

**TRIBAL TRANSPORTATION PROGRAM (TTP)**

Year	2013	2014
Authorization	\$ 450 M	\$ 450 M

**Program purpose**

The purpose of the TTP is to provide access to basic community services to enhance the quality of life in Indian country. The TTP replaces the former Indian Reservation Roads (IRR) program.

**Statutory citation(s):** MAP-21 §1119; 23 USC 201, 202

**Funding features**

Funded by contract authority from the Highway Account of the Highway Trust Fund. Funds are subject to the overall Federal-aid obligation limitation.

Formula

Funds will be allocated among the Tribes using a new statutory formula based on tribal population, road mileage and average tribal shares of SAFETEA-LU IRR funding. For the new formula, *tribal shares* are determined as follows, using FY 2012 national tribal transportation facility inventory data and the most recent population data on American Indian/Alaska Native Reservation or Statistical Area, as computed under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA, 25 USC 4101 et seq.):

- 27% on eligible road miles
- 39% on tribal population
- 34% divided equally among the 12 Bureau of Indian Affairs (BIA) regions and then distributed among Tribes in that region based on each Tribe's average FY 2005-FY 2011 formula distribution compared to that region's total FY 2005-FY 2011 distribution.

The new formula is to be phased in over a 4-year transition period as follows:

- FY 2013 – 80% of funds distributed based on tribal shares in FY 2011, with remainder using the new formula.
- FY 2014 – 60% of funds distributed based on tribal shares in FY 2011, with remainder using the new formula.
- FY 2015 – 40% of funds distributed based on tribal shares in FY 2011, with remainder using the new formula.
- FY 2016 and thereafter – 20% of funds distributed based on tribal shares in FY 2011, with remainder using the new formula.

[§1119; 23 USC 202(b)(3)]

Set-asides

Prior to distribution to Tribes, the following amounts may be deducted:

- Up to 6% for program administration, including funding for Tribal Technical Assistance Centers (TTAPs). These funds may be used by the Secretary or the Secretary of the Interior for program management and oversight and project-related administrative expenses. [§1119; 23 USC 202(a)(6)]
- Up to 2% per year for transportation planning, to be allocated among Indian tribal governments that apply for transportation planning. [§1119; 23 USC 202(c)]

- Up to 2% per year for a nationwide priority program for improving eligible deficient bridges. [§1119; 23 USC 202(d)]
- Up to 2% per year for safety projects, to be allocated to applicant tribal governments for eligible projects. [§1119; 23 USC 202(e)]

*Tribal supplemental funding* -- The amount to be set aside is determined as follows:

- 30% if the TTP funding level is  $\leq$  \$275 million.
- If the TTP funding level is greater than \$275 million, \$82.5 million plus 12.5% of the excess over \$275 million.

Tribal supplemental funding is to be initially distributed to BIA regions based on the cumulative tribal shares in each region, and further distributed to Tribes within the region.

[§1119; 23 USC 202(b)(3)(C)]

*High Priority Projects* -- The former regulatory IRR High Priority Projects Program does not continue as a program set-aside. However, MAP-21 Section 1123 establishes a new Tribal High Priority Projects Program, modeled after the former program and funded out of the General Fund. (See separate fact sheet). [§1119; 23 USC 202(b)(3)(A)(ii)].

#### Non-Federal share

TTP and Federal Lands Transportation Program (FLTP) funds may be used to pay the non-Federal share for any project funded under 23 USC or chapter 53 of 49 USC that provides access to or within Federal or tribal land. [§1508; 23 USC 120(k)]

**Federal share:** 100%. [§1119; 23 USC 201(b)(7)]

#### **Eligible activities**

TTP funds may be used by the Secretary and the Secretary of Interior to pay the costs of the following activities:

- Transportation planning, research, maintenance \*, engineering, rehabilitation, restoration, construction, and reconstruction of tribal transportation facilities; and—
  - adjacent vehicular parking areas;
  - interpretive signage;
  - acquisition of necessary scenic easements and scenic or historic sites;
  - provisions for pedestrians and bicycles;
  - environmental mitigation in or adjacent to tribal land to (1) improve public safety and reduce vehicle caused wildlife mortality while maintaining habitat connectivity; and (2) mitigate the damage to wildlife, aquatic organism passage, habitat, and ecosystem connectivity, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate;
  - construction and reconstruction of roadside rest areas, including sanitary and water facilities; and
  - other appropriate public road facilities as determined by the Secretary.
- Operation and maintenance of transit programs and facilities that are located on, or provide access to, tribal land, or are administered by a tribal government.
- Any transportation project eligible for assistance under 23 USC that is located within, or that provides access to, tribal land, or is associated with a tribal government.

