

Jody Clark
Committee Chair
90 Ohi:yo' Way
Salamanca, NY 14779
jody.clark@sni.org

Tribal Transportation Program Coordinating Committee

Christy Van Buren
Committee Secretary
220 PoPay Avenue
Ohkay Owingeh, NM 87566
(505) 852-4400

September 13, 2018

The Honorable Tara Sweeney
Assistant Secretary – Indian Affairs
U.S. Department of the Interior
1849 C Street, N.W.
Washington, D.C. 20240

The Honorable Brandye Hendrickson
Deputy Administrator
Federal Highway Administration
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

Mr. Timothy Hess
Associate Administrator
Federal Lands Highway
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

RE: Tribal Transportation Program Coordinating Committee (TTPCC) FY 2018
Annual Report and Recommendations

Dear Assistant Secretary Sweeney, Deputy Administrator Hendrickson and Associate
Administrator Hess:

On behalf of our respective Indian Tribes, Nations, Communities and Villages, we, the Tribal representatives to the Tribal Transportation Program Coordinating Committee (TTPCC), express our appreciation to the Administration for continuing the annual meeting between Committee's Tribal representatives and senior Administration officials of the Bureau of Indian Affairs (BIA) and Federal Highway Administration (FHWA) regarding the transportation accomplishments and challenges faced by the Nation's Tribes. The Committee provides input and recommendations to FHWA and BIA concerning Tribal transportation infrastructure needs. As is our custom, we provide a report to you regarding on-going transportation and highway safety issues important to our respective Tribal governments in the twelve BIA Regions.

We congratulate and welcome Ms. Sweeney and look forward to sharing Tribal successes and challenges in the transportation arena as you undertake your duties as Assistant Secretary-Indian Affairs. We welcome the addition of your voice to the aspirations of all Tribal Nations.

The below list highlights the Coordinating Committee's accomplishments and areas of concern over the past year. The Committee encourages the Departments to provide on-going leadership to inspire FHWA and BIA personnel to work collaboratively and closely with Tribal governments to improve safety and build Tribal capacity on every Indian reservation, sovereign territory, and in every Alaska Native village. Despite all our best efforts, motor vehicle and pedestrian fatalities remain unacceptably high among American Indians and Alaska Natives (AIANs), especially among our youth. We are committed to remove transportation barriers that hinder economic growth and greater entrepreneurial activities. Infrastructure is a foundational element of community stability, especially in remote, rural areas. The future of our communities depends on our present ability to build and maintain infrastructure, including safe roads and bridges, transit systems, water and wastewater facilities, schools, health facilities, and expand broadband to provide safe and prosperous Tribal communities where our citizens can thrive.

Although we proudly serve as members of the Committee, we are also elected Tribal officials, Tribal transportation program directors, planners and administrators. Over the course of our decades-long careers, we have witnessed the transformation of our Tribal governments which have grown in capacity and capability to successfully administer Federal programs and services for Tribal citizens through the miracle of the Indian Self-Determination and Education Assistance Act (ISDEAA), Pub. L. 93-638. Tribal Nations no longer wait for the Federal government to deliver programs and services to our citizens. Tribes stand in the shoes of the Federal government. In recent years, Tribes have leveraged their TTP "Tribal shares" nearly dollar for dollar with other funds (Tribal, State, other Federal grants) to expand transportation, transit and safety activities. This is a testament to Tribal capability, ingenuity and management skills. The ISDEAA is a proven success story, and with enactment of the FAST Act, the Tribal Transportation Self-Governance Program will now extend to the Department of Transportation and its modal administrations. While we focus on transportation safety, we are committed to the continued empowerment of our Tribal Nations.

We highlight in our annual report a number of issues and accomplishments, including the following:

1. Tribal Technical Assistance Program (TTAP)

For the second year, we begin our annual report with the Tribal Technical Assistance Program (TTAP) Pilot Project, the two-year pilot awarded by FHWA's Office of Innovative and Program Delivery (OIPD) to the University of Virginia, Center for Transportation Studies. The function of Tribal Technical Assistance Centers is to assist Tribal governments build their technical capabilities by providing greater access to transportation technology, training, and research opportunities. We appreciate Deputy Administrator Hendrickson's consent to convene a separate meeting today concerning this topic in response to our most recent letter of June 3, 2018.

