

Tribal Transportation Program Reviews

Purpose and Overview



U.S. Department
of Transportation

**Federal Highway
Administration**

20th Annual National Tribal
Transportation Conference
Tucson, AZ
September 28, 2017

AGENDA

- **Background**
- **Trends**
- **Approach**
- **Areas Reviewed**
- **Reports**
- **Questions or Suggestions**

BACKGROUND

Background

- 25 CFR Part 170.703:
 - *(a) In accordance with title 23, the national business plan, 2 CFR part 200, and the Program Agreement or other appropriate agreements, BIADOT and FHWA shall conduct formal program reviews of BIA Regional Offices or Tribes to examine program procedures and identify improvements. ...*
 - *(b) The review will provide recommendations to improve the program, processes and controls of management, planning, design, construction, financial and administration activities.*
- Article V, Section 7 of FHWA TTP Program Agreement:
 - **Program Review.** *The Tribe agrees to allow FHWA officials or their designees/representatives to perform an annual review of the Tribe's TTP. The review is intended to allow FHWA to carry out its oversight and stewardship responsibilities for the TTP assumed by the Tribe under this Agreement.*

Background

- FHWA and BIA have been conducting TTP Program Reviews since 2009
- In 2015, FHWA issued a Request For Proposals and a panel of FLH and BIA staff selected a Contractor to conduct TTP Program Reviews

Background

- The DMP Group, LLC is the current contractor conducting the Program Reviews:
 - Over 20 years of experience conducting reviews and training and providing Technical Assistance to US DOT grantees
 - Over seven years of experience working with Tribal Nations
 - Developed and refined TTP Guidance for Federal Transit Administration
 - Conducted site visits of 50+ Tribal Nations
 - Developed and refined TTP Review Process for FHWA and BIA

Background

- Program Reviews are managed by the FLH Program Administration Team to ensure a consistent approach for all TTP recipients regardless of delivery method:
 - TTP Program Agreements (FHWA, BIA G2G)
 - BIA 638 Contracts
 - BIA Direct Services
 - Office of Self-Governance (OSG) Agreements

Background

- Program Review guidance developed early in 2016 and revised for FY 2018, with input from FLH Program Administration and Program Delivery teams and BIA Road Engineers
- Pilot Program Reviews began in May 2016
- Ten Pilot Program Reviews conducted to date
- Three TTP Workshops
 - 2016 NTTC
 - FHWA Eastern Region
 - Navajo DOT

TRENDS

Pilot Program Reviews

- Ten Reviews Conducted
 - Four FHWA Program Agreement Tribes
 - Three BIA G2G Tribes
 - One OSG Tribe
 - Two BIA Regional Offices
 - Reviewed TTP Administration and Oversight

Trends

- Observations were overwhelmingly positive
- Sharing of technical assistance was appreciated
- A total of 28 determinations and corrective actions were made with the following top three areas:
 - Construction and Construction Monitoring (30%)
 - Planning (22%)
 - Program Management (19%)

Most Frequent Determinations

- **Construction and Construction Monitoring:**
 - *Tribe did not properly close out each construction project and prepared and disseminated a closeout report.*
 - *Tribe did not have a Letter of Acceptance for each of its construction projects.*

Most Frequent Determinations

- **Planning**

- *Tribe did not involve the public in the development of Tribe's TTIP*

- **Program Management**

- *Tribe did not submit its Progress Reports, Federal Financial Reports, or a copy of its annual Single Audit, or Audit findings were not closed timely.*

