

The Role of Tribes in Arizona Transportation Decision Making (2012-2015)



Arizona Department of Transportation Research Center

The Role of Tribes in Arizona Transportation Decision Making (2012-2015)

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| 16. Abstract In 2011, the Arizona Department of Transportation (ADOT) initiated a study to investigate the role of Native American tribal governments in selecting and funding multimodal transportation projects. Researchers interviewed tribal representatives as well as local, state, and regional stakeholders in Arizona about multimodal transportation planning and funding practices involving tribal lands. To supplement these findings, researchers conducted a set of interviews with transportation and tribal representatives from six other states: California, Minnesota, Montana, New Mexico, South Dakota, and Washington. Researchers evaluated the practices and policies of these states to better understand their successes and challenges with multimodal transportation planning and programming on tribal lands. (Note that in the time since that research, 2012-2015, ADOT has undergone significant reorganization. This report presents information that was applicable at the time. Other agencies, legislation, and regulations may have significantly altered since 2015 as well.) | | | | | |
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Acronyms and Abbreviations

| | |
|----------|--|
| AASHTO | American Association of State Highway and Transportation Officials |
| ACHP | Advisory Council on Historic Preservation |
| ACIA | Arizona Commission of Indian Affairs |
| ACTT | Advocacy Council for Tribal Transportation |
| ADOT | Arizona Department of Transportation |
| AIP | Aviation Improvement Program |
| ARRA | American Recovery and Reinvestment Act |
| A.R.S. | Arizona Revised Statutes |
| ATP | area transportation partnership |
| ATSPT | Arizona Tribal Strategic Partnering Team |
| BIA | Bureau of Indian Affairs |
| bqAZ | Building a Quality Arizona |
| CAG | Central Arizona Governments |
| CalSTA | California State Transportation Agency |
| Caltrans | California Department of Transportation |
| CFCC | Center for Families, Children & the Courts |
| CFR | Code of Federal Regulations |
| CIB | California Interregional Blueprint |
| CMAQ | Congestion Mitigation and Air Quality Improvement Program |
| COG | council of governments |
| CTP | California Transportation Plan |
| CYMPO | Central Yavapai Metropolitan Planning Organization |
| DOT | department of transportation |
| EPA | Environmental Protection Agency |
| FAA | Federal Aviation Administration |
| FHWA | Federal Highway Administration |
| FLH | Federal Lands Highway |
| FMPO | Flagstaff Metropolitan Planning Organization |
| FTA | Federal Transit Administration |
| FY | fiscal year |
| GOTR | Governor's Office on Tribal Relations |
| HCAOG | Humboldt County Association of Governments |
| HHS | U.S. Department of Health & Human Services |
| HSIP | Highway Safety Improvement Program |
| IAD | Indian Affairs Department |
| IGA | intergovernmental agreement |
| IRR | Indian Reservation Roads (Program) |
| ITCA | Inter Tribal Council of Arizona |
| ITCC | Inter-Tribal Council of California |
| JPA | joint powers agreement |

| | |
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| LFD | Legislative Fiscal Division |
| MAG | Maricopa Association of Governments |
| MAP-21 | Moving Ahead for Progress in the 21st Century Act |
| MCA | Montana Code Annotated |
| MDT | Montana Department of Transportation |
| MIAC | Minnesota Indian Affairs Council |
| MnDOT | Minnesota Department of Transportation |
| MOA | memorandum of agreement |
| MOU | memorandum of understanding |
| MPO | metropolitan planning organization |
| MTP | metropolitan transportation plan |
| NACOG | Northern Arizona Council of Governments |
| NAHASDA | Native American Housing Assistance and Self-Determination Act |
| NCAI | National Congress of American Indians |
| NCSL | National Conference of State Legislatures |
| NMDOT | New Mexico Department of Transportation |
| NNI | Native Nations Institute for Leadership, Management, and Policy |
| PAG | Pima Association of Governments |
| PARA | Planning Assistance for Rural Areas |
| RDC | regional development commission |
| RTA | Reservation Transportation Authority |
| RTIP | regional transportation improvement program |
| RTP | regional transportation plan |
| RTPA | regional transportation planning association |
| RTPO | regional transportation planning organization |
| SAFETEA-LU | Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users |
| SANDAG | San Diego Association of Governments |
| SB | senate bill |
| SCTCA | Southern California Tribal Chairmen's Association |
| SDDOT | South Dakota Department of Transportation |
| SEAGO | SouthEastern Arizona Governments Organization |
| SHOPP | State Highway Operations and Protection Program |
| SPR | State Planning and Research |
| SR | state route |
| STIP | State Transportation Improvement Program |
| TAC | Technical Advisory Committee |
| TERO | Tribal Employment Rights Ordinance/Office |
| TIF | Tribal Infrastructure Fund |
| TIGER | Transportation Investment Generating Economic Recovery program |
| TIP | transportation improvement plan/program |
| TMA | transportation management area |

| | |
|--------|--|
| TRCO | Tribal and Regional Coordination Office |
| TTAP | Tribal Technical Assistance Program |
| TTIP | Tribal Transportation Improvement Program |
| TTP | Tribal Transportation Program |
| TTPO | Tribal Transportation Planning Organization |
| U.S.C. | United States Code |
| USDOT | US Department of Transportation |
| WACOG | Western Arizona Council of Governments |
| WITPAC | Washington Indian Transportation Policy Advisory Committee |
| WSDOT | Washington State Department of Transportation |
| WSTC | Washington State Transportation Commission |
| WTP | Washington Transportation Plan |
| YMPO | Yuma Metropolitan Planning Organization |

EXECUTIVE SUMMARY

The federal Tribal Transportation Program is the single major source of funding for transportation projects available to the 22 federally recognized Native American tribes in Arizona. However, this funding source has been unable to meet all tribal transportation needs and objectives. To positively influence the quality of life in their communities, the tribes would like to increase their role in determining how funds from multiple sources are used for transportation improvements on tribal lands.

In 2011, the Arizona Department of Transportation (ADOT) initiated a study to investigate the role of tribal governments in transportation decision making. This retrospective report documents relevant information and perceptions from 2012 through 2015 regarding:

- Practices and concerns regarding the selection and funding of multimodal transportation projects on tribal lands in Arizona
- Practices and policies for selecting and funding multimodal transportation projects on tribal lands in other states

Researchers conducted a literature review of the processes and practices for including tribal governments in state transportation planning, programming, and decision making in Arizona. Additionally, researchers interviewed key stakeholders responsible for transportation planning, programming, and funding in the state. Stakeholder perspectives on consultation and coordination activities were gathered through online surveys and in-person interviews with representatives from tribal governments, federal agencies, ADOT, regional agencies, and other organizations.

(Note that in the time since that research, ADOT has undergone significant reorganization. This report presents information that was in place at the time. Other agencies, legislation, and regulations may have significantly altered since that time as well.)

To determine the extent to which tribal communities in other states participate in selecting and funding multimodal transportation projects, researchers conducted interviews with transportation and tribal representatives in California, Minnesota, Montana, New Mexico, South Dakota, and Washington. These states have a significant and diverse tribal presence, with attributes that are similar to Arizona tribal communities, such as number of road lane miles, infrastructure conditions, and rural and urban settings. In addition, these states are recognized for fostering positive state-tribal relationships and practices related to tribal transportation.

During the interviews, stakeholders identified key programs and practices that addressed the challenges faced in completing transportation projects on tribal lands. Fostering quality communication and building stronger relationships between tribal entities and regional partners, specifically councils of governments and metropolitan planning organizations, were prevailing recommendations. Examples of key funding practices included opportunities for tribal governments to form partnerships and to pool resources.

CHAPTER 1. INTRODUCTION

The federal Tribal Transportation Program (TTP) is the single major source of funding for transportation projects available to the 22 federally recognized Native American tribes in Arizona. However, this funding source has been unable to meet all tribal transportation needs and objectives. To positively influence the quality of life in their communities, the tribes would like to increase their role in determining how funds from multiple sources are used for transportation improvements on tribal lands.

In 2011, the Arizona Department of Transportation (ADOT) initiated a study to investigate the role of tribal governments in transportation decision making. This retrospective report documents relevant information and perceptions from 2012 through 2015 regarding:

- Practices and concerns regarding the selection and funding of multimodal transportation projects on tribal lands in Arizona
- Practices and policies for selecting and funding multimodal transportation projects on tribal lands in other states

To help guide the direction of this study, researchers invited representatives from every tribe in Arizona to participate on the Technical Advisory Committee (TAC) that would assist in planning the study. Members of the TAC are listed in Appendix A.

