DOTs and Tribal Governments: Examples of Collaboration and Innovation
Webinar Logistics

PowerPoint Presentation available on BATIC Website
www.financingtransportation.org/capacity_building/event_details/webinar_dots_tribal_collaboration_1018.aspx

Submit questions in Q&A box

Webinar will be available on BATIC website
BATIC Institute

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Overview of Federal Funding Opportunities

State DOT and Tribal Communities
- Alaska Department of Transportation & Public Facilities
- Association of Village Council Presidents

Questions Submitted by Webinar Participants
Overview of Federal Funding Opportunities

Brian Allen, PE, PMP
Program Delivery Manager
FHWA, Office of Tribal Transportation
Federal Funding Opportunities for Tribes

- What federal programs are available to fund tribal transportation projects and how are they administered?

- What new mechanism is available to better enable funding partnerships for tribal transportation projects?

- What are the challenges/hurdles to greater cooperation and innovation in tribal transportation and how are we addressing them?
What federal programs are available to fund tribal transportation projects and how are they administered?
Tribal Transportation Program (TPP)

- $495 million – FY19
- Serves 573 Federally recognized Tribes
- Jointly administered with BIA
    - Updated Dec 7, 2016
TPP Program Purpose (25 CRF 170)

- Provide safe and adequate transportation and public road access to and within reservations, Indian lands and communities.....

- Contribute to economic development, self-determination and employment of Indians and Alaska Natives.....
TPP Program Guiding Principles  (25 CFR 170)

- Promote the rights of tribal governments to govern their own affairs.....
- Ensure implementation is consistent with tribal sovereignty and the government-to-government relationship.....
- Encourage flexibility and innovation in program implementation.....
- Regulations will be liberally construed for the benefit of Tribes.....
TTP - 25 CFR 170

- Governing Policies (170.2)
- Eligible Uses of TTP Funds (170.111)
- Seasonal Transportation Routes (170.117)
- Airport Facilities (170.122 & 170.805)
- Non Federal Match (170.133)
- Coordinating Committee (170.135)
- TTIP (170.421)
- NTTFI (170.442)
- NEPA CE (170.453)
- PS&E Approval (170.461)

- Bridge Inspections (170.513)
- Legislation and Procurement (170.606)
- 202(a)(9) Transfers (170.627)
- Maintenance (170.800)
TTP Delivery Mechanisms (573 Tribes)

- BIA 638 Contracts (Title 1): 35%
- BIA G2G: 32%
- FHWA PA: 24%
- OSG (Title IV): 5%
- BIA Direct Service: 4%
Tribal Transportation Program Funds
FY19: $495,000,000

Tribal Shares Formula
- 39% - Population
- 34% - Ave FY 05-11 Shares
- 27% - Road Miles (BIA and Tribal)
135 Tribal Governments working with FHWA

AK Consortiums
- Kawerak – 16 Tribes
- AVCP – 14 Tribes
- BBNA – 7 Tribes
- TCC – 3 Tribes
TTP Projects

Rivercrest Road, Catawba Indian Nation, Rock Hill, South Carolina

Before

Rivercrest Road, Catawba Indian Nation, Rock Hill, South Carolina

After
Oglala Sioux Tribe, Cheyenne River Bridge, Custer County, SD, SDDOT Partnership
Jamestown S’Klallam Tribe - WA

Old Blynn Highway reconstruction, pedestrian path and traffic calming project
Lummi Tribe, Washington, Haxton Way roundabout
FY16 Annual Report to Secretaries

- 98% of Tribes completed reporting
  - TTP Funds Received: $367,951,705
  - TTP Funds Expended: $267,805,986
    - Almost $35 million for maintenance
    - Jobs Retained: 1683
    - Jobs Created: 5702
    - 970 design/construction projects
    - Additional $264 million in other funds expended on projects.
Nationally Significant Federal Lands and Tribal Projects (NSFLTP) Program

- $300 million of available funding for construction, reconstruction or rehabilitation of transportation projects providing access to or located on federal or tribal lands

- Federal share of a project can be up to 90 percent

- Projects with estimated construction costs of $50 million or more given priority consideration for selection
  - Program will accept projects with estimated construction costs of at least $25 million

- Applications accepted on a rolling basis

- Federal lands management agencies and tribes can apply directly
  - States and local agencies may also apply, but only if sponsored by a federal land management agency or tribe.

