63) OPERATING RATING METHOD:	
(A) TYPE OF WEARING SURFACE:	CODE:			(64) OPERATING RATING:	
(B) TYPE OF MEMBRANE:	CODE:			(65) INVENTORY RATING METHOD:	
				(66) INVENTORY RATING:	

(C) TYPE OF DECK PROTECTION:	CODE:	(70) BRIDGE POSTING:	
*****AGE AND SERVICE*****		(41) STRUCTURE OPEN, POSTED OR CLOSED:	
(27) YEAR BUILT:		DESCRIPTION:	
(106) YEAR RECONSTRUCTED:		*****APPRAISAL*****	CODE
(42) TYPE OF SERVICE - ON:		(67) STRUCTURAL EVALUATION:	
- UNDER:	CODE:	(68) DECK GEOMETRY:	
(28) LANES - ON STRUCTURE:	UNDER STRUCTURE:	(69) UNDERCLEARANCES, VERTICAL & HORIZONTAL:	
(29) AVERAGE DAILY TRAFFIC:		(71) WATERWAY ADEQUACY:	
(30) YEAR OF ADT:	(109) TRUCK ADT %:	(72) APPROACH ROADWAY ALIGNMENT:	
(19) BYPASS, DETOUR LENGTH:		(36) TRAFFIC SAFETY FEATURES:	
*****GEOMETRIC DATA*****		(113) SCOUR CRITICAL BRIDGES:	KM
(48) LENGTH OF MAXIMUM SPAN:		*****PROPOSED IMPROVEMENTS*****	M
(49) STRUCTURE LENGTH:		(75) TYPE OF WORK:	M
(50) CURB OR SIDEWALK - LEFT:	M RIGHT:	CODE:	M
(51) BRIDGE ROADWAY WIDTH CURB TO CURB:		(76) LENGTH OF STRUCTURE IMPROVEMENT:	M
(52) DECK WIDTH OUT TO OUT:		(94) BRIDGE IMPROVEMENT COST:	M
(32) APPROACH ROADWAY WIDTH (W/SHOULDERS):		(95) ROADWAY IMPROVEMENT COST:	M
(33) BRIDGE MEDIAN:	CODE:	(96) TOTAL PROJECT COST:	M
(34) SKEW:	(35) STRUCTURE FLARED:	(97) YEAR OF IMPROVEMENT COST ESTIMATE:	
(10) INVENTORY ROUTE MIN VERT CLEAR:		(114) FUTURE ADT:	M
(47) INVENTORY ROUTE TOTAL HORIZ CLEAR:		(115) YEAR OF FUTURE ADT:	M
(53) MIN VERT CLEAROVER BRIDGE RDWY:		*****INSPECTIONS*****	M
(54) MIN VER UNDERCLEAR REF:		(90) INSPECTION DATE:	M
(55) MIN LAT UNDERCLEAR RT REF:		(91) FREQUENCY:	
(56) MIN LAT UNDERCLEAR LEFT:		(92) CRITICAL FEATURE INSPECTION:	M
*****NAVIGATION DATA*****		(93) CFI DATE:	
(38) NAVIGATION CONTROL:	CODE:	(A) FRACTURE CRITICAL DETAIL:	M A) /
(111) PIER PROTECTION:	CODE:	(B) UNDERWATER INSP: Yes	M B) /
(39) NAVIGATION VERTICAL CLEARANCE:		(C) OTHER SPECIAL INSP: Yes	M C) /
(116) VERT-LIFT BRIDGE NAV MIN VERT CLEARANCE:		*****WASHINGTON OFFICE FIELDS*****	
(40) NAVIGATION HORIZONTAL CLEARANCE:		(DT) DEDUCT CODE:	M
		(RC) SPECIAL CODE:	M
		(DLU) DATE LAST UPDATE (MM/DD/YYYY):	M
		(TLU) TYPE LAST UPDATE:	M
		PROGRAM CODE:	
		PROJECT NUMBER:	

Exhibit 16.2 – TTP Bridge Program Certification Checklist**TTP BRIDGE PROJECT** _____

Project Name: _____ Project Number: _____

Structure No. (item 8): _____ ID Number: _____ Region: _____

Agency: _____ Reservation: _____

County: _____ State _____

Project Location: _____

General Description of the Work: _____

Ownership: _____ BIA: _____ If non-BIA owned, provide the following:

Name of Owner: _____ Point of contact (name): _____

Point of Contact's phone number: _____

Sufficiency Rating: _____ (Note: Attach SI&A data sheet on which this project is based)

Status:

Type of Construction: _____ ADT (item 29): _____

Detour Length (item 19): _____ (miles) Truck ADT (item 109) _____ Function Class (item 26): _____

Do School Buses use this bridge? _____ How many trips per day? _____

Safety Issues involved with this project? _____

Does the bridge project have Right of Way? _____ If Yes, date obtained: _____

NEPA Compliance, Date: _____ Archeological/Cultural Resource Compliance, Date: _____

PS&E Approval, Date: _____

Estimated cost of the construction contract (funds Requested): \$ _____

Remarks: _____

We certify that the bridge project PS&E package is complete, approved, and the project is ready to proceed to construction and request funding:

Tribal Transportation Director (approval): _____


Date: _____

Exhibit 17.1 - High Priority Project Scoring Matrix

Score	10	5	3	1	0
Accident and fatality rate for candidate route ¹	Severe	N/A	Moderate	minimal	No accidents
Years since last TTP construction project completed.	Never	Last project more than 10 years ago	Last project 5-9 years ago	Last project within last 1 to 4 years	Currently has project
Readiness to Proceed to Construction or TTP Bridge Program Design Need	PS&E Complete and approved	Bridge Replacement PS&E development Project	Bridge Rehabilitation PS&E development Project	Non-bridge PS&E development Project	
Percentage of Project matched by other funds	N/A	80 percent or more by other funds	20 – 79 percent by other funds	1 – 19 percent	No other funds
Amount of funds requested ²	N/A	250,000 or less	250,001 – 500,000	500,001-750,000	Over 750,000
Geographic isolation	No external access to community	Substandard Primary access to community	Substandard Secondary access to community	Substandard access to tribal facility	
All weather access for: -employment -commerce -health -safety -educational resources -housing	Addresses all 6 elements	Addresses 4 or 5 elements	Addresses 3 Elements	Addresses 2 elements	Addresses 1 element

¹ National Highway Traffic Safety Board standards² Total funds requested, including preliminary engineering, construction, and construction engineering.

Exhibit 17.2 – TTP HPP Project Application (Non-Emergency/Disaster)

IRR High Priority Project Application (non-emergency / disaster)		
	Tribal / Applicant Information	Scoring Information
1	Name _____	18 ACCIDENT DATA (last 5 years)
2	Address _____	19 AADT _____
	line 1: _____	20 # of Fatality Accidents _____
	line 2: _____	21 # of Injury Accidents _____
3	County/State _____	22 # of Property Damage Accidents _____
4	BIA Region _____	23 Years Since Last IRR Project _____
5	Tribal Representative _____	24 Total Project Amount \$ _____
6	Title _____	25 Matching Funds Available \$ _____
7	Phone # _____	26 HPP Funds Requested \$ _____
8	Fax # _____	27 GEOGRAPHICAL ISOLATION
9	Tribal Authorization/ Resolution Date _____	28 Route Functional Classification _____
		29 Construction Need _____
		30 ALL WEATHER ACCESS
		31 Number of all weather access elements _____
Project Information		
10	Project Name _____	
11	Project Description _____	
12	Project Type _____	
13	Route Number _____	
14	Section Number _____	
15	Project I.D. # _____	
16	Project Length _____	
17	NBIS # (if applicable) _____	
32	Submitted By: _____ (name & title)	
	Signature: _____ Date: _____	
33	Reviewed By: _____ (name & title)	
	Signature: _____ Date: _____	

IRR HPP Regional Checklist Non-Emergency / Disaster	
<input type="checkbox"/>	<p>Tribal Annual IRR Allocation Verification</p> <p style="padding-left: 40px;">Appropriate BIA Documentation Provided by Region</p>
<input type="checkbox"/>	<p>Eligible IRR HPP Activity (supporting documentation)</p> <p style="padding-left: 40px;">IRR Inventory verification - (5704 summary sheet RIFDS) Tribal resolution - Priority</p>
<input type="checkbox"/>	<p>PS&E Verification</p> <p style="padding-left: 40px;">Signed / Stamped Plan Cover Sheet & Engineers Estimate or PS&E Approval requirements per Title 23, Chapter 2, sec 202 (d) (2) (F) (ii).</p>
<input type="checkbox"/>	<p>Application Form Completed</p>
<input type="checkbox"/>	<p>Accident & Fatality Rate Data (if applicable)</p> <p style="padding-left: 40px;">ADT Data for Candidate Route</p> <p style="padding-left: 40px;">Certifiable source of data from law enforcement or governmental agency indicating the location and type of the accident.</p>
<input type="checkbox"/>	<p>Years since Last IRR Project</p> <p style="padding-left: 40px;">BIA Federal Finance System Documentation</p>
<input type="checkbox"/>	<p>Percent Match Verification</p> <p style="padding-left: 40px;">MOU of responsible agency or matching entity with contact information.</p>
<input type="checkbox"/>	<p>All Weather Access Verification</p> <p style="padding-left: 40px;">Strip Map - Indicating project proximity to elements.</p>
<input type="checkbox"/>	<p>Other Attachments (not required)</p> <p style="padding-left: 40px;">Complete Plans Photos</p>
Regional Certification	
Prepared By:	_____
Date:	_____
Regional Roads Engineer:	_____
Date:	_____