Researchers gathered information about multimodal transportation planning and funding practices involving tribal lands through interviews with tribal representatives as well as local, state, and regional stakeholders in Arizona. (Note that in the time since that research, 2012-2015, ADOT has undergone significant reorganization. This report presents information that was in place at the time. Other agencies, legislation, and regulations may have significantly altered since that time as well.)

Researchers conducted interviews with transportation and tribal representatives from six other states—California, Minnesota, Montana, New Mexico, South Dakota, and Washington—to understand their practices and concerns regarding multimodal transportation project selection and funding involving tribal lands.

STUDY BACKGROUND

A tribe is considered a distinct, sovereign nation and may also identify itself as a band, nation, or community. This designation creates a government-to-government relationship between tribes and the United States with unique responsibilities, powers, limitations, and obligations. Twenty-two federally recognized tribes are located in Arizona. Approximately 28 percent of Arizona's 114,000 square miles—or 27,736,000 acres—are within reservation boundaries. ADOT employees interact with tribal governments daily as about 18 percent of the state's highway system traverses tribal lands. The US government holds title to tribal lands defined as reservation in trust, meaning that while a tribe has jurisdiction over lands within reservation boundaries, it may not convey or sell trust land without the consent of the US government. Indian lands are reserved for a tribe or tribes as permanent tribal

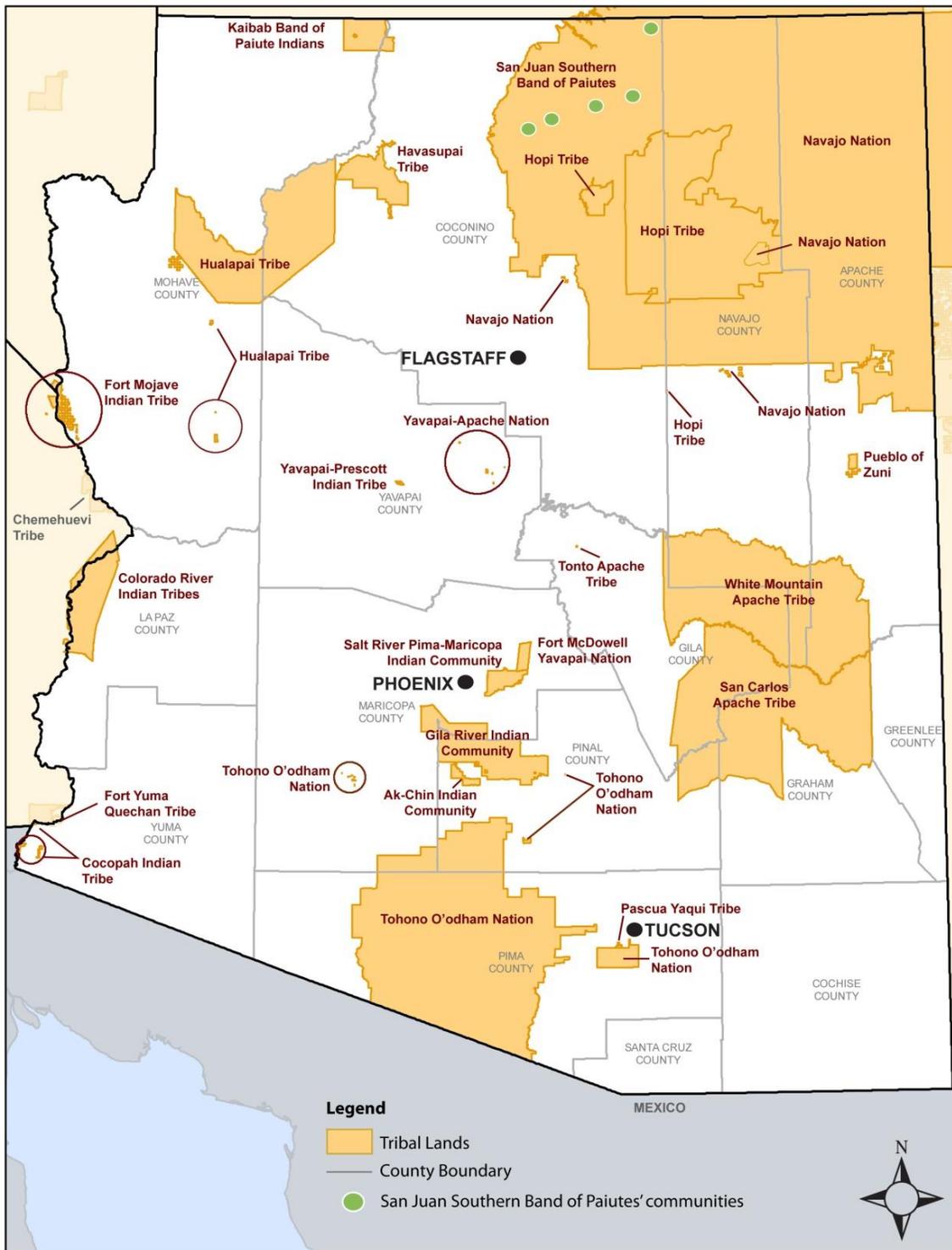
homeland where the United States holds title to the land in trust on behalf of the tribe. Some tribal governments own public fee land, although the majority of tribal lands are in trust (BIA 2014b).

ADOT also has jurisdiction over state right of way for state routes (SRs) by way of easements granted by tribal governments and the Bureau of Indian Affairs (BIA). The individual tribe and ADOT negotiate terms and conditions of these easements (Arizona Revised Statutes [A.R.S.] 28-332; ADOT 2012b, 2013b, 2014c). The BIA operates and maintains many roads on tribal lands. In fiscal year (FY) 2012, the BIA's Service Level Index condition assessment criteria determined that 83 percent, or 23,850 miles, of BIA roads nationally were in unacceptable condition. Many of those roads were being used at the time for purposes that exceeded the original planned or designed purpose (BIA 2014a).

Tribes in Arizona

The 22 federally recognized tribes in Arizona are listed alphabetically below and their designated lands are shown in Figure 1. Brief summaries of each tribe, including the tribe's location and total acreage, ancestry, population, and transportation activities and capacity, are provided in Appendix B. As these summaries indicate, the tribes in Arizona are diverse, and no single model or framework can accurately describe the diversity among tribal governments and their tribal membership. In fact, the term "tribal governments" may not universally capture the nature of Native Nations; some argue the term doesn't capture the kinship or community governing that still exists for some tribes (NNI 2008). For this report, however, the term "tribal government" is used for each governing entity of the 22 recognized tribes.

- Ak-Chin Indian Community
- Cocopah Indian Tribe
- Colorado River Indian Tribes (Chemehuevi, Hopi, Mohave, and Navajo)
- Fort McDowell Yavapai Nation
- Fort Mojave Indian Tribe
- Fort Yuma Quechan Tribe
- Gila River Indian Community
- Havasupai Tribe
- Hopi Tribe
- Hualapai Tribe
- Kaibab Band of Paiute Indians
- Navajo Nation
- Pascua Yaqui Tribe
- Pueblo of Zuni
- Salt River Pima-Maricopa Indian Community
- San Carlos Apache Tribe
- San Juan Southern Paiute Tribe
- Tohono O'odham Nation
- Tonto Apache Tribe
- White Mountain Apache Tribe
- Yavapai-Apache Nation
- Yavapai-Prescott Indian Tribe



**Figure 1. Tribal Lands in Arizona
(EPA 2011, Arizona Board of Regents 2013)**

ADOT's Commitment to Tribal Transportation Planning and Decision Making

Federal statute requires statewide transportation planning to consider concerns of tribal governments with land holdings in the state. Additionally, federal statute requires a state's long-range transportation plan and State Transportation Improvement Program (STIP) to be developed in consultation with tribal governments (23 U.S.C. 135). Chapter 2 provides a detailed discussion of federal funding programs and statewide transportation plans.

ADOT has made commitments to working with the tribes and to considering tribal concerns in statewide transportation planning and decision making. In 1999, ADOT established the Arizona Tribal Strategic Partnering Team (ATSPT) to support tribal coordination. ATSPT is a forum for representatives from state, tribal, federal, and local governments and entities to address state-tribal transportation issues. In 2008, ADOT implemented an internal policy and procedure, MGT-16.01, Department-Wide Native Nation/Tribal Government Consultation Policy (ADOT 2014c), which requires consultation, cooperation, and coordination with tribal governments in statewide and metropolitan transportation processes.