- NOFO can be seen at https://flh.fhwa.dot.gov/programs/nsfltp/
What new mechanism is available to better enable funding partnerships for tribal transportation projects?
Section 202 (a)(9) Transfers

- MAP-21 Unambiguously Authorized Cooperation of States and Local Governments
    “The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.”

- Also Authorized BIA and FHWA to Transfer and Oversee Funds Received From States or Their Political Subdivisions
  - 23 U.S.C. § 202 (a)(9)(B) provides that:
    “any funds received from a State, county, or other local subdivisions shall be credited to appropriations available for the tribal transportation program.”
Funding Sources That May Be Eligible for a 202 (a)(9) Agreement

- **Overall - Federal-aid and other Funds**
  - Transportation Enhancement
  - Surface Transportation Program
  - Strategic Highway Research Program
  - Other discretionary funds from programs authorized under Title 23, or any other funds from a state, county, or other local subdivisions.

- **Otherwise consistent with the mission of BIA and FHWA.**
Projects Using 202(a)(9) Transfers

Cyclists use Olympic Discovery Trail through the Jamestown S’Klallam tribal government campus

Community outreach efforts to general public and schools conducted as part of the Karuk Tribe’s Orleans Community Center Connectivity Plan

Photo credits: Peninsula Daily News (left) and Orleans Community Center Connectivity Project Report (center and right)
## Projects Using 202(a)(9) Transfers

<table>
<thead>
<tr>
<th>Tribe</th>
<th>State</th>
<th>Project Name</th>
<th>Project Description</th>
<th>Transfer Amount</th>
<th>BIA/FHWA</th>
<th>Executed Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Native Village of Tanana</td>
<td>AK</td>
<td>Tanana Dust Control Mitigation</td>
<td>Dust Control on Village streets</td>
<td>$79,226</td>
<td>FHWA</td>
<td>4/17/2017</td>
</tr>
<tr>
<td>Craig Tribal Association</td>
<td>AK</td>
<td>Sidewalks in the City of Craig</td>
<td>Sidewalks for pedestrian safety</td>
<td>$464,144</td>
<td>FHWA</td>
<td>7/24/2017</td>
</tr>
<tr>
<td>Native Village of Barrow</td>
<td>AK</td>
<td>Barrow Arctic Research Center Road</td>
<td>Construct 0.75 mile segment</td>
<td>$2,482,868</td>
<td>BIA</td>
<td>6/9/2017</td>
</tr>
<tr>
<td>Village of Crooked Creek</td>
<td>AK</td>
<td>Connector Road to Donlin Mine Road</td>
<td>New road to connect Crooked Creek to gravel source and future Donlin Mine Rd.</td>
<td>$2,002,950</td>
<td>BIA</td>
<td>5/21/2018</td>
</tr>
<tr>
<td>Native Village of Eyak</td>
<td>AK</td>
<td>Shepard Point Oil Response Facility</td>
<td>Water dock for oil spill response and new 4.5 mile access road</td>
<td>$12,031,653</td>
<td>FHWA</td>
<td>4/24/2018</td>
</tr>
<tr>
<td>Karuk Tribe</td>
<td>CA</td>
<td>Orleans Community Center Connectivity Plan</td>
<td>Create walkable town core for Orleans residents and guests</td>
<td>$183,080</td>
<td>FHWA</td>
<td>3/15/2016</td>
</tr>
<tr>
<td>La Jolla Band of Luiseno Indians</td>
<td>CA</td>
<td>Multi-use Trails and Sidewalks</td>
<td>Complete a PS&amp;E for 10 miles of multi-use trails and sidewalks</td>
<td>$4,855,000</td>
<td>BIA</td>
<td>6/10/2016</td>
</tr>
</tbody>
</table>
## Projects Using 202(a)(9) Transfers (cont’d.)