In prior correspondence, we have documented our deep concerns with the process by which FHWA's OIPD developed and is implementing the Pilot Project. In recent memory, no other issue has so dominated the Committee's agenda. It is raised at all our meetings, Tribal meetings of the Federal Lands Highway and regional Tribal organizations such as United South and Eastern Tribes (USET), Affiliated Tribes of Northwest Indians (ATNI), Rocky Mountain Tribal Transportation Planners Association (RMTTPA), Great Plains Tribal Chairman's Association (GPTCA), Oklahoma Tribal Transportation Council (OTTC), BIA Regional Roads Meetings, Intertribal Transportation Association (ITA), the New Mexico Tribal Planners Roundtable (NMTPR), and Alaska Tribal Transportation Work Group (ATTWG). Unless changes are implemented by OIPD to the TTAP Pilot Project soon, the formulation and implementation of the Pilot Project will be a permanent blemish on FHWA's otherwise good reputation. The implementation of the TTAP Pilot Project is so troubling because it represents the opposite of what true government-to-government relations between Tribes and the Federal government should be.

The Committee's frustration arises out of the simple fact that OIPD has effectively marginalized and diminished the Committee's input and recommendations to improve the TTAP Pilot Project. Prior to the TTAP Pilot Project, the former TTAPs worked with Tribes in

partnership to enhance their training programs, recognizing that Tribal Nations are the ultimate beneficiaries of the TTAP services. The former TTAPs, which operated under the oversight of FHWA's National Highway Institute (NHI), assisted Tribes by educating State departments of transportation and regional planning organizations that Tribes were transportation stakeholders. The TTAPs helped State DOTs better coordinate and consult with Tribes to ensure that Tribal transportation projects were listed in Statewide Transportation Improvement Programs (STIP). OIPD does not operate with such a mindset to the detriment of the Tribal Nations.

- OIPD promised a flexible and dynamic Pilot Project that could be modified. OIPD has been inflexible, ignored valid criticism, and rigidly adhered to its vision for the Project.
- OIPD has not engaged in meaningful consultation with the Committee regarding the Pilot, resulting in ill-timed trainings (during summer Pow Wows, fishing season), questionable locations with unacceptable accommodations (no bathrooms or wifi), and poor attendance.
- OIPD ignores reasonable recommendations by the Committee to improve the Pilot Project.
- UVA training sessions are delivered from a limited FHWA perspective and are not geared toward Tribes.
- UVA trainers lack "cultural competence" to train Tribal attendees effectively.
- OIPD does not respond to Committee letters.

It is our hope that today's discussion will involve a serious and sincere evaluation by OIPD of its administration of the Pilot Project, not a pep rally for it. Meaningful consultation means FHWA and Tribes work collaboratively on how best to improve the TTAP for the benefit of Tribes. It does not mean that FHWA makes unilateral decisions for the program and then brief Tribes on what it has decided without Tribal input or dialogue.

OIPD should examine its dealings with the Committee and other Tribal officials making constructive criticism of the Pilot Project and demonstrate the capacity to adapt the Pilot Project to Tribal needs and concerns. We ask that senior FHWA officials thoroughly review the Pilot Project to determine if needed changes are being made as the Committee has requested. The

Committee also asks that FHWA communicate and engage the Committee to jointly develop the metrics FHWA will use to establish a permanent TTAP as the Pilot Project enter its second and final year. Unless significant changes are made by OIPD to the TTAP Pilot Project, the Committee will ask FHWA to consider another administrator for the Program.

2. Quality Assurance/Quality Control Team (QA/QC)

Soon after the Committee was established in 2006, the Committee saw the importance of establishing a team of Tribal, FHWA, and BIA officials to evaluate Tribal road inventories to create uniform standards for Tribes to update Tribal Transportation Facilities for inclusion in National inventory. This was the genesis of the Quality Assurance/Quality Control Team (QA/QC). From 2005-2012, prior to enactment of MAP-21, the need for uniform criteria was driven by the fact that the Indian Reservation Roads (IRR) Program inventory of eligible routes was growing rapidly. That changed with enactment of MAP-21, when Congress altered the regulatory formula for the IRR, now Tribal Transportation Program (TTP). Nonetheless, the need for uniform minimum standards to apply across all BIA Regions, concerning what Tribes must submit to add facilities in the National Tribal Transportation Facility Inventory (NTTFI), remains. After years of effort by the Committee, the QA/QC Team was recently established. It has met three times this year.