These efforts are further supported by ADOT resources that assist tribal governments and ADOT staff, such as the *ADOT Transportation Planning and Programming Guidebook for Tribal Governments* (ADOT 2012b), *Tribal Transportation Consultation Process Reference Manual* (ADOT 2009), and *ADOT Tribal Transportation Consultation Online Training Course for ADOT Personnel Handbook* (ADOT 2013b).

TRIBAL GOVERNANCE

Tribal Sovereignty and Immunity

Because federally recognized tribes possess certain rights of self-government, they can regulate tribal land, taxes, zoning, resources, and other assets. Tribal sovereignty is protected and maintained against further encroachment by other sovereign entities, such as states, which ensures that decisions about tribal land or citizens are made with the tribe's participation and consent (NCAI 2003, BIA 2014b).

Tribes, like the federal and state governments, are immune from lawsuits by citizens and other nonfederal governments, and receive protection to conduct governmental business and activities. (See *Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978), and *Maynard v. Narragansett Indian Tribe*, 798 F. Supp. 94 (1992).) Sovereign immunity is especially important to tribes because many have limited resources and immunity provides legal protection from potentially costly court proceedings. Tribal governments can waive immunity as a condition of doing business with non-Indian investors, lenders, and developers on tribal lands (NCAI 2003, Woodrow 1998).

Self-Determination and Self-Governance

Self-determination and self-governance policies enable tribes to contract with federal agencies such as the BIA to operate programs and provide services instead of the federal agency (NCAI 2003).

Tribal Consultation and Coordination

A tribe's sovereign status results in a unique relationship among federal, state, regional, and tribal entities. Guidance for facilitating this unique relationship and consultation, communication, and coordination between entities has been defined through various statutes, court actions, regulations, executive orders, policies, and actions (ADOT 2013b).

Federal Guidance

Federal statute requires that state transportation agencies and regional governments consult and coordinate with tribal agencies to develop transportation plans (23 CFR 450.214(i), 23 CFR 450.322(g)). In 1999, the US Department of Transportation (USDOT) issued Order 5301.1, affirming the unique legal relationship the agency has with tribes and establishing a consultation and coordination process with tribal governments (FHWA 2011b).

State Guidance

In Arizona, Executive Order 2006-14 reiterated government-to-government relationships between the state and the tribes; recognized the tribes' right to exercise their sovereign authority; and required each executive branch agency in the state to have a tribal consultation policy, designate a principal point of contact, and submit an annual report on policy implementation activities.

As an executive agency of the state, ADOT established its policy articulating consultation and coordination with MGT-16.01, Department-Wide Native Nation/Tribal Government Consultation Policy (ADOT 2014c). While the terms may seem similar, consultation and coordination have distinct differences: Consultation occurs *prior to* action being taken; coordination occurs *after* action has been taken. These terms are defined in federal and state statute and policy.

Consultation vs. Coordination. Tribal consultation, according to the *ADOT Tribal Transportation Consultation Online Training Course for ADOT Personnel Handbook* (ADOT 2013b), involves conferring on a government-to-government basis according to an established process before taking actions on issues of mutual importance. Consultation concludes with periodic follow-ups about actions taken. Tribal coordination involves working cooperatively and harmoniously with the tribes and tribal staff to efficiently and effectively implement actions to achieve the objectives of the parties involved. Both consultation and coordination are conducted in an atmosphere of trust built through mutual respect and understanding and in consideration of the sovereignty, history, culture, protocols, and views of the parties involved.

Consultation and coordination support the fundamental principle that the tribes are sovereign nations, recognized as "domestic dependent nations" under the protection of the United States (Executive Order 13175, 2000). As such, proper government-to-government consultation must occur, including officials of comparable governmental stature and authority. The tribe's highest official—its governor, president, or chairperson—represents the party to be consulted unless that official delegates authority to other personnel (ADOT 2013b).

CHAPTER 2. TRIBAL TRANSPORTATION PLANNING, FUNDING, AND DECISION MAKING IN ARIZONA

Transportation contributes to an area’s economic vitality and quality of life, assisting in the movement of people and goods and influencing land use and economic development patterns. Proactive transportation planning recognizes the link between transportation and other societal goals and requires strategies for operating, maintaining, and financing transportation systems that advance long-term goals. The transportation planning process (Figure 2) involves numerous steps, including monitoring current conditions, identifying current and future transportation needs and improvement strategies, and developing a financial plan for implementing these strategies (FHWA and FTA 2007).

No single government or agency is responsible for planning, building, maintaining, and funding the transportation network. Decision making in these areas is a collaborative effort requiring the



**Figure 2. Transportation Planning Process
(FHWA and FTA 2007)**

participation of federal, state, and regional transportation agencies and tribal communities. This chapter describes the regulatory framework of tribal transportation planning that existed in Arizona during 2012 through 2015, specifically through the TTP, as well as the regulatory framework and related policies for transportation planning, programming, and decision-making processes for state and regional entities, such as councils of governments (COGs) and metropolitan planning organizations (MPOs).

KEY STAKEHOLDERS IN TRANSPORTATION PLANNING, PROGRAMMING, AND FUNDING

Federal Agencies

Numerous federal agencies are involved in tribal transportation planning, funding, and decision making. Principal among them are the BIA, USDOT, Federal Highway Administration (FHWA), the Federal Aviation Administration (FAA), and the Federal Transit Administration (FTA). (Note that reorganization and reprioritization at many governmental levels since the time of this research may have altered funding availability and practices. This information is presented as a retrospective of what was current during 2012 through 2015.)

The principal transportation funding source for tribes was the TTP. MAP-21 amended transportation planning requirements as found in Title 23 (Highways) of the United States Code (23 U.S.C.). Three key sections of the act affected tribal transportation planning: Section 134 (Metropolitan Transportation Planning), Section 135 (Statewide and Non-metropolitan Transportation Planning), and Section 201 (Federal Lands and Tribal Transportation Programs). Transit programs under the jurisdiction of the FTA were detailed in Title 49 (Transportation).

US Department of the Interior

BIA. Established in 1824, the BIA is an agency within the US Department of the Interior that maintains the federal government-to-government relationship with federally recognized tribes, promoting and supporting tribal self-determination. The BIA's Division of Transportation assists tribes in developing their capacity to plan, construct, and maintain a safe and efficient transportation network (ADOT 2014b). The division's transportation-related responsibilities include maintaining and operating BIA roads, managing and overseeing the TTP, and working with FHWA to administer TTP-related programs.

During 2012-2015, the BIA maintained and operated approximately 29,500 miles of roadway and 930 bridges located on tribal lands in the United States. BIA roads and bridges are included in the National Tribal Transportation Facility Inventory, but not all transportation facilities on tribal lands are the responsibility of the BIA. Because roadways were being used in ways for which they were not designed and maintenance needs continued to exceed available funding, the majority of the BIA's roads (83 percent) were assessed to be in unacceptable condition as of Fiscal Year 2012 (BIA 2014a).

Another principal activity of the BIA is management and oversight of the TTP, which provides funding to plan, design, build, and maintain all public roads. The TTP is jointly administered by the BIA and FHWA's

Federal Lands Highway Program through an interagency agreement. Regulations for program administration and delivery are codified within 25 CFR 170 (BIA 2014a).

Two BIA regional offices administered program services (either directly or through contracts, grants, or compacts) to the tribes in Arizona. The Western Regional Office was responsible for all tribal lands in Arizona except the Navajo Nation, where the Navajo Regional Office was exclusively responsible (BIA 2014e). Interviews for this research project were conducted with transportation staff from both offices.

USDOT

USDOT is responsible for ensuring a safe, efficient, and accessible multimodal transportation system to enhance the quality of life for the American people. Established as a cabinet-level office in 1966, the department carries out its mission with the assistance of many operating administrations.

At the time of this research, USDOT was directly involved in some funding programs. The Transportation Investment Generating Economic Recovery (TIGER) program provided opportunities to invest in road, rail, transit, and port projects that had a significant impact on the nation, a region, or a metropolitan area. USDOT evaluated projects on their expected contributions to economic recovery, innovation, and partnerships. The program's broad eligibility requirements and flexibility contributed to the high level of competitiveness for TIGER grant funds (USDOT 2014a).

As part of the American Recovery and Reinvestment Act (ARRA) of 2009, USDOT was charged with distributing discretionary grants to state and local governments or transit agencies for multimodal transportation projects (Public Law 111-5). The principal agencies within USDOT that were involved in tribal transportation were FHWA, the FAA, and the FTA.