<table>
<thead>
<tr>
<th>Tribe</th>
<th>State</th>
<th>Project Name</th>
<th>Project Description</th>
<th>Transfer Amount</th>
<th>BIA/FHWA</th>
<th>Executed Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cher-Ae Heights Indian Community of the Trinidad Rancheria</td>
<td>CA</td>
<td>Transportation Planning for Tribes Statewide</td>
<td>Identify opportunities for Tribes statewide to develop non-motorized transportation facilities</td>
<td>$318,595</td>
<td>FHWA</td>
<td>8/20/2018</td>
</tr>
<tr>
<td>Paskenta Band of Nomlaki Indians of California</td>
<td>CA</td>
<td>Transportation Planning for Climate Change Impacts</td>
<td>Identify transportation resources at risk from climate change, and identify resiliency strategies</td>
<td>$106,690</td>
<td>BIA</td>
<td>Pending</td>
</tr>
<tr>
<td>Leech Lake Band of Ojibwe</td>
<td>MN</td>
<td>Bena Trail - Phase 2</td>
<td>Pedestrian and bicycle trail as safe alternative to US Hwy. 2</td>
<td>$674,800</td>
<td>BIA</td>
<td>6/23/2016</td>
</tr>
<tr>
<td>Red Lake Band of Chippewa Indians</td>
<td>MN</td>
<td>Trunk Hwy. 1 Improvements, incl. Bridge Replacement</td>
<td>Replace bridge on Trunk Highway 1, and improve bridge approaches</td>
<td>$2,292,244</td>
<td>BIA</td>
<td>7/1/2016</td>
</tr>
<tr>
<td>Grand Portage Band of Chippewa</td>
<td>MN</td>
<td>Grand Portage Pier</td>
<td>Design and construction of pier for ferry boat use</td>
<td>$1,297,549</td>
<td>BIA</td>
<td>8/10/2018</td>
</tr>
</tbody>
</table>
## Projects Using 202(a)(9) Transfer (cont’d.)

<table>
<thead>
<tr>
<th>Tribe</th>
<th>State</th>
<th>Project Name</th>
<th>Project Description</th>
<th>Transfer Amount</th>
<th>BIA/FHWA</th>
<th>Executed Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seneca Nation</td>
<td>NY</td>
<td>Pedestrian/Bicycle Trail</td>
<td>Pedestrian and snowmobile trail</td>
<td>$486,206</td>
<td>FHWA</td>
<td>4/19/2017</td>
</tr>
<tr>
<td>Oglala Sioux Tribe</td>
<td>SD</td>
<td>Kyle Shared Use Pathway</td>
<td>Pathway connects housing area with services and transit</td>
<td>$400,000</td>
<td>FHWA</td>
<td>7/30/2018</td>
</tr>
<tr>
<td>Cheyenne River Sioux</td>
<td>SD</td>
<td>Shared Use Path in Eagle Butte, SD</td>
<td>New shared use path alongside roads for pedestrians &amp; bicycles</td>
<td>$395,671</td>
<td>BIA</td>
<td>5/9/2016</td>
</tr>
<tr>
<td>Jamestown S’Klallam Tribe of Indians</td>
<td>WA</td>
<td>Olympic Discovery Trail – Diamond Point Road West Segment</td>
<td>Pedestrian and bicycle paved trail as safe alternative to US 101</td>
<td>$153,528</td>
<td>FHWA</td>
<td>8/25/2015</td>
</tr>
<tr>
<td>Jamestown S’Klallam Tribe of Indians</td>
<td>WA</td>
<td>Olympic Discovery Trail – Michigan School Road Segment</td>
<td>Pedestrian and bicycle paved trail as safe alternative to US 101</td>
<td>$182,308</td>
<td>FHWA</td>
<td>6/13/2018</td>
</tr>
<tr>
<td>Quinault Indian Nation</td>
<td>WA</td>
<td>Restoration of Salmon Habitat on Upper Quinault River</td>
<td>Mitigate impacts to habitat from emergency road repairs</td>
<td>$430,000</td>
<td>FHWA</td>
<td>5/21/2018</td>
</tr>
</tbody>
</table>
## 202(a)(9) Transfers