Most Frequent Recommendations

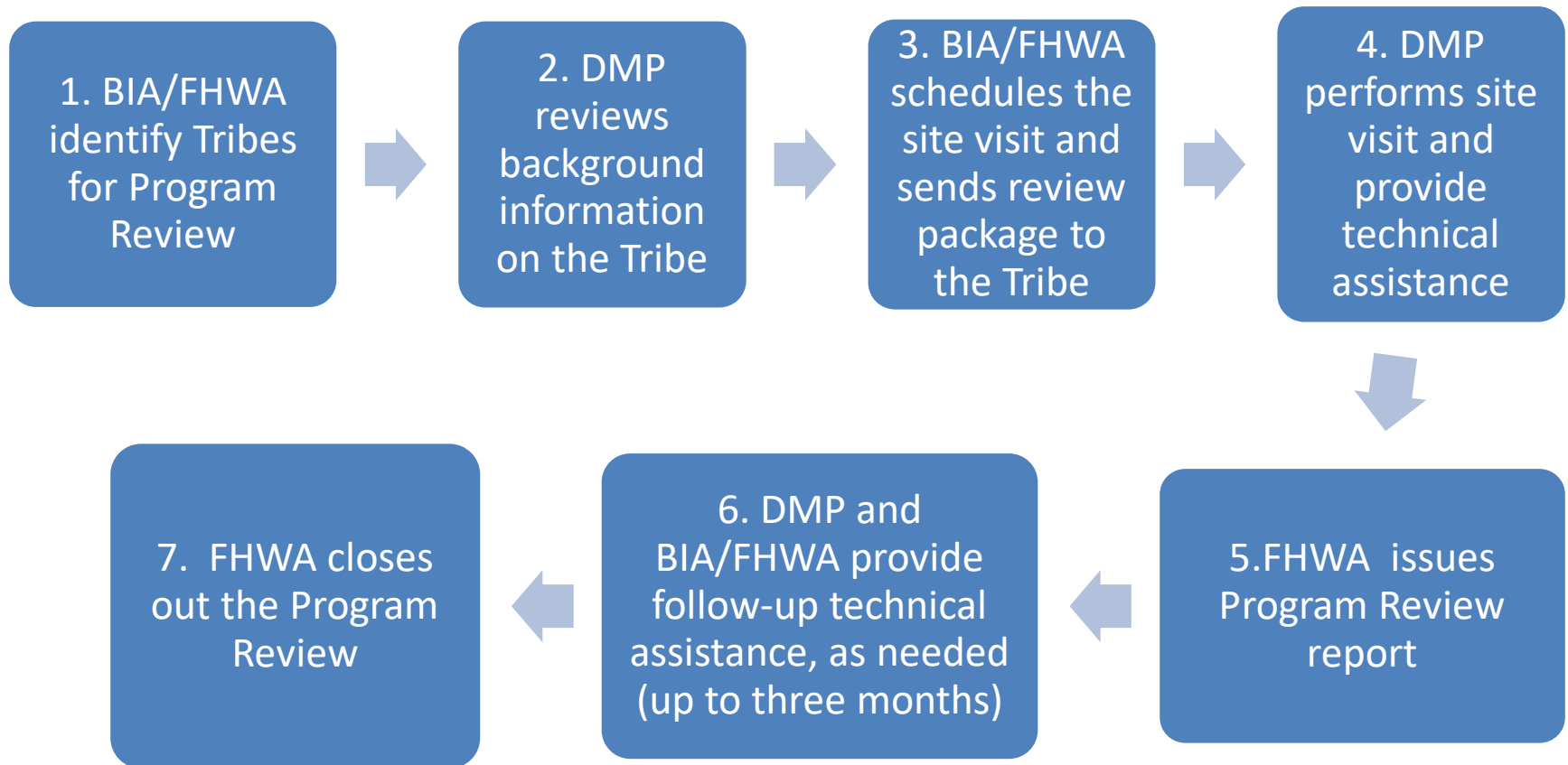
- Generally related to developing written standard operating procedures (SOPs) to help implement and standardize policies and procedures. Further, there were common recommendations in the following review areas:
 - Financial Management –Implement procedures to track revenues and expenses by project-level, using unique project codes, which would improve financial reporting of projects and develop procedures to consistently track and develop corrective action plans for Single Audit findings.

Recommendations (cont.)

- Procurement –Update written procurement policies and procedures to reference and fully incorporate the new uniform guidance, 2 CFR Part 200, issued in December 2014.
- Maintenance –Ensure that cost analyses for the purchase of maintenance equipment is documented and submitted with request for approval of equipment purchases.

APPROACH

Typical Program Review Approach



AREAS REVIEWED

Program Management

Basic Requirement: The Tribe must be able to implement TTP projects in accordance with the Program Agreements, Referenced Funding Agreements and all applicable laws and regulations using sound management practice.

Tribes must also track and report on the progress of TTP projects.

References:

- Tribal Transportation Program Delivery Guide: Chapters III. Tribal Transportation Program Agreements, and IV. TTP Reporting Requirements
- FHWA or BIA Program Agreement
- Referenced Funding Agreement (RFA)

Program Management (cont.)