FHWA. FHWA supports state and local governments in the design, construction, and maintenance of the nation's highway system and other roadways on federal and tribal lands. The agency provides financial and technical assistance to state and local governments to ensure roads and highways are safe and technologically sound (ADOT 2014b). Additionally, FHWA works with tribal governments, state departments of transportation (DOTs), and the BIA to foster an effective transportation system. In doing so, FHWA promotes government-to-government relationships and transportation partnerships.

FHWA uses division offices to work with states to develop, track, and analyze activities. FHWA’s Arizona Division serves as the local field office, providing leadership, guidance, and direction to ADOT. Table 1 outlines FHWA’s role in various planning and programming efforts at the time of this research.

Table 1. Roles of FHWA in Transportation Planning Approval (ADOT 2014b)

| Program/Activity | Reference | Review Agency | Approval Agency |
|--|------------------|----------------------|------------------------|
| State Planning and Research Work Program | 23 CFR 420.111 | FHWA | FHWA |
| MPO Unified Planning Work Programs | 23 CFR 450.308 | ADOT, FHWA | FHWA |
| Long-Range Statewide Transportation Plan | 23 CFR 450 | FHWA | ADOT |
| STIP | 23 CFR 450.216 | FHWA | FHWA, FTA |
| Metropolitan 20-Year Long-Range Transportation Plan | 23 CFR 450.322 | ADOT, FHWA | MPO |
| Metropolitan Transportation Improvement Program | – | FHWA | FHWA, FTA |
| Certification of Public Road Mileage | 23 CFR 460 | FHWA | FHWA HQ |

Several members of FHWA’s Arizona Division office were interviewed for this study.

FHWA activities were facilitated through two key programs: the Federal-Aid Highway Program and the Federal Lands Highway Program. The Federal-Aid Highway Program provided funding to build, maintain, and operate Interstate, state highway, and local road systems. It was responsible for funding several programs, including the National Highway Performance Program, Surface Transportation Program, Highway Safety Improvement Program (HSIP), Congestion Mitigation and Air Quality (CMAQ) Improvement Program, Metropolitan Transportation Planning, and Transportation Alternatives. Combined, these programs comprised the vast majority of funding authorized under MAP-21.

The Federal Lands Highway Program provided resources and technical assistance to meet transportation needs on tribal lands and federally managed lands, including national parks and national forests. In Arizona, 22 percent of roadway miles were maintained by the Federal Lands Highway Program (ADOT 2011c). This program supported three divisions across the United States; tribal lands in Arizona were covered by the Central Division. The Central Division was not interviewed for this study.

The Federal Lands Highway Program also worked with Tribal Technical Assistance Program (TTAP) centers, which were jointly funded by FHWA and the BIA. TTAP centers provided training, technical assistance, and research opportunities to tribal governments. There were seven TTAP centers across the United States. At the time of the interviews conducted for this project, the tribes in Arizona were served by a program at Colorado State University in Fort Collins, Colorado (FHWA 2011a, 2014a). Colorado

State University's TTAP director was interviewed as part of this study before the center was moved and renamed in 2014 to become the Mountain West TTAP in Gilbert, Arizona.

FAA. The FAA creates, operates, and maintains the country's airspace system through four fundamental activities:

- Air traffic organization: Safely and efficiently moves air traffic
- Airports: Plans, develops, and maintains a safe, secure, and efficient airport system
- Aviation safety: Oversees aircraft safety and the credentials and competencies of pilots and mechanics, develops safety rules, and sets air travel standards
- Commercial space transportation: Oversees the safety of commercial space transportation activities and regulates the commercial space transportation industry (FAA 2013)

In Arizona, 14 airports from this system were located on tribal lands (ADOT 2013b).

For this study, staff were interviewed from the Phoenix Airports District Office, a section of the Western-Pacific Region Airports Division.

FTA. The FTA provides funding and technical assistance to local public transit systems, including buses, light rail, passenger ferry boats, and commuter rail. FTA funding is provided through grants to state and local transit providers (FTA 2014). At the time, the agency had 10 regional offices; tribal lands in Arizona were part of District 9, which was based in San Francisco, California. A representative of this office was interviewed as part of this study.

Several transit grant programs were funded by MAP-21:

- Section 5303, Metropolitan Transportation Planning Program (49 U.S.C. 5303), provided funding and financial assistance to states and local entities to support transportation planning. The FTA apportioned assistance to states, which then allocated assistance to MPOs based on formulas. MPOs provided 20 percent match funding to Section 5303 funding (ADOT 2014b).
- Section 5307, Urbanized Area Formula Program (49 U.S.C. 5307), provided transit capital and operating assistance to states and local entities. Eligible activities included planning, engineering, design, and evaluation of transit projects and other technical transportation-related studies; capital investment in bus and bus-related activities; and capital investments in fixed guideway systems such as track, signals, and communications. In recipient transportation management areas (TMAs)—urbanized areas of at least 200,000 people—funds were apportioned and flowed directly to the local recipient. In urbanized areas where the population was less than 200,000, funds were apportioned to the governor of each state for distribution based on legislative formulas. Like Section 5303, Section 5307 was a cost-shared program, where the recipient also contributed a share of funding for the project (ADOT 2014b).

- Section 5311, Formula Grants for Other Than Urbanized Areas (49 U.S.C. 5311), provided rural communities and federally recognized tribes with funding for capital, operating, planning, and administrative expenses for public transit projects that met the needs of rural and tribal communities. Several other FTA grant programs, including Section 5310, Enhanced Mobility for Elderly Individuals and Individuals with Disabilities Program (49 U.S.C. 5310), were potential funding sources for tribal transit projects.

Advisory Council on Historic Preservation

The Advisory Council on Historic Preservation is an independent federal agency that promoted the preservation, enhancement, and productive use of the nation's historic resources. The council was established as part of the National Historic Preservation Act of 1966 to ensure federal agencies act as responsible stewards of the country's resources when projects and activities affect historic property.

Section 106 of this act required agencies using federal funds to consider the effects projects have on historic properties. For any of the nation's historic properties are located on tribal lands, agencies are required to consult with tribal governments about plans or projects that affect historic properties of religious or cultural significance.

ADOT

ADOT is responsible for the planning, construction, maintenance, and operation of the state's highway system and features that support the system, such as bridges, signage and signals, and landscaping (ADOT 2013e). The system, shown in Figure 3, comprises 1169 miles of Interstate highways and 5784 miles of state highways (ADOT 2011c). Approximately 1237 miles (about 18 percent) of these state highways traverse reservation lands (ADOT 2013b). The agency also owns and operates the Grand Canyon Airport and helps to develop airports throughout the state (ADOT 2011a). (Note that in the time since this research was conducted in 2012-2015, ADOT has undergone significant reorganization. This report presents information that was applicable at the time. Other agencies, legislation, and regulations may have significantly altered since 2015 as well.)



Figure 3. Arizona State Highway System (ADOT 2014a)

Sections within ADOT

Among the sections within ADOT that supported the state transportation network (as it was organized in 2015), several were directly engaged in tribal transportation activities: the Multimodal Planning Division, the Intermodal Transportation Division, the Policy group, and the Business Operations group.

Multimodal Planning Division. The Multimodal Planning Division was most closely associated with state planning, programming, and associated decision making. The division was responsible for developing ADOT's long-range multimodal transportation vision and plan, and the Five-Year Transportation Facilities Construction Program. The division's Systems and Planning and Programming Section worked with regional entities, including Arizona's MPOs and COGs, as well as with local governments and the tribes. A few programs within the Multimodal Planning Division to note:

- **Arizona Tribal Transportation:** While tribal governments have sovereign status and jurisdiction over lands within reservation boundaries, ADOT has exclusive control and jurisdiction over state highways that traverse reservations (18 U.S.C. Section 1151). The Arizona Tribal Transportation program participated in tribal transportation-related coordination, consultation, and partnerships. The program's transportation planners/tribal liaisons conducted planning, project, and other transportation-related activities with tribal governments in Arizona.

The tribal liaisons in ADOT's Multimodal Planning Division were ADOT's front-line resource in tribal transportation issues. The tribal liaisons were primarily responsible for assisting with state planning and programming activities, serving as state coordinators and conduits between the tribes and the agency, and ensuring that coordination and consultation with tribal governments occur on statewide efforts (such as the statewide long-range transportation plan, bqAZ, and STIP). Additionally, the tribal liaisons advised, coordinated, informed, and fostered departmentwide activities within ADOT and implemented ADOT's consultation policy commitments. They also provided information about funding opportunities, assisted formal tribal partnerships, facilitated training, assisted partner agencies, and served as project managers for tribal transportation planning efforts.