### Summary by State

<table>
<thead>
<tr>
<th>State</th>
<th>Number of 202(a)(9) Projects</th>
<th>Funds Transferred to Tribes via 202(a)(9)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alaska</td>
<td>5</td>
<td>$17,060,841</td>
</tr>
<tr>
<td>California</td>
<td>4</td>
<td>$5,463,365</td>
</tr>
<tr>
<td>Minnesota</td>
<td>3</td>
<td>$4,264,593</td>
</tr>
<tr>
<td>New York</td>
<td>1</td>
<td>$486,206</td>
</tr>
<tr>
<td>South Dakota</td>
<td>2</td>
<td>$795,671</td>
</tr>
<tr>
<td>Washington</td>
<td>3</td>
<td>$765,836</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>18</strong></td>
<td><strong>$28,836,512</strong></td>
</tr>
</tbody>
</table>
BIA & FHWA Outreach

- Educating states and FHWA Division offices about the new law.
- Encouraging Tribes to identify opportunities and initiate conversations.
- 25 CFR § 170.627 requires an agreement among Tribe, State and BIA/FHWA describing source and use of funds. (An agreement template is available)
- Legal and technical assistance is available from FHWA.
What are the challenges/hurdles to greater cooperation and innovation in tribal transportation and how are we addressing them?
Challenges For Tribes, States & Local Governments

- Politics of tribal-state relationships sometimes interfere with finding effective solutions benefitting tribes, states, counties, other governments and the traveling public.

- Waiver of Sovereign Immunity

- States & local governments (including Tribes) are not familiar with mechanisms like 202(a)(9) transfer agreements.

- FHWA is learning too.
Moving Forward

- FHWA’s fiscal office, working in cooperation with its Office of Chief Counsel, has issued internal guidance for how to “move” funds under agreements using 23 USC 202(a)(9) to expedite the process for moving funds back to FHWA and on to tribes.

- U.S. DOT Tribal Consultation Plan
  - Develop, improve and maintain partnerships with Indian Tribes
  - Support the principles of self-government, self-determination and tribal sovereignty
  - Foster meaningful Government to Government relations
  - Improve existing programs
  - Provide timely technical assistance
  - Build transportation program administration capacity
State Department of Transportation Perspective

Marc Luiken

Alaska Department of Transportation & Public Facilities Commissioner
Alaska DOT&PF Tribal Government Partnership Initiatives

- Partnership-Building Institutions
- 23 U.S.C. 202(a)(9) Funds Transfer Procedures
- Airport M&O Contracts and Training
- Post-Award Conferences
Partnership-Building Institutions

- **Governor's Tribal Advisory Council (GTAC)**
  - Improve the relationship between the state and the 229 federally recognized tribes in Alaska. Ensure the state’s highest office has direct communication with tribes to meet the unique needs of Alaska’s first people.
  - GTAC is comprised of 11 council representatives, who represent Alaska's federally recognized tribes’ interests in important issues including a transportation representative.