Documents Requested from BIA or FHWA:

- Tribal Authorizing Resolution
- Program Agreements and RFAs
- Semi-Annual progress and financial reports
- Annual single audit reports
- NTTFI updates

Documents Requested from Tribe:

- List of active and completed TTP-funded projects over the last three years
- Organization chart for Tribal government
- Organization chart for TTP staff

Program Management (cont.)

Topics for BIA or FHWA:

- Timeliness and quality of progress and financial reports
- Single audit submissions
- Repeat or outstanding audit findings
- Status of GAO, OIG, or other reviews

Topics for the Tribe:

- TTP roles and responsibilities
- Documentation of TTP activities
- Use of Tribal employees as work force
- Updates to NTTFI

Financial Management

Basic Requirement: The Tribe must demonstrate the ability to manage FHWA TTP grants, expend FHWA TTP grant funds on eligible activities, and conduct annual audits in accordance with OMB Circular A-133, or 2 CFR 200 for grants awarded after December 26, 2014.

References:

- 2 CFR Parts 200 and 1201
- 2 CFR Part 225
- 25 CFR Part 170.111 – 170.113

Financial Management (cont.)

Documents Requested from BIA or FHWA:

- Single audits for past three years
- GAO or OIG Audits related to TTP for the last three years

Documents Requested from the Tribe :

- Administrative, Operating and Capital Budgets for the last three years
- Budget vs Actual reports for the last three years
- Negotiated Indirect Cost Rate Approval (NICRA) for the last three years
- Supporting documentation for selected invoices (identified during the site visit)

Financial Management (cont.)

Topics for the Tribe:

- Financial management system
- Use of TTP funds
- Administrative, capital and operating budgets
- Tracking TTP expenditures
- Charging indirect costs to TTP program
- Closing out TTP projects in financial system

Procurement

Basic Requirement: Tribes shall have established procurement management standards which shall provide for full and open competition for all major procurements in accordance with 25 CFR 900, Subpart F, and 2 CFR 200.318-326

References:

- 23 USC Section 202
- 25 CFR Part 170.606
- 2 CFR Part 200.318 -200.326
- Tribal Transportation Program Delivery Guide, Chapter X.

Procurement (cont.)

Documents Requested from BIA or FHWA:

- Procurement protests or complaints
- Written procurement policies and procedures

Procurement (cont.)

Documents Requested from Tribe:

- List of TTP-funded procurements for the last three years
- Copies of contracts and/or task orders with consultants, if any, working on TTP-funded projects (to be identified during the site visit)
- Letter(s) certifying that the public had an opportunity to review PS&Es, for projects involving state or local government roads, before soliciting bids
- Procurement files for selected procurements (to be identified during the site visit)

Procurement (cont.)

Topics for BIA and FHWA:

- Tribal procurement procedures
- Procurement related complaints, claims or lawsuits

Topics for the Tribe:

- Indian and Tribal preference
- Contract award and administration
- Public authority review and comment on PS&E package, prior to issuing solicitation, for TTP projects on roads owned by others, such as local or state governments

Procurement (cont.)

Topics for the Tribe (cont.):

- Written standards of conduct
- Avoiding unnecessary purchases and ensuring reasonableness of price
- Cost or price analysis for procurements over \$150,000
- Contractor responsibility determinations
- Contractor's eligibility
- Procurement records
- Procurement related complaints, claims or lawsuits

Planning

Basic Requirement: Tribes must adequately plan for the transportation needs of the Tribe and develop short-range and long-range transportation improvement strategies that will address current and future transportation needs of the Tribe consistent with Tribal, Federal, and State government policies.

References:

- 25 CFR Part 170.106 to 170.111, and 170.400 to 170.451
- Tribal Transportation Program Delivery Guide: Chapter VI. Transportation Planning

Planning (cont.)

Documents Requested from BIA or FHWA:

- Current Long Range Transportation Plan (LRTP)
- Tribal Transportation Improvement Program (TTIP) for the past three years

Documents Requested from the Tribe:

- List of active and completed planning projects for the last three years
- Tribal priority list, if applicable
- Documentation of public participation for the TTIP and LRTP

Planning (cont.)