- **Planning Assistance for Rural Areas:** The Planning Assistance for Rural Areas (PARA) program commits State Planning and Research (SPR) funding to conduct planning studies for nonmetropolitan communities. The tribes were also eligible to apply for studies funded through PARA. While funds could not be used to design and build transportation projects, they could be used for a broad range of multimodal transportation plans, including specific roadway corridor studies.
- **Bicycle and Pedestrian Program:** For a time the Bicycle and Pedestrian Program provided a range of resources about biking and walking in Arizona. Federal funding for bicycle and pedestrian planning, design, and construction activities were then moved to be administered under the Transportation Alternatives program within MAP-21 (ADOT 2014b).

Intermodal Transportation Division. The Intermodal Transportation Division designed, built, maintained, and operated Arizona’s highway system, which includes Interstate, US, and state highways. The division also implemented highway improvement projects listed in the Five-Year Transportation Facilities Construction Program, thus facilitating engineering and environmental studies, roadway design, land acquisition, and construction.

Policy. The Policy group interfaced with the state’s elected decision makers and was the primary liaison to the State Transportation Board (ADOT’s advisory and decision-making body), assisting specifically in policy matters. Policy employees interacted with FHWA, the governor’s office, the state Legislature, state agencies, Arizona’s MPOs and COGs, and other stakeholders.

Business Operations. The Business Operations group managed much of the agency’s behind-the-scenes processes and activities. Responsibilities included overseeing financial management, the budget, human resources, information technology, and *Arizona Highways* magazine. The group also provided financial and budget management support to the Five-Year Transportation Facilities Construction Program and resulting Intermodal Transportation Division projects.

Regional Planning and Programming Agencies

Then as now, two types of regional transportation agencies facilitate transportation planning activities in Arizona: the council of governments (COG), which is Arizona’s version of a rural planning association; and the metropolitan planning organization (MPO), which represents urban populations of 50,000 or more. Table 2 lists Arizona’s COGs and MPOs. Every community in Arizona is represented by at least one of these planning entities (Figure 4).

Table 2. Arizona COGs and MPOs (ADOT 2014b)

| Entity | Location | Established | MPO | COG |
|---|------------------|--------------------|------------|------------|
| Maricopa Association of Governments | Phoenix | 1965 | • | |
| Pima Association of Governments | Tucson | 1972 | • | |
| Central Yavapai Metropolitan Planning Organization | Prescott | 2003 | • | |
| Flagstaff Metropolitan Planning Organization | Flagstaff | 1996 | • | |
| Lake Havasu Metropolitan Planning Organization | Lake Havasu City | 2013 | • | |
| Sun Corridor Metropolitan Planning Organization | Casa Grande | 2013 | • | |
| Sierra Vista Metropolitan Planning Organization | Sierra Vista | 2013 | • | |
| Yuma Metropolitan Planning Organization | Yuma | 1983 | • | |
| Central Arizona Governments | Apache Junction | 1970 | | • |
| Northern Arizona Council of Governments | Flagstaff | 1975 | | • |
| SouthEastern Arizona Governments Organization | Bisbee | 1972 | | • |
| Western Arizona Council of Governments | Kingman | 1971 | | • |

MPO

A metropolitan planning organization or MPO is a local decision-making body in an urban area (50,000 or more people) that coordinates with state agencies and transit operators to facilitate transportation planning for the area. Urbanized areas with populations exceeding 200,000 are designated as transportation management areas (TMAs), adding further representation responsibilities to the MPO. In Arizona, Phoenix-Mesa and Tucson are the two TMAs. The MPO ensures that existing and future expenditures for transportation projects reflect an ongoing, cooperative, and comprehensive planning process. Certain federal transportation funds for highways, public transit, and other modal funding are distributed to local governments through the MPO.

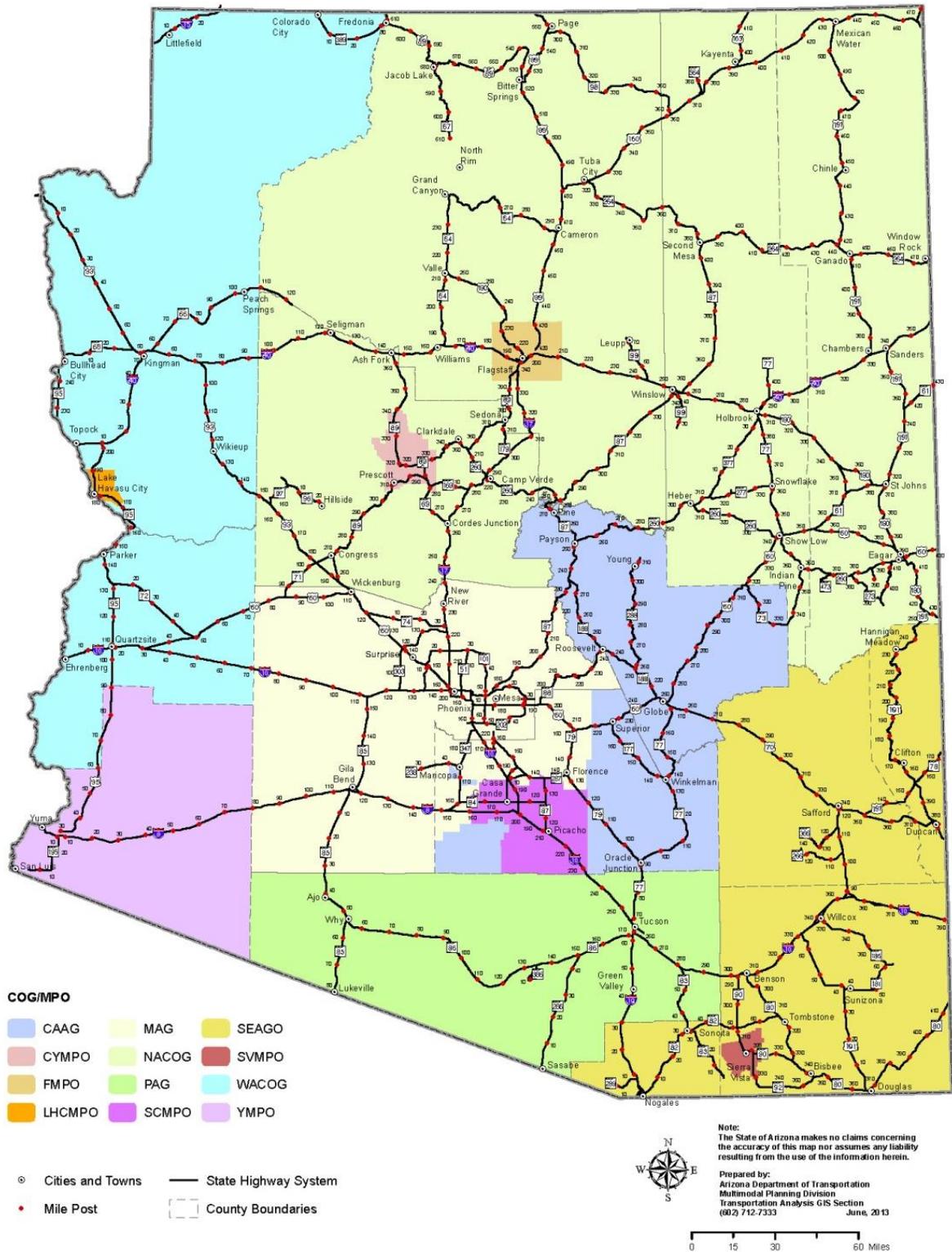


Figure 4. Arizona COGs and MPOs by Geographic Region (ADOT 2013a)

The core functions of an MPO continue to be:

- Establish and manage a fair and impartial setting for effective regional decision making
- Identify and evaluate alternative transportation improvement options
- Prepare and maintain a long-range metropolitan transportation plan
- Develop a short-range transportation improvement plan (TIP)
- Involve the public and constituents in these functions (FHWA and FTA 2007)

Membership varies from region to region; in Arizona, the governor and local governments determine membership when an MPO is formed and then formalize it in a memorandum of agreement (MOA), stipulating the relationship of each member to the MPO (ADOT 2014b). An MPO is generally represented by local jurisdictions, tribes, key agencies, and other stakeholders. Voting members include elected officials of affected governments and representatives from planning boards and transportation agencies. Federal law (23 U.S.C. 134, 23 CFR 450.310) required voting membership for an MPO that is also designated to include a TMA (such as MAG and PAG in Arizona) to include local elected officials; officials of agencies administering major transportation systems (such as rail, airports, ports, and transit); and appropriate state officials. While there is no required structure, an MPO typically has had a governing board assisted by an executive director, professional staff, and advisory committees (ADOT 2014b).