- **Alaska DOT&PF Tribal Liaison**
  - Coordinates between Governor’s Office and the executive branch at Alaska DOT&PF;
  - Looks for opportunities to partner with Tribes regarding Alaska DOT&PF owned facilities, as well as improve transportation overall in rural Alaska;
  - Works with Federal Transportation Partners on implementing national programs in Alaska;
  - The liaison is a point of contact for Tribes, Native Corporations, and Tribal Organizations as well as Alaska DOT&PF staff.

GTAC Meeting
December 2016
(Governor and Lt. Governor at fore)
Partnership-Building Institutions

Benefits to Alaska DOT&PF and Tribal Communities

• Promote effective communication
• Help institutionalize and disseminate successful practices
• Facilitate more efficient delivery of projects
• Promote local engagement and economic development
MAP-21 set forth a new chapter for cooperation between Tribes and other government agencies regarding highway program delivery. Section 202(a)(9) of title 23, United States Code encourages cooperation between States and Tribes by allowing any funds received from a State, county, or local government to be credited to appropriations available for the Tribal Transportation Program (TTP). A Tribe would receive the transferred funds in the same manner that it receives its TTP funds and administer the project with oversight by either BIA or FHWA.

Benefits to Alaska DOT&PF
• Improved or accelerated project delivery when a tribe delivers a federal project in their community (not on State ROW) that they are better positioned to administer, particularly in remote locations.

Benefits to Tribal Communities
• Doesn’t require a waiver of sovereign immunity.
• Facilitates pursuit of local priority projects (safety, economic development, etc.).
23 U.S.C. 202(a)(9) Funds Transfer Eligibility

- Community Transportation Program Grants
- Transportation Alternatives Program Grants
- Legislative appropriates special projects added to STIP

- Not eligible
  - Existing Infrastructure Transfers
  - State Planning and Research Funds
  - State match funding due to state constitution
Pilot Point Runway Extension

- Pilot Point Tribal Council is building a new seafood processing plant in Pilot Point and wants the runway at the DOT&PF owned airport extended from 3,820’ to 5,000’ to accommodate fresh salmon shipping by air cargo with Herc L-100 aircraft.
- The Tribal Council proposes to use Community Development Quota (CDQ) funds to pay for the runway extension.
- DOT&PF engineers will develop an engineering cost estimate, Pilot Point Tribal Council will provide funding, and DOTP&F will deliver the project. Construction is scheduled to begin next summer.
Flying into Kiana

Photo credit:
Betsy Hess,
Alaska DOT&PF
Airport Maintenance and Operations Contracts and Training

- Tribes can enter into maintenance and operations contracts with DOT&PF for local rural airports
  - Contracts are 1 year and can be renewed (timeline is contract specific)

- Duties include:
  - Snow plowing
  - Runway inspection
  - Equipment checks prior to each use

- DOT&PF provides business assistance for completing Invitation for Quotes
Airport Partnerships

Benefits to Alaska DOT&PF

• Quality maintenance and operations of state airports in rural locations lacking Alaska DOT&PF staff.

Benefits to Tribal Communities

• Jobs and training for rural communities.

Photo credits: Betsy Hess, Alaska DOT&PF (left) and Alaska DOT&PF (right)
Alaska DOT&PF Faces Unique Challenges
Examples of Airport Partnerships

- Old Harbor
- Port Lions
- Klawock
Post-Award Conferences

- **Goal:** to increase rural employment and economic opportunities on airport and highway projects

- Successful contractor holds conference in the community where the construction project (airport or highway) will take place to inform local workers what jobs and business opportunities will be available and allow them to connect with staff regarding training and requirements

- Post-Award Conferences are required for all projects greater than $5M in rural communities

**Benefits to Alaska DOT&PF**

- Helps generate local trust and support by communicating the timeline for construction, impacts, and potential jobs available during the construction season(s) with the contractor.