\* *Limitation on maintenance* -- Tribal share formula funds can be used by a Tribe for maintenance of tribal transportation facilities, up to a limit of 25% of the allocation to the Tribe or \$500,000, whichever is greater. This limitation does not apply to road sealing, which is not subject to any limitation. The

Secretary of the Interior must verify that this maintenance funding does not supplant maintenance funding provided by the BIA for road maintenance programs on Indian reservations.  
[§1119; 23 USC 202(a)]

## **Program features**

### Definition

*Tribal transportation facility* -- 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 USC 202(b)(1). [§1103; 23 USC 101(a)(31)]

### Tribal transportation facility inventory

The Secretary of the Interior, in cooperation with DOT, is required to maintain an inventory of tribal transportation facilities eligible for the TTP. The inventory is used to determine relative transportation needs among Indian tribes, serving as a basis for allocation of funds. The inventory includes, at a minimum, facilities that are eligible for assistance under the TTP that a Tribe has requested, including facilities that—

- were included in the BIA system inventory prior to October 1, 2004;
- are owned by an Indian tribal government;
- are owned by the BIA;
- were constructed or reconstructed with funds from the Highway Trust Fund under the IRR program since 1983;
- are public roads or bridges within the exterior boundary of Indian reservations, Alaska Native villages, and other recognized Indian communities (including communities in former Indian reservations in the State of Oklahoma) in which the majority of residents are American Indians or Alaska Natives;
- are public roads within or providing access to an Indian reservation or Indian trust land or restricted Indian land that is not subject to fee title alienation without the approval of the Federal Government, or Indian or Alaska Native villages, groups, or communities in which Indians and Alaska Natives reside, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians; or
- are primary access routes proposed by tribal governments, including roads between villages, roads to landfills, roads to drinking water sources, roads to natural resources identified for economic development, and roads that provide access to intermodal terminals, such as airports, harbors, or boat landings.

[§1119; 23 USC 202(b)(1)(B)]

### Tribal transportation facility bridges

Funded by a set-aside of up to 2% from TTP funds. The Secretary is required to maintain a nationwide priority program for improving deficient bridges eligible for the TTP.

- Funds may be used for planning, design, engineering, preconstruction, construction, and inspection of a project to replace, rehabilitate, seismically retrofit, paint, or for anti-icing and deicing, or to implement any countermeasures (including multiple-pipe culverts) for eligible tribal transportation facility bridges.

- To be eligible, a bridge must have an opening of at least 20 feet, be classified as a tribal transportation facility, and be structurally deficient or functionally obsolete.

[§1119; 23 USC 202(d)]

#### Safety projects

Funded by set-aside of up to 2% from TTP funds. Upon application of Indian tribal governments, funds are to be allocated by the Secretary based on an identification and analysis of highway safety issues and opportunities on tribal lands. Supports safety projects, studies, roadside safety audits, and other title 23-eligible safety activities. [§1119; 23 USC 202(e)]

#### Federal-aid eligible projects

Use of TTP funds for projects that would be eligible for Federal-aid funds apportioned to States under 23 USC 104 must be supplemental to, and not in lieu of, the use of such funds. [§1119; 23 USC 202(f)]

#### **Program administration**

- *Tribal Authorities* – Tribes may approve Plans, Specifications, & Estimates packages, award construction contracts, and administer construction projects in accordance with the Indian Self-Determination and Education Assistance Act. [§1119; 23 USC 202(b)(5)]
- *Direct funding agreements* – Subject to Secretarial approval, Indian tribes that are financially stable and have adequate financial management capability may opt to enter into TTP Funding Agreements directly with FHWA for all funds a Tribe receives under Chapter 2 of title 23. [§1119; 23 USC 202(b)(7)]
- *Point of obligation* is the authorization by the Secretary, or the Secretary of the appropriate FLMA if the agency is the contracting office, of engineering and related work for the development, design, and acquisition associated with a construction project, whether performed by contract or agreement authorized by law, or the approval of plans, specifications, and estimates (PS&E) (except for Federal salaries and expenses) for all project work performed by USDOT or FLMA's, regardless of funding source. [§1119; 23 USC 201(b)(6)]
- *Planning*
  - Transportation planning procedures for the TTP must be consistent with Statewide and Metropolitan planning processes.
  - Regionally significant TTP projects must be developed in cooperation with State and metropolitan planning organizations and included in Tribal transportation plans, Federal lands transportation plans Federal lands access program plans, State and metropolitan plans, and transportation improvement programs.

[§1119; 23 USC 201(c)]
- *Asset management* -- The Secretary and the Secretary of the Interior shall, to the extent appropriate, implement safety, bridge, pavement, and congestion management systems to support effective asset management. [§1119; 23 USC 201(c)(5)]
- *Data collection* -- The Secretary of the Interior is required to collect and report data necessary to the implementation of the TTP in accordance with the Indian Self-Determination and Education Assistance Act, including inventory and condition information on tribal transportation facilities, and bridge inspection and inventory information on federally- and tribally-owned bridges open to the public. [§1119; 23 USC 201(c)(6) and 144(b)]
- *Reimbursable agreements* may be used with State, local and/or tribal governments, in addition to agreements between Federal agencies. [§1119; 23 USC 201(d)]