Topics for BIA or FHWA:

- LRTP submission
- Tribal priority list
- Approved TTIPS

Topics for the Tribe:

- LRTP and TTIP
- Public involvement
- Public notice
- LRTP review and updates
- Public hearing, if needed for TTIP

Project Development

Basic Requirement: The Tribe must use appropriate design standards that meet or exceed federal standards, ensure environmental compliance, and certify right of way, if applicable, prior to construction.

References

- 25 CFR Part 170.454 to 170.463
- Tribal Transportation Program Delivery Guide: Chapter VII, Chapter VIII and Chapter IX
- National Environmental Policy Act of 1969 (NEPA)

Project Development (cont.)

Documents requested from BIA or FHWA:

- List of any design deficiencies during past three years
- Approval of design exceptions

Documents requested from the Tribe:

- Written policies and procedures for the design process, if available
- NEPA related analyses and approvals for the past three years
- PS&E Certifications for specific projects (to be identified during the site visit)

Project Development (cont.)

Topics for BIA or FHWA:

- Preparation and submission of PS&E packages
- Design deficiencies
- NEPA reviews

Topics for the Tribe:

- Current and planned TTP projects
- Design policies and procedures
- Design standards
- PS&E certification by licensed professional engineer

Project Development (cont.)

Topics for the Tribe (cont.):

- Review of design milestones
- Project Agreements
- Submission of final project package
- Environmental review and approval
- Environmental permits
- Right-of-way acquisitions
- Coordination with utilities

Construction and Construction Monitoring

Basic Requirement: The Tribe must ensure that the project is constructed according to the plans, specifications, and estimates (PS&E).

References:

- 25 CFR Part 170.470 to 170.474
- Tribal Transportation Program Delivery Guide: Chapter XI. Construction and Construction Engineering

Construction (cont.)

Documents Requested from BIA or FHWA:

- Construction Project Review Reports
- Closeout Reports

Documents Requested from the Tribe:

- List of active and completed construction projects
- List of projects using tribal work force
- Written construction management procedures, if available
- Documentation of pre-construction conferences
- Letters of Acceptance to close out completed project
- Project files to include daily logs, project meeting minutes, and Closeout Reports (to be identified during the site visit)

Construction (cont.)

Topics for BIA or FHWA:

- Construction Project Reviews
- Final inspection
- Conformance with PS&E
- Project closeouts

Topics for the Tribe:

- Use of Tribal work force
 - Equipment leased or purchased
- Tribal procedures for construction management
- Pre-construction meetings
- Documenting construction activities

Construction (cont.)

Topics for the Tribe (cont.):

- Staff authorized to make or authenticate log entries
- Before, during or after photographs
- Project filing system
- Project level inspections (work site safety, worker safety, work zone traffic control, materials, quantity, erosion control, QA/QC, project schedule, etc.)
- Review and approval of progress payments
- Contract modifications or change orders
- Weekly or monthly progress meetings
- Final inspections

Construction (cont.)

Topics for the Tribe (cont.):

- As-built drawings
- Letter(s) of Acceptance
- Submission of closeout report to BIA or FHWA

Maintenance

Basic Requirement: Subject to availability of funding, the Tribe is responsible for identifying cost-effective maintenance actions that will extend the service life of their transportation system.

References:

- 25 CFR Part 170.800 to 170.808
- 25 CFR 170 Appendix to Subpart G
- Tribal Transportation Program Delivery Guide: Chapter XII. Maintenance of Transportation Facilities

Maintenance (cont.)

Documents Requested from BIA or FHWA:

- Approval letter for purchased maintenance equipment, including cost analysis

Documents Requested from the Tribe:

- List of active and completed TTP-funded maintenance projects for the last three years
- Written maintenance policies and procedures
- Budget and expenditures to-date for each maintenance projects; including percent of TTP fund allocation

Maintenance

Topics for the Tribe:

- Funding limitations for maintenance activities (25% or \$500,000, whichever is greatest)
- Maintenance activities in TTIP
- Description of maintenance activities
- Maintenance standards
- Lease or purchase of maintenance equipment
- Using equipment for non-TTP activities

REPORTS

Program Review Reports

- **Preliminary** Report issued during Exit Conference
 - Presents strengths and areas in need of improvement
- **Draft** Report issued within 45 days of Exit Conference
 - Tribe provides comments/feedback to Draft Report
- **Final** Report issued within 90 days of Exit Conference

QUESTIONS OR
SUGGESTIONS???

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