An MPO produces various programs and plans, including a long-range transportation plan; a regional transportation plan (RTP); and a TIP, which annually identifies capital and operational costs for transportation projects and documents an agency's intent to construct or implement projects. Once approved by an MPO's governing board, the TIP was to be submitted to ADOT for inclusion in the STIP (ADOT 2014b).

Federal transit grant funds were articulated in 49 U.S.C. 53 (Public Transportation). Requests for FTA funding in urbanized areas were submitted to an MPO for inclusion in its work program. The MPO would review the applications for coordination, conformity, and fiscal constraint in relation to its TIP goals and objectives.

In addition to these federal funds, an MPO would derive funding from other federal sources, including:

- Surface Transportation Program: Construction, reconstruction, rehabilitation, resurfacing, restoration, and operational improvements for highway or transit projects.
- HSIP: Projects to reduce traffic fatalities and serious injuries on public roads, bicycle paths, and pedestrian pathways.
- CMAQ Improvement Program: Congestion mitigation related to surface transportation projects.

- SPR: Transportation planning assistance for future highway programs, local public transportation systems, and regionally identified research projects.
- Transportation Alternatives: Various transportation projects, including transportation enhancements, recreational trails, and pedestrian and bicycle facilities. This program's predecessor, the Transportation Enhancement program, was eliminated under MAP-21; however, many of the same eligibilities existed at the discretion of states (ADOT 2013b).

Available federal funds were determined by apportionments from FHWA and were distributed by agreement to each MPO. A contract would be established with ADOT so that the MPO could use these funds in its work program (ADOT 2014b).

Interviews were conducted with five MPOs: MAG, PAG, Central Yavapai Metropolitan Planning Organization (CYMPO), Flagstaff Metropolitan Planning Organization (FMPO), and Yuma Metropolitan Planning Organization (YMPO). Since the time those interviews were conducted, three new MPOs have formed in Arizona: Lake Havasu Metropolitan Planning Organization, Sun Corridor Metropolitan Planning Organization, and Sierra Vista Metropolitan Planning Organization. Individuals from these new MPOs were not interviewed.

COG

A council of governments or COG provides planning services and other assistance to local governments and people in rural sections of the state. In the late 1960s and 1970s, a need for better coordination of governmental activities was emphasized through various federal requirements for planning, including for transportation services. In response, COGs, as voluntary associations, were formed to achieve uniformity in various planning efforts (MAG 2014, ADOT 2011b).

A COG functions on behalf of ADOT to link local transportation decision making with state activities. Unlike an MPO, a COG's work program is developed by ADOT. While the organizational structure of a COG may vary, it is required to have a TAC composed of members that can include local jurisdictions and tribal governments to carry out regional planning activities. Representation on a TAC includes ADOT and transit providers, in addition to member agencies. The TAC meets regularly to discuss transportation planning and to program funds by developing a TIP and making recommendations for ADOT's Five-Year Transportation Facilities Construction Program. A COG's regional council approves the TIP and related recommendations before submitting the plan to ADOT, which then coordinates the completion of transit plans with COGs and local agencies, and incorporates them into the STIP (ADOT 2014b).

Funding is primarily derived from the SPR program, although ADOT determines how funds are used. In Arizona, funding is uniformly distributed to all COGs. For COGs that also perform transit-related activities, additional FTA funds are available. COGs also provide a mechanism for member agencies to submit, prioritize, and recommend projects to receive Transportation Alternatives funding. Because COGs provide a broader set of services to regions, particularly in regard to human services, they may use additional federal and state funding sources to support various programming.

Interviews were conducted with each of Arizona's COGs: Central Arizona Governments (CAG), Northern Arizona Council of Governments (NACOG), SouthEastern Arizona Governments Organization (SEAGO), and Western Arizona Council of Governments (WACOG).

Tribal Participation in COGs and MPOs

MPOs and COGs can also have been used as a means to fund tribal transportation activities. Membership provisions, processes, and related aspects differ based on the adopted bylaws of each COG and MPO; some, but not all, have required a fee to join. If a tribe becomes a member of a COG or MPO, it can participate on the COG's or MPO's regional council or board and related committees, giving the tribe an opportunity to vote on transportation issues and projects within the region. Some tribal governments have sovereignty-related concerns regarding government-to-government relationships at a regional level and thus have not participated in their region's COG or MPO. The tribes that are not members of their regional COG or MPO may attend meetings because these activities are open to the public (ADOT 2012b). However, the extent of their informal participation may be limited by the lack of official membership.

The *ADOT Tribal Transportation Consultation Online Training Course for ADOT Personnel Handbook* (ADOT 2013b) listed the following benefits for the tribes that participated in COGs and MPOs:

- Project funding beyond that allocated in the TTP. COG and MPO representatives review regional project requests and collectively prioritize where funding will be allocated.
- Transportation technical assistance, although the capacity of COGs and MPOs to provide this varies. Examples include assistance with traffic counts, accident information, planning studies, and applications.
- A voice in regional transportation planning and opportunities to communicate priorities.
- Regional advocacy for tribal transportation issues.
- Support for similar issues shared by other jurisdictions within the region.

Other Transportation Planning Stakeholders

Inter Tribal Council of Arizona

Established in 1952, Inter Tribal Council of Arizona (ITCA) is a nonprofit organization that promotes self-reliance of the tribes through public policy development and obtains, analyzes, and disseminates information on behalf of its members. At the time of this research, all but two of the federally recognized tribes in Arizona—the Navajo Nation and the San Juan Southern Paiute Tribe—were members of ITCA. Each tribe's highest elected official (such as the chairperson, president, or governor) serves as representative to ITCA, since according to ITCA, these leaders are in the best position to have a comprehensive view of the conditions and needs of their communities (ITCA 2014a).

While ITCA does not necessarily have a formal or defined role in statewide transportation planning, funding, or decision making, the organization serves as a collective voice for its member tribes on key issues, including those related to transportation. The ITCA transportation program focuses on expanding and strengthening consultation, coordination, and cooperation between the tribes and federal, state, and local transportation agencies (ITCA 2014b).

ITCA's transportation project coordinator was interviewed for this study.

STATE AND REGIONAL TRANSPORTATION PLANNING AND PROGRAMMING TOOLS

Planning

ADOT conducts long-range planning to ensure the state highway system best serves its users. State laws outlining transportation are articulated in Title 28 (Transportation) and largely focus on the development of the statewide transportation plan and the Five-Year Transportation Facilities Construction Program. As required by federal statute (23 U.S.C. 135), state long-range transportation plans must have a minimum 20-year horizon; Arizona requires that the investment strategy in the long-range transportation plan reasonably reflect anticipated revenues (A.R.S. 28-506, ADOT 2011c).

In 2008 and 2009, state and regional planning agencies facilitated the *Building a Quality Arizona (bqAZ)* statewide transportation planning initiative to identify a vision for the state's transportation system without financial constraints. The effort was conducted through a series of geographic-based framework studies to create a common understanding of long-term growth projections and determine a consensus direction to accommodate that growth. ADOT worked with COGs, MPOs, stakeholders, communities, and the tribes to identify long-term infrastructure needs for the state (ADOT 2014b).

Because Arizona requires that the investment strategy in the long-range transportation plan reasonably reflect anticipated revenues, the long-range transportation plan adopted in 2011, *What Moves You Arizona: A Transportation Plan for 2035* (ADOT 2011c), translated the fiscally unconstrained vision of bqAZ into a 25-year plan, creating priorities and estimating the resources necessary to meet needs. The state's long-range transportation plan is updated every five years (ADOT 2013c). The tribes are included and consulted in visioning and planning efforts, in accordance with consultation requirements, to assure tribal transportation needs are identified and included in these statewide efforts (ADOT 2012b).

Programming

ADOT's Five-Year Transportation Facilities Construction Program has been the primary mechanism for identifying and prioritizing projects within the state highway system and at airports during the next five-year period. In the first two years of the program, all projects are fully funded and ready to be initiated; during the program's last three years, implementation plans are created for remaining project phases (ADOT 2011b, 2013e, 2014c).