Instructions to IRR HPP Application Form (non-emergency / disaster)**Item # Description****Tribal / Applicant Information**

- 1 Name**
Input the name of the applicable Reservation / Tribal community / Native Alaskan Village / Rancheria.
- 2 Address**
Input the Mailing Address of the applicable Reservation / Tribal community / Native Alaskan Village / Rancheria.
- 3 County / State**
Input the county and state in which is applicable to the project
- 4 BIA Region**
Input the appropriate BIA Region
- 5 Tribal Representative**
Input the appropriate tribal contact representative.
- 6 Title**
Title of appropriate tribal contact representative.
- 7 Phone #**
Phone number of tribal contact.
- 8 Fax #**
Fax number of tribal contact.
- * **9 Tribal Authorization / Resolution**
Tribal Authorization by resolution required for HPP program according to Sec. 170.210 (f) 'Documentation from the tribe providing authority for BIA to place the project on an IRRHPP TIP if the project is selected and approved.' In addition the resolution must identify proposed HPP project as the highest priority. Attach to application.

Project Information

- 10 Project Name**
Input name of proposed HPP project.
- 11 Project Description**
Input as much information as necessary to adequately describe the overall proposed project, scope and location. For example: *Earthwork, Grading, Drainage, Aggregate, Pavement, Erosion Control etc.* Any other information regarding the up-grade or route enhancements.
- 12 Project Type**
Choose from the following: Construction, Non-Bridge PS&E Development, Bridge Replacement PS&E Development, Bridge Rehabilitation PS&E Development.
- 13 Route Number**
Input IRR Inventory Route Number(s)
- 14 Section Number**
Input IRR Inventory Section Number(s)
- 15 Project I.D. #**
Input BIA Project ID number if available.
- 16 Project Length**
Input over-all length of project.
- 17 NBIS #**
Input the National Bridge Inventory System number if appropriate to proposed project.

* Items that require
verification/attachments
per IRR HPP Checklist

Scoring Information

- 18 Accident Data (last 5 years)**
The following data is required for the Weighted Highway Index (WHI).
- * **19 AADT - Annual Average Daily Traffic**
AADT is ADT multiplied by 365. Input this number for route.
- * **20 # of Fatality Accidents**
Input the number of accidents on specified route and section in which there have been fatalities.
- * **21 # of Injury Accidents**
Input the number of accidents on specified route and section in which there have been injuries.
- * **22 # of Property Damage Accidents**
Input the number of accidents on specified route and section in which there have been property damage.
- 23 Years Since Last IRR Project**
Input the number of years since the last COMPLETED IRR Project.
- 24 Total Project Amount**
Input total project dollar amount
- * **25 Matching Funds Available**
Input the amount of applicable matching funds available. Match indicate dollars from a Non-IRR source to be utilized in the project. Will require certification. Utilized for percent match element of scoring matrix - evaluated against TOTAL project amount.
- 26 HPP Funds Requested**
Include the amount of HPP dollars requested to include preliminary engineering, construction, and construction engineering.
- 27 Geographical Isolation**
The following data is required in order to determine geographical isolation criteria.
- 28 Route Functional Classification**
Input the IRR Inventory Functional Classification for route and section.
- 29 Construction Need**
Input the IRR Inventory Construction Need for route and section.
- * **30 All Weather Access**
The following information is utilized to determine the number of all weather access elements per scoring matrix. Each element is required to directly access proposed project. (directly access means that element 'touches' project within the proposed project limits) Will require mapping information for certification.
- * **31 Number of All Weather Access Elements**
Input the number of all weather access elements:
Employment - Jobs or Employment
Commerce - Business or Trade
Health - Hospital, Clinic, Pharmacy, Dental etc.
Safety - Fire, Police, Law Enforcement etc.
Educational Resources - Elementary Schools, High Schools, Colleges, Library, Technical or Trade School etc.
Housing - Residential Housing
- 32 Submitted By**
Name and title of person submitting application.
- 33 Reviewed By**
Name and title of BIA Regional Reviewing Official.