At our recent meeting in Rapid City, the Committee determined that it would be best for it to develop a charter and protocols for the QA/QC Team to establish clear lines of authority for how the QA/QC Team will interact with the Committee and conduct its work.

3. GIS Pilot Project

The Committee is excited about the prospect of moving the Tribal Transportation Program into the 21st Century with an established and proven technology and innovation that will benefit Tribal planners and Tribal government officials, engineers and architects. Currently, Tribal road inventories are maintained using an antiquated Oracle database. The Geographic Information System (GIS) Pilot Project, overseen by the National Tribal Geographic Information Support Center (aka Tribal GIS), has taken data bases from nine Tribes and developed an attribute table compatible with the NTTFI using GIS technology. This replaces the Oracle

database. The GIS Pilot Project is now complete. Roll-out training sessions will begin in November 2018, and will continue throughout 2019 provided by the National Tribal GIS Workgroup.

The Committee has identified as a priority for the Committee to help Tribes better understand and use the GIS software to similarly transition their Oracle database of road inventory to the new GIS system. Modernizing the NTTFI database will allow Tribes to better manage, improve, reconstruct and maintain their road inventory. This will save lives and save money.

4. 5704 Inventory Form

The August 2017 (Report #17-423) GAO report recommended that BIA revise certain content of the Road Inventory Field Data System (RIFDS) in light of statutory changes by Congress to the funding formula for the Tribal Transportation Program. The relevant inventory form, Form 5704, included fields that were relevant for the regulatory funding formula included in the Part 170 regulations for the then-IRR Program that are now obsolete. The Committee is working with BIA and FHWA to revise the attribute table in light of current Federal law, changing BIA functional classifications to align with FHWA functional classifications to promote uniformity and consistency within the Tribal Transportation Program. The Committee hopes to complete the overhaul of Form 5704 and to help educate Tribes on the revised format and attribute table.

5. BIA/FHWA Organizational Documents

Among the organizational documents that contain the agreement between the BIA and FHWA concerning their joint administration of the Tribal Transportation Program are the National Business Strategy, FHWA Operations Manual, Memorandum of Understanding (MOU) and Communications Plan. These documents have been updated to conform to the most current surface transportation measure. The Committee has assisted the agencies by providing input into the FHWA's revised Communications Plan and MOU. While these organizational

documents primarily concern how the agencies interact with each other, or their internal procedures and processes, they impact Tribes and warrant the Committee's input. This work is ongoing.

**6. Tribal Transportation Program (TTP) Transit and
Other Modal Administrations within DOT**

The allowable uses of Tribal Transportation Program (TTP) funds distributed to Tribes by FHWA and BIA are quite broad and include transit facilities and activities, whether publicly or privately owned, that serve Indian reservations and other communities or that provide access to or are located within an Indian reservation or community. See 25 CFR 170.131-134. Transit projects using Tribal Transportation Program funds must be included in the FHWA-approved TTP Transportation Improvement Program (TTPTIP). Many Tribes are recognizing the benefits to their communities of supplementing recurring Federal Transit Administration (FTA) Tribal Transit Program awards and competitive discretionary grants, received under 49 USC 5311(c), with "Tribal shares" of Tribal Transportation Program funds. Transit systems help link communities to places of work, businesses, colleges, health facilities and create job opportunities for Tribal citizens that might not otherwise be available to them.

The Committee encourages FHWA to continue to invite FTA officials to attend Committee meetings who oversee the 5311 program, Welfare-to-Work, transportation and community and system preservation, Federal transit capital improvement grants, public transportation for non-urbanized areas, capital assistance for elderly and disabilities transportation, education, and Even Start programs. This will help Tribes develop more comprehensive approaches to building transportation infrastructure in their communities.

FHWA may also consider reaching out to other modal administrations within the Department, including National Highway Traffic Safety Administration (NHTSA), Federal Aviation Administration (FAA), and Federal Railroad Administration (FRA), to attend Committee meetings to make presentations so that Tribal Committee members may become more familiar with the various programs and activities of the Department's modal

administrations to complement Tribal transportation programs and services. Tribal transportation infrastructure needs are great and information concerning other grant programs that can enhance Tribal community infrastructure will help educate Committee members who in turn share the information with Tribes in their Regions.