Ultimately, the State Transportation Board reviews and approves the Five-Year Transportation Facilities Construction Program (A.R.S. 28-304). The board, which advises the director of ADOT, has several responsibilities, including awarding construction contracts, monitoring construction projects, and issuing

revenue bonds to finance transportation projects. As part of these responsibilities, the board formally adopts the Five-Year Transportation Facilities Construction Program on or before June 30 each year (ADOT 2011b, 2013e, 2014c).

The STIP is a broader effort that identifies federally supported highway projects in Arizona on city, county, state, national park, national forest, and reservation lands. STIPs are developed in coordination with FHWA as well as with COG and MPO long-range transportation plans, five-year public transit plans, and TIPs. MPOs and COGs must submit their approved TIPs to ADOT by August 1 each year (ADOT 2013c, 2014c; FHWA and FTA 2007).

Because transportation needs exceed funding availability, projects must be prioritized. While ADOT is the primary decision maker for federal-aid transportation plans and investments in rural areas (or nonmetropolitan areas with populations below 50,000), ADOT has understood the importance of including local and tribal governments in planning and programming (ADOT 2011b).

In addition to encouraging tribal participation in regional (COG and MPO) efforts, ADOT had developed a consultation process to ensure that opportunities for meaningful dialogue with local officials in Arizona's rural communities and tribal governments occur during transportation planning and programming activities. Because this consultation process is facilitated through each COG or MPO, fostering quality relationships between these regional organizations and local and tribal governments is vital (ADOT 2011b).

While local, tribal, and regional entities participate in statewide planning and programming, decisions are made by the State Transportation Board. Because the board has authority over the state highway system, it determines which routes are accepted into the system and which are improved, ultimately approving construction contracts for programmed projects (ADOT 2012b).

TRIBAL TRANSPORTATION PLANNING AND PROGRAMMING TOOLS

Planners and tribal governments facilitate transportation planning to address mobility needs and safety concerns, and to implement the tribe's transportation vision. Not unlike other communities, multiple jurisdictions operate and maintain transportation facilities on tribal lands. In addition to BIA and tribal roadways, county and state facilities often traverse tribal lands in Arizona.

Guided in large part by federal statute to implement the TTP, two key tools were developed for tribal transportation planning: a long-range transportation plan and Tribal Transportation Improvement Program, or TTIP (FHWA 2012c).

Long-Range Transportation Plan

At the time of this research, long-range transportation plans defined a tribe's vision for its multimodal transportation system by setting goals for design, construction, operation, and maintenance over 20 years. Key elements included an assessment of existing conditions, a needs analysis addressing the gap between current and future conditions, a prioritization of short- and long-term transportation needs, and an analysis of funding alternatives to implement plan recommendations (FHWA 2012a).

Representatives from the BIA, FHWA, state DOT, regional governments, and other relevant public sector agencies would participate in the plan's development. Tribes were also required to solicit and consider feedback to the draft plan from tribal members, other reservation residents, transit providers, human service agencies, local businesses, and others through advertised public meetings (FHWA 2012b). After review, the tribal council approved the final plan. Tribes used the long-range transportation plan to develop TTIPs and to identify and justify updates to the National Tribal Transportation Facility Inventory. The Inventory is a database used by the BIA to verify that public highways, roads, bridges, trails, or transit systems are eligible to receive maintenance and/or construction financial assistance through the federal TTP. Long-range transportation plans must be reviewed annually and updated no less than every five years (25 CFR 170.400-414).

TTIP

A TTIP was a financially constrained, four-year scheduled list of projects selected by tribal governments. Working with the BIA or FHWA, the tribe would submit project ideas along with estimated costs for each project or activity. The public must be allowed to review and comment on the tribe's TTIP.

Only a tribal government could develop and change a TTIP, which had to be forwarded to the BIA and FHWA by resolution. Once approved by FHWA, projects were considered "programmed," and TTP funds were dispersed. TTIPs were updated annually and submitted by FHWA to state DOTs for inclusion in the STIP (25 CFR 170.421-426).

TTP

The federal TTP provided access to basic community services and enhanced the quality of life on tribal lands (FHWA 2013). The formula for distributing funding for TTP had three key components: tribal population, using the most recent population data as computed under the Native American Housing Assistance and Self-Determination Act (NAHASDA); road mileage, using FY 2012 National Tribal Transportation Facility Inventory data; and average tribal shares of the former Tribal Transportation Allocation Methodology program in Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) funding.

Determining Road Mileage

When considering tribal transportation facilities eligible for assistance, the National Tribal Transportation Facility Inventory would include public highways, roads, bridges, trails, or transit systems that are located on or provide access to tribal lands. The majority of these facilities were included in the BIA system inventory before October 1, 2004; or were owned by a tribal government; or were owned by the BIA (FHWA 2013).

Eligible Activities

Funding allocated by the TTP could be used to plan, research, engineer, rehabilitate, restore, construct, and reconstruct tribal transportation facilities. Additionally, tribal governments could use the funding to maintain tribal transportation facilities; however, the statute limited the allocation that could be used

for maintenance to 25 percent or \$500,000 of the allocation, whichever is greater. TTP funding could also be used for transit programs and other nonroadway activities, such as using funding as a match share for other federal awards (FHWA 2013, ADOT 2013b).

CHAPTER 3. STAKEHOLDER PERSPECTIVES ON TRIBAL TRANSPORTATION PLANNING, FUNDING, AND DECISION MAKING

METHODOLOGY

Researchers gathered information for this study through an analysis of current tribal transportation planning, programming, and decision-making processes and practices. This review included state and federal statutes and regulations as well as agency manuals, relevant literature, and other resources.

From February 2012 through May 2013, researchers also conducted online surveys and in-person interviews with the following stakeholders to assess their experience with transportation-related processes:

- **Tribal governments.** Representatives from 21 of the 22 federally recognized tribes in Arizona participated in the interviews. The San Juan Southern Paiute Tribe did not participate in the interview process. While federally recognized as a nation, the San Juan Southern Paiute Tribe is currently in litigation to establish and secure trust lands within Arizona; members reside in distinct communities on the Navajo Nation (American Indian Policy Institute 2014). Several of the tribes have lands that extend into other states, but for the purposes of this study, analysis focused on tribal transportation decision making as it pertains to Arizona.

While most interviews were conducted with one or two key transportation contacts from the tribe, the White Mountain Apache Tribe invited members of its transportation committee to the interview and the Navajo Nation extended a broad invitation to participate (including participation from other department staff and chapter representatives).

- **Federal agencies.** Researchers also interviewed staff from the BIA Western Regional and Navajo Regional offices, the FAA, FHWA, and the FTA.
- **ADOT.** Twenty-three representatives from ADOT's divisions, sections, and districts completed an online survey. Participants included the assistant director/state engineer, the ADOT tribal liaisons, and engineers from each of the nine engineering and maintenance districts in Arizona, including both the maintenance engineer and construction engineer from the Phoenix District.
- **Regional agencies and other organizations.** The research team interviewed representatives from nine regional transportation agencies in Arizona: five MPOs and four COGs. Researchers also interviewed representatives from the nonprofit ITCA and from the TTAP serving Arizona, which at the time of the interview was located at Colorado State University in Fort Collins, Colorado. (The program has since been relocated to Gilbert, Arizona, and is known as the Mountain West TTAP.)

Appendix C provides a list of stakeholders interviewed for this study. The survey questions, which were developed with input from the study's TAC members, are provided for each stakeholder group in

Appendices D through I. This chapter summarizes the results of the interviews in the following topic areas:

- Tribal transportation planning:
 - Transportation department structure
 - Transportation planning practices
 - Long-range transportation plans
 - Successes in tribal transportation planning
 - Challenges in tribal transportation planning
- Tribal transportation funding:
 - Range of funding sources
 - Identification of funding opportunities
 - Funding application process
 - Funding of priority projects
 - Unsuccessful applications for funding
 - Challenges in tribal transportation funding
- Tribal transportation decision-making practices:
 - Policies and procedures
 - Prioritization of transportation projects
 - Tribal transportation decision-making successes
 - Tribal transportation decision-making challenges

TRIBAL TRANSPORTATION PLANNING

Transportation Department Structure

Few tribes reported having dedicated transportation departments or employees dedicated to transportation issues, although some reported using consultants. While Appendix B briefly describes each tribe's transportation capacity (as reported by the ADOT tribal liaisons, BIA Western Region, ITCA, and the *ADOT Tribal Transportation Consultation Online Training Course for ADOT Personnel Handbook* (ADOT 2013b)), the tribal transportation interviewees were asked to describe the operational structure and reporting hierarchy of their transportation department. The most commonly reported type of departmental structure is a planner or planning department ultimately reporting to the tribal council. The list below summarizes the tribal transportation interviewees' descriptions of their transportation

department structure, which may differ from the information in Appendix B. (Note: Italicized information was not specifically reported by the interviewees; the ADOT tribal liaisons provided this information about tribal transportation departments and hierarchies.)