* Items that require
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per IRR HPP Checklist

Exhibit 17.3 – TTP HPP Project Application (Emergency/Disaster)

IRR High Priority Project Application Emergency/Disaster	
Tribal / Applicant Information	Project Information
1 Name _____ 2 Address _____ line 1: _____ line 2: _____ 3 County/State _____ 4 BIA Region _____ 5 Tribal Representative _____ 6 Title _____ 7 Phone # _____ 8 Fax # _____ 9 Tribal Authorization/ Resolution Date _____ 10 Pending IRRHPP Application? _____ 11 Contacted Regional ERFO Coordinator? _____	14 Project Name _____ 15 Route Number _____ 16 Section Number _____ 17 Project I.D. # _____ 18 Project Length _____ 19 NBIS # (if applicable) _____ 20 Ownership of Route _____ 21 Terrain _____ 22 Surface Width _____ 23 Surface Type _____ 24 Amount Requested \$ _____ 25 Date of Event _____
Emergency/Disaster Information	
12	Description and Cause of Damage
13	Scope/Description of Proposed Repairs
26	Submitted By: _____ (name & title) Signature: _____ Date: _____
27	Reviewed By: _____ (name & title) Signature: _____ Date: _____



IRR HPP Regional Checklist - Emergency / Disaster

Tribal Annual IRR Allocation Verification

Appropriate BIA Documentation Provided by Region

Eligible IRR HPP Activity (supporting documentation)

IRR Inventory verification - (5704 summary sheet RIFDS)
Tribal resolution - Priority

Application Form Completed

Other Attachments

Photos

Location Map

Preliminary sketches or drawings illustrating the damage or proposed repairs.

Any official ERFO related documentation available

Regional Certification

Prepared By: _____

Date: _____

Regional Roads Engineer: _____

Date: _____

Instructions to IRR HPP Application Form - Emergency / Disaster	
Item #	Description
Tribal / Applicant Information	
1	Name Input the name of the applicable Reservation / Tribal community / Native Alaskan Village / Rancheria.
2	Address Input the Mailing Address of the applicable Reservation / Tribal community / Native Alaskan Village / Rancheria.
3	County / State Input the county and state in which is applicable to the project
4	BIA Region Input the appropriate BIA Region
5	Tribal Representative Input the appropriate tribal contact representative.
6	Title Title of appropriate tribal contact representative.
7	Phone # Phone number of tribal contact.
8	Fax # Fax number of tribal contact.
* 9	Tribal Authorization / Resolution Tribal Authorization by resolution required for HPP program according to Sec. 170.210 (f) 'Documentation from the tribe providing authority for BIA to place the project on an IRRHPP TIP if the project is selected and approved.' In addition the resolution must identify proposed HPP project as the highest priority. Attach to application.
10	Pending IRR Application Indicate yes or no. Eligibility per 170.205 (3) (b) 'Eligible applicants may have only one HPP application pending at any time. This includes emergency / disaster applications.
11	Contacted Regional ERFO Coordinator? Indicate yes or no. per 170.207 applicants are encouraged to apply for FHWA/ERFO Program funding if the project meets the requirements of the program.
Emergency / Disaster Information	
12	Description and Cause of Damage Input as much information as necessary to adequately describe event which occurred and subsequent damage to the route. Per 170.206. Declare major disaster declaration if known.
13	Scope / Description of Proposed Repairs Input as much information as necessary to adequately describe the overall proposed project, scope and location. For example: Earthwork, Grading, Drainage, Aggregate, Pavement, Erosion Control etc.

* Items that require verification/attachments per IRR HPP Checklist

Project Information

- 14 **Project Name**
Name of project.
- 15 **Route Number**
Input IRR Inventory Route Number(s)
- 16 **Section Number**
Input IRR Inventory Section Number(s)
- 17 **Project I.D. #**
Input BIA Project ID number if available.
- 18 **Project Length**
Input over-all length of project.
- 19 **NBIS #**
Input the National Bridge Inventory System number if appropriate to proposed project.
- 20 **Ownership of Route(s)**
Indicate who owns (responsible for) route(s).
- 21 **Terrain**
Indicate terrain type - Flat, Rolling, Mountainous etc.
- 22 **Surface Width**
Width of travel-way surface
- 23 **Surface Type**
Surface type of route(s) - Aggregate, Pavement etc.
- 24 **Amount Requested**
Dollar amount estimated for repairs described.
- 25 **Date of Event**
Specify the date event occurred
- 26 **Submitted By**
Name and title of person submitting application.
- 27 **Reviewed By**
Name and title of BIA Regional Reviewing Official.

** Items that require
verification/attachments
per IRR HPP Checklist*