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U.S. DEPARTMENT OF TRANSPORTATION**

**BEFORE THE  
COMMITTEE ON INDIAN AFFAIRS,  
UNITED STATES SENATE**

May 4, 2022

Chairman Schatz, Vice Chairman Murkowski, Members of the Committee, thank you for the opportunity to appear before you today to discuss implementation of the Infrastructure Investment and Jobs Act, otherwise known as the Bipartisan Infrastructure Law (BIL), as it relates to Native communities. The BIL represents a once-in-a-generation investment in our nation's infrastructure, competitiveness, and communities and provides approximately \$550 billion in new Federal infrastructure investment. This includes historic and critical investments in Tribal transportation, including increased funding to programs dedicated to Tribal needs and increased Tribal eligibility for new and existing discretionary grant programs. The BIL also created the new Department of Transportation (Department) Office of Tribal Government Affairs, which elevates Tribal Government Affairs leadership to the rank of Assistant Secretary within the Department for the first time.

The Federal Highway Administration (FHWA) has a long history of collaborating with Tribes efficiently and effectively, and I am proud of the relationships we have fostered. Maintaining and strengthening these ties is key to implementing the BIL successfully. I would like to update you on a number of efforts we have underway, which will help in achieving our shared goal of enhanced safety and improved transportation for all Tribal communities. FHWA has also launched a website with guidance on these programs and more, which can be found at <https://www.fhwa.dot.gov/bipartisan-infrastructure-law/>.

**TRIBAL TRANSPORTATION PROGRAM**

The **Tribal Transportation Program (TTP)** is the primary mechanism for Federal investment in Tribal transportation projects. Through the BIL, Congress provided more than \$3 billion for TTP over the next five years, including \$578 million for fiscal year 2022, an increase of nearly 15 percent from 2021 levels. The TTP funds projects to provide safe and adequate transportation and public road access to and within Indian reservations, Indian lands, and Alaska Native Village communities. The program improves transportation for all 574 federally-recognized sovereign Tribal governments and is jointly administered by FHWA and the Department of Interior's Bureau of Indian Affairs (BIA).

A majority of TTP funding is distributed based on statutory formula, with set-asides dedicated to specific project types, such as transportation planning, safety, and high priority projects. With the enactment of the Consolidated Appropriations Act, 2022, FHWA and BIA are working together now to finalize calculation of the statutory formula amounts and distribute the fiscal year 2022 TTP funding to Tribes.

We look forward to working closely with Tribes in our ongoing implementation of the BIL, investing in a range of infrastructure projects that improve safety and mobility, create good jobs, protect our environment, and build a foundation for lasting economic opportunity in our communities.

## **SAFETY**

Safety remains the Department's top priority and we are committed to improving safety and reducing fatalities on Indian roads. Fatalities on America's road continue to rise, with early estimates for the first nine months of 2021 showing an increase of 12 percent compared to the same period in 2020. Native Americans are more likely to lose their lives in car crashes than any other group. Deaths in traffic crashes among Native American and Alaska Native youth aged 0-19 are between two and five times higher than they are for other racial and ethnic groups. This is a crisis. We must improve transportation safety in Tribal areas.

Several programs authorized in the BIL will facilitate necessary investments in Tribal facilities and safety planning. FHWA is also working in collaboration with the National Highway Traffic Safety Administration (NHTSA) to identify best practices in Tribal crash reporting as required under the BIL, to ensure that data surrounding transportation safety in Tribal areas is accurate and comprehensive.

The **Tribal Transportation Program Safety Fund (TTPSF)** is dedicated to preventing and reducing transportation-related injuries and fatalities on Tribal lands. Funding for the TTPSF more than doubled in the BIL, changing from a two percent set-aside from TTP funding to four percent. For fiscal year 2022, this will mean \$23 million of grants to Tribes, up from \$9 million in fiscal year 2021. Since the TTPSF's inception in 2012, FHWA has awarded approximately \$79 million in competitive grants to 434 Tribes to develop transportation safety plans and address safety issues on Tribal transportation facilities. Historically, the amount of funding sought by Tribes has far exceeded the amount available. The funding increase that Congress provided will allow FHWA to fund more projects to improve safety in the coming years as we work toward the Department's goal of eliminating deaths and serious injuries on our roadways. FHWA plans to announce the TTPSF awards for fiscal year 2021 very soon and is currently developing the fiscal year 2022 notice of funding opportunity.