7. NATIVE Act

Congress enacted the Native American Tourism and Improving Visitor Experience (NATIVE) Act in September 2016. The NATIVE Act requires Federal agencies with tourism resources and duties to coordinate with Tribal entities in strategic planning. These resources assist Tribal Nations build recreational and cultural travel and tourism infrastructure capacity, and create local jobs by increasing economic development in Tribal communities. Recent increases by Congress to the BIA Road Maintenance Program (TPA), within the Interior, Environment and Related Agencies appropriation, have set aside \$1 million to be allocated among Tribes for tourism activities, including Native directional signs and tourism infrastructure.

The Committee is encouraged by the recognition by Congress of the important role tourism is playing in Tribal communities. The Committee asks the BIA to share with it information regarding how Federal appropriations directed to eligible activities under the NATIVE Act are being shared and used by Tribal Nations. We welcome presentations by Department officials working on increasing Native tourism and building Tribal capacity in this growing sector of the economy. Whether Tribes receive NATIVE Act funds or not, sharing information and “best practices” with the Committee will permit us to disseminate the information to other Tribal Nations to increase their economic development opportunities and enhance their cultural programs.

8. The Committee’s Growing Outreach Abilities

Communication is the root of success for any organization. One of the most important developments this past year has been the access granted to our Committee to the Office of

Management & Budget (OMB) Max sharing website. This portal has provided the Committee with the means of enhanced data sharing and has provided the Regional Representatives the capability of being more accountable for reporting and distributing information to our constituents.

The Committee held a total of five (5) meetings in FY 2018 with some of the highest recorded attendance of our constituents at these meetings. It will be a continued goal of the Committee to increase attendance in future years.

FHWA coordinated a number of grant presentations at the Committee meetings detailing important funding opportunities for our Tribes. This information has been extremely helpful and the material of each presentation, including subsequent discussion notes, have been documented in detail by our Committee Secretary and distributed to our constituents.

A website is being developed by the TTPCC Committee and is near completion. The website will additionally allow the TTPCC Membership to keep constituents and Federal Agencies informed about Committee activities.

9. Support USDOT's Tribal Transportation Self-Governance Negotiated Rulemaking Committee

We conclude our annual report with our strongest endorsement of the necessity for the Department of Transportation to reconvene, consult, and work closely with the Tribal members of the Department's Tribal Transportation Self-Governance Program (TTSGP) Negotiated Rulemaking Committee. The Committee fully supports the Tribal Committee members' requirements for reconvening three meetings of the Committee in 2018 and 2019 to draft the proposed rule, including the use of Federal Mediation and Conciliation Service (FMCS) facilitators to help the Committee develop the draft rule.

Earlier this year, the Department of Transportation did not follow the mandate for consensus rulemaking set out in Section 1121 of the FAST Act, enacted in 2015, which extends

the TTSGP to the Department of Transportation and its modal administrations. As a result, the Tribal Committee members suspended their participation in June and reported this information to their respective Tribes and Regions. Tribal leaders then sought and secured from Congress a year's extension of the time frame for the Department to issue a proposed and final rule for the Program. There was strong bipartisan support for the extension measure, H.R. 6414. Members of Congress made clear that the Department was to undertake the rulemaking in close collaboration with the Tribal Committee members as Congress intended and to honor the government-to-government relationship Tribal leaders have devoted their lives to advance.

The extension of the Tribal Transportation Self-Governance Program to the Department and its modal administrations holds great promise to further streamline the delivery of Federal transportation programs which Tribes may include in compacts and funding agreements. Using a single award instrument, that reduces unnecessary regulations, and channels multiple DOT modal administration awards (e.g., Tribal Transportation Program "Tribal shares," TTP safety and bridge grants, FTA Tribal Transit Program formula funds, FAA Airport Improvement Program funds, NHTSA safety grants, etc.) into one agreement will reduce Tribal administrative costs. This will permit Tribes to direct more resources and energy into building Tribal transportation capacity to successfully carry out transportation construction projects, transit programs, and safety improvement projects our Tribal communities need.



Jody Clark, Chairperson



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