**Benefits to Tribal Communities**

- Connects local residents to potential employment, training, and business opportunities.
Tribal Communities Perspective

Clarence Daniel
Transportation Director
Association of Village Council Presidents
Tribes in Alaska

- Alaska is home to 229 federally recognized tribes

Source: US Census Bureau (2010)
Survey conducted at the Alaska Federation of Natives in 2017:

What is the #1 Transportation Issue Facing Your Village/Region?

Kongiganak Village Boardwalk. Transportation in Bush Alaska can be very challenging, no matter the vehicle type accommodated.
Road to Tanana

- Opened in 2016, it is the first road to connect a community to the state system in more than 20 years.

- Community partnership
  - City and tribe passed resolutions in support of the road after two years of community discussion
  - Alaska DOT&PF designers came to the village several times to meet the community
  - Community picked the route

- Benefits to community
  - Improved personal mobility
  - Lowers cost of freight/ cost of living
  - Opportunities for economic growth

Photo credits: Betsy Hess, Alaska DOT&PF (above), AASHTO TV (below)
Relationship between Tribes and State DOT

- In the past...
  - Limited tribal input on State plans
  - Few working relationships with DOT executive staff
  - Outreach and tribal involvement limited to what was required for NEPA process
  - No collaboration

- Impact of partnership initiatives...
  - Execution of 202(a)(9) funding transfers to Tribes
  - Authorization for Tribes to add DOT&PF facilities into National Tribal Transportation Facility Inventory (NTTFI) database
  - Alaska DOT&PF met with FHWA, BIA and Federal Land Highways on 25CFR170 proposed road regulations
  - Increased outreach on transportation plan updates
  - More Post-Award Conferences
  - DBE training and outreach through the Civil Rights Office offers apprenticeship, resources, in-person training, and reimbursement programs for individuals and companies

Muskox on the Council Road in Nome.
Photo credit: Dennis Bishop, Alaska DOT&PF
Adding Infrastructure to National Tribal Transportation Facility Inventory (NTTFI)

- Alaska DOT&PF authorized Tribes to add DOT&PF facilities into NTTFI database
  - Impacts Tribal transportation funding allocations
  - Facilitates future partnering on projects that benefit rural communities
Airports

- Airport maintenance and operations contracts and training
- GTAC recently assisted with outreach regarding rural airport safety
  - Raising awareness of vandalism that is impacting emergency services in remote communities
  - Working with air taxis and other aviation stakeholder groups to develop materials on flight and runway safety issues
  - Developing an updated version to an FAA coloring book to help young children understand the importance of their village airport and learn safe practices

Questions and Answers

Anna Bosin

BATIC Institute: An AASHTO Center for Excellence
Discussion

Brian Allen
Program Delivery Manager, Federal Lands Highway Office of Tribal Transportation

Marc Luiken
Commissioner, Alaska Department of Transportation & Public Facilities

Clarence Daniel
Transportation Director, Association of Village Council Presidents
Other Resources

- AASHTO TV - The Road to Tanana, Alaska: Proving that Rural Connections Improve Lives
  - https://www.youtube.com/watch?v=CBRBtH1iMaM

- Tribal Transportation Program Delivery Guide - 2018

- Tribal Shares and Planning Funds under the FAST Act

- Tribal Planning Resources
  - https://www.planning.dot.gov/focus_tribal.asp

- Introduction to the Essentials of Innovative Finance for Tribal and Local Governments
  - https://connectdot.connectsolutions.com/p0badz9pv6kz/?proto=true

- FHWA Center for Local Aid and Support, Tribal Technical Assistance Program
  - https://www.fhwa.dot.gov/innovativeprograms/centers/local_aid/ttap/

- FHWA TTAP Webinar
Thank you for attending today’s webinar

The BATIC Institute will post responses to all questions received today on its website.

The recorded webinar will also be available on the BATIC Institute website:

www.financingtransportation.org

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Advance Construction Best Practices
Research Report
February 2019

Maintenance of Effort Test Best Practices
Research Report
February 2019

Technical Workshop for Congressional Staff
Washington, DC
March 2019