In addition to dedicated Tribal safety funding, safety projects on Tribal lands are also eligible for funding under other programs. The **Highway Safety Improvement Program (HSIP)** provides resources to achieve a significant reduction in traffic fatalities and serious injuries on all public roads, including on Tribal land. HSIP funds have been used for several types of safety-related projects in Tribal areas, including installing rumble strips and guardrails, improving safety signing and pavement marking, removing roadway hazards, widening roadways, and improving

roadway surface friction. Safety projects on Tribal lands may also be eligible under the **Transportation Alternatives (TA)** set-aside of the **Surface Transportation Block Grant (STBG) Program**. For example, Safe Routes to School projects on Tribal lands, which improve the ability of primary, middle, and high school students to walk and bicycle to school safely, are eligible for TA funding.

The BIL also created the **Safe Streets and Roads for All (SS4A) Program** and provided \$5 billion of funding over five years to develop comprehensive safety action plans (CSAP); conduct planning, design, and development activities for projects and activities contained in a CSAP; or to carryout projects and strategies identified in a CSAP. Tribes are eligible to apply for these funds and the Department hosted a pre-solicitation outreach webinar specifically for Tribal governments on April 28. The Department anticipates publishing the notice of funding opportunity for this program soon.

## **BRIDGE FUNDING**

The BIL includes an unprecedented investment in the **Tribal Transportation Bridge Program (TTBP)**, increasing funding by over 14 times the level authorized in the Fixing America's Surface Transportation (FAST) Act (P.L. 114-94). This injection of new funds will address a critical problem and could not come at a better time. According to the 2020 National Bridge Inventory (NBI), nearly 11 percent (882 out of 8,060) of the bridges eligible for TTP Bridge funding in the NBI are classified as in poor condition.

Tribes will receive over \$1 billion over the next five years under the TTBP primarily for new construction, replacement, and rehabilitation of bridges. The BIL eliminated the three percent set-aside from the TTP that funded Tribal bridge projects in the past. Instead, funding for Tribal bridges is now drawn in part from a three percent set-aside in the new **Bridge Replacement, Rehabilitation, Preservation, Protection, and Construction Program (Bridge Formula Program)**, which received \$27.5 billion over five years from the BIL, the single largest dedicated bridge investment since the construction of the Interstate highway system. Projects using these funds are eligible for a 100 percent Federal share. Additional Tribal bridge funding under the BIL is available from a set-aside under the **Bridge Investment Program**, a new discretionary grant program.

To make it as easy as possible for Tribes to apply for and receive funding to fix bridges, all of these funds will be administered under the TTBP, regardless of their origin. For fiscal year 2022, a total of \$201 million will be available to Tribes under the TTPBP. Tribes can apply for this funding at any time during the fiscal year and Tribes with FHWA agreements can seek technical assistance in preparing the application package from their tribal coordinators.

## **ADDITIONAL TRIBAL GRANT PROGRAMS**

While the majority of TTP funds are distributed via statutory formula, as discussed above, Tribes are also able to apply to several grant programs to fund specific kinds of projects.

### ***Nationally Significant Federal Lands and Tribal Projects Program***

The **Nationally Significant Federal Lands and Tribal Projects (NSFLTP) Program** provides funding for the construction, reconstruction, and rehabilitation of nationally significant projects within, adjacent to, or accessing Federal and Tribal lands. Pursuant to the BIL, for the first time, half of all funding under the NSFLTP Program is required to be awarded to Tribal transportation facilities. The law made other changes that will increase the impact of this program in Tribal communities. First, the minimum required project size was reduced from \$25 million to \$12.5 million, opening the program up to a larger diversity of projects and communities that may benefit. Second, Tribes can now receive 100 percent Federal share of funding on their eligible projects. Tribes can now invest their own transportation funding in other projects, while still ensuring these larger projects are completed. FHWA plans to publish the fiscal year 2022 notice of funding opportunity for the NSFLTP that incorporates these changes soon.

### ***Tribal High Priority Projects Program***

The BIL established dedicated funding for the **Tribal High Priority Projects (THPP) Program**. This program provides funding to Tribes whose annual allocation under the TTP is insufficient to complete their highest priority projects or to Tribes experiencing an emergency or disaster that renders a transportation facility impassable or unusable. The BIL marks the first time in over ten years that a program focused on Tribal high priority projects has received funding, increasing available Federal resources for transportation projects that may not otherwise be completed.

## **ADDITIONAL DISCRETIONARY GRANT PROGRAMS**

The BIL establishes more than a dozen new highway programs, including numerous discretionary grant programs. Tribes are eligible for many of these new grants, including these programs administered by FHWA:

- the **Bridge Investment Program**, to improve bridge condition, safety, efficiency, and reliability;
- the **Wildlife Crossings Pilot Program**, to support projects seeking to reduce the number of wildlife-vehicle collisions;
- the **PROTECT Discretionary Grant Program**, to fund projects relating to resilience, including planning, improvements, community resilience and evacuation routes, and at-risk coastal infrastructure;
- the **Charging and Fueling Infrastructure Grant Program**, to deploy electric vehicle charging and hydrogen, propane, or natural gas fueling infrastructure along designated alternative fuel corridors and in communities; and
- the **National Culvert Removal, Replacement, and Restoration Grant Program**, to fund projects to remove, replace, or repair culverts that would improve or restore passage for anadromous fish, the notice of funding opportunity for which is planned to be published this summer.

FHWA knows how critically important infrastructure funding is to Tribal governments, and we are working to make these funding opportunities available as quickly as possible.

Tribes are also eligible to receive funding under several other, unprecedented grant programs funded under the BIL. In January, the Department published a notice of funding opportunity for \$1.5 billion in grant funded through the **Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Program**. The application period for that grant program has now closed. In March, the Department announced \$2.9 billion of funding for major infrastructure projects through an innovative combined notice, which included: the **National Infrastructure Project Assistance (Mega) Program**, the **Infrastructure for Rebuilding America (INFRA) Program**, and the **Rural Surface Transportation Grant Program (Rural)**. Tribal governments and consortia of Tribal governments are eligible to apply for all of these grant programs and applications close on May 23.

The BIL also created the **Reconnecting Communities Pilot Program**, which aims to restore community connectivity by removing, retrofitting, or mitigating highways or other transportation facilities that create barriers to community connectivity, including barriers to mobility, access, or economic development. Congress provided \$1 billion of funding over five years, for which Tribes are eligible to apply. The Department anticipates publishing a notice of funding opportunity in June. Tribes are also eligible to apply for the **Strengthening Mobility and Revolutionizing Transportation (SMART) Grant Program** created in the BIL. These grants will fund demonstration projects to advance smart city or community technologies and systems to improve transportation efficiency and safety, while advancing other priorities such as climate mitigation, resilience, and equity. Finally, Tribal colleges are eligible to apply as grantees or otherwise partner with **University Transportation Centers (UTCs)**, which support state-of-the-art in transportation research, enable technology transfer, and invest in the next generation of transportation professionals.

## TECHNICAL ASSISTANCE

The BIL represents a historic investment in Tribal infrastructure projects. However, the law can only achieve its intended transformative effect if Tribes can take full advantage of the funding opportunities it provides. To that end, FHWA continues to prioritize the critical technical assistance tools that help Tribes plan projects, identify appropriate funding sources, submit successful funding applications, and effectively execute projects. FHWA's **Tribal Technical Assistance Program (TTAP)** has a long history of providing vital technical assistance to Tribes in administering their transportation programs. In January, FHWA published a notice of funding opportunity announcing \$17.8 million to re-establish and operate seven TTAP centers throughout the country. These new centers will align with the BIA regions and deliver valuable training and technical assistance resources with a new emphasis on program management and project delivery. This notice came after several years of significant consultations and outreach to Tribes, Federal stakeholders, and national Tribal groups to reaffirm how best to meet the technical assistance needs of Tribal communities. While these new centers are being established, FHWA has expanded its virtual training opportunities and increased support for Tribes through remote programming. Applications for TTAP Centers closed on May 2.

In addition to the assistance provided through the TTAP, FHWA's Office of Federal Lands Highway Office of Tribal Transportation provides direct funding and technical assistance to

approximately 124 federally-recognized Tribes that have signed program agreements with FHWA. Each of these Tribes is assigned a Tribal Coordinator, who conducts all stewardship and oversight activities, including providing needed or requested technical assistance to help ensure each Tribe is successful in administering their transportation programs and projects. For example, the Tribal Coordinator will work with Tribes to prepare and review an application package for the Tribal Transportation Bridge Program and resolve any outstanding issues before submitting the application.

The BIL also made improvements to the environmental review process that applies to Tribal transportation projects. FHWA will ensure that decisions required under the National Environment Policy Act for Tribal transportation safety projects are made within 45 days, or as instructed by Congress. Additionally, FHWA is actively working with BIA to develop a template for programmatic agreements for categorical exclusions that can be adapted for use by individual Tribes, as well as further information and training to inform Tribes of their options under the BIL.

## **CONCLUSION**

Thank you again for the opportunity to appear before you today. I would be happy to answer any questions you may have.

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