- **Ak-Chin Indian Community:** A planner from the planning department. Reports to department director and then tribal council.
- **Cocopah Indian Tribe:** Not reported.
- **Colorado River Indian Tribes (Chemehuevi, Hopi, Mohave, and Navajo):** A planner from the planning department and grants writer. Report to administration committee and then tribal council.
- **Fort McDowell Yavapai Nation:** The planning department and economic division. Report to the general manager and then tribal council.
- **Fort Mojave Indian Tribe:** A planner from the planning department. Reports to tribal council.
- **Fort Yuma Quechan Tribe:** A planner, specialist, and director from the economic development administration. Report to tribal council.
- **Gila River Indian Community:** Thirty-person transportation department with divisions: administration, construction and engineering, right of way and realty, and road maintenance. Report to community manager and then tribal council. Tribal committees include the Transportation Technical Committee.
- **Havasupai Tribe:** Tribal council.
- **Hopi Tribe:** Transportation task team. *The tribe has a DOT that reports to the transportation task team and then to tribal council.*
- **Hualapai Tribe:** Program manager, grader operators, mechanic, and laborer under the public services director. *The tribe facilitates transportation activities under the public works department (led by a director) that reports to tribal council. The tribe also has a planning department (led by a director).*
- **Kaibab Band of Paiute Indians:** Tribal council.
- **Navajo Nation:** Transportation division with departments: planning, projects, road maintenance, and clearance. Reports to the executive director and then tribal council. *The transportation division's departments report to the executive director, then to the resource and development committee before moving on to the tribal council.*
- **Pascua Yaqui Tribe:** Development department. Reports to the director of land and development, then tribal council.

- **Pueblo of Zuni:** Planning department reports to governor and tribal council.
- **Salt River Pima-Maricopa Indian Community:** Transportation department has two personnel. Other departments involved include engineering and construction services, public works and roads, and fleet management. Report to community manager and then to president, vice president, and tribal council.
- **San Carlos Apache Tribe:** Tribal transportation department. Reports to tribal transportation committee. *The tribal transportation committee reports to tribal council.*
- **Tohono O'odham Nation:** Roadway division manager. Reports to planning director who reports to CEO and then the chairman.
- **Tonto Apache Tribe:** Roads and transportation coordinator.
- **White Mountain Apache Tribe:** Transportation committee made up of representatives from several tribal departments. Reports to tribal council.
- **Yavapai-Apache Nation:** Public works department. Reports to tribal council.
- **Yavapai-Prescott Indian Tribe:** Tribal planner from the planning department. *The planning department reports to tribal council.*

Transportation Planning Practices

Most tribal governments reported including tribal staff from various departments for transportation planning, including representatives from cultural resources, environmental, capital projects, engineering and construction, maintenance, education, planning, economic development, public works, and grants. Many tribes held formal public meetings during planning processes. Other tribes solicited feedback from their communities:

- The Gila River Indian Community communicated with its districts.
- The Navajo Nation communicated with its chapters.
- The San Carlos Apache Tribe enlisted its tribal transportation committee with district representation.
- The White Mountain Apache Tribe received input from its community presidents and members.

Public engagement was required by federal regulations when developing a tribe's long-range transportation plan (25 CFR 170.413) as well as a TTIP (25 CFR 170.424). Some tribes, including the Cocopah Indian Tribe, Fort Mojave Indian Tribe, Havasupai Tribe, and Salt River Pima-Maricopa Indian Community, reported including BIA representatives in the transportation planning process. In nearly all cases, the interviewees reported that the tribal council makes final transportation planning decisions.

In general, tribal transportation staff members reported that they did not have policies or adopted procedures related to transportation planning. However, policy development was underway in the Colorado River Indian Tribes (Chemehuevi, Hopi, Mohave, and Navajo); Fort Yuma Quechan Tribe; Hualapai Tribe; San Carlos Apache Tribe; Tohono O'odham Nation; and Tonto Apache Tribe. The Ak-Chin Indian Community tried to follow transportation standards established by MAG.

Project Priority Lists

Except for the Tonto Apache Tribe, all the tribes reported having project priority lists or TTIPs. Tribal priority lists contain any transportation project the tribe has identified as needed or desired, whereas TTIPs are multiyear, financially constrained lists of proposed projects. Several tribes, such as the Cocopah Indian Tribe and Fort Yuma Quechan Tribe, included these lists in their long-range transportation plans.

However, the priority lists were not often shared with agencies other than the BIA. The Fort McDowell Yavapai Nation, Fort Yuma Quechan Tribe, Kaibab Band of Paiute Indians, Pascua Yaqui Tribe, Salt River Pima-Maricopa Indian Community, and Tohono O'odham Nation would share the information with the COG or MPO region where the tribe was located. But many tribal transportation contacts reported they assume the BIA shares the information with ADOT, while others noted they believed the information was not relevant to ADOT or to regional entities because it applies to tribal roads. The Yavapai-Prescott Indian Tribe also noted that, as with other information, the tribe is often reluctant to share its priority list or TTIP with outside entities.

Long-Range Transportation Plans

Only the Hopi Tribe reported not either having or creating a long-range transportation plan. Many tribes reported plan updates every three to five years. Below is a list of the last adopted long-range transportation plan, by tribe, as reported by the tribal interviewees or ADOT tribal liaisons (2012-2013):

- **Ak-Chin Indian Community:** Reported a 2010 plan.
- **Cocopah Indian Tribe:** Reported a 1999 plan; ADOT tribal liaison reported a 2012 plan.
- **Colorado River Indian Tribes (Chemehuevi, Hopi, Mohave, and Navajo):** Reported a 2005 plan; ADOT tribal liaison reported a 2014 plan.
- **Fort McDowell Yavapai Nation:** Reported a 1990 plan; ADOT tribal liaison reported a 2012 plan.
- **Fort Mojave Indian Tribe:** Reported a 2009 plan.
- **Fort Yuma Quechan Tribe:** Reported a 2010 plan.
- **Gila River Indian Community:** The community reported a 2011 plan.
- **Havasupai Tribe:** Reported a 2011 plan.
- **Hopi Tribe:** Indicated no plan; ADOT tribal liaison reported a 1994 plan on file.
- **Hualapai Tribe:** The tribe was updating a 2000 plan as of 2012-2013.
- **Kaibab Band of Paiute Indians:** The band was developing a plan as of 2012-2013.
- **Navajo Nation:** Reported a 2009 plan.
- **Pascua Yaqui Tribe:** Reported a 2009 plan.
- **Pueblo of Zuni:** Reported a 2000 plan.
- **Salt River Pima-Maricopa Indian Community:** Reported a 2010 plan.
- **San Carlos Apache Tribe:** Reported a 2010 plan.
- **Tohono O'odham Nation:** The nation was developing a plan in 2012-2013.
- **Tonto Apache Tribe:** The tribe was developing a plan in 2012-2013.
- **White Mountain Apache Tribe:** Reported a 2004 plan.
- **Yavapai-Apache Nation:** Reported a 2011 plan.
- **Yavapai-Prescott Indian Tribe:** The tribe was developing a plan in 2012-2013.

Successes in Tribal Transportation Planning

Several tribal governments said citizen feedback worked well in their transportation planning processes. The Navajo Nation specifically cited working “hand in hand” with local jurisdictions and their elected officials. Similarly, the Hopi Tribe requires its transportation task team to go to the villages to solicit feedback. Several tribes (including the Ak-Chin Indian Community, Fort McDowell Yavapai Nation, and San Carlos Apache Tribe) noted successes in seeking feedback from stakeholders and using transportation-focused committees to inform transportation planning. The Gila River Indian Community and Salt River Pima-Maricopa Indian Community reported that success can be measured simply through their completion and use of a long-range transportation plan:

I think now what’s really going to work, as long as we can really make sure [our] DOT and the community and other departments stick to it, is actually using the [long-range transportation] plan. ... What really works well now is that I think we do have staff in DOT that understand that a project isn’t just money [or] build a road, that there are more steps that we need to take. ... Even our engineers are considering a more “planning” approach to their viewpoints.

– Gila River Indian Community transportation staff member

Challenges in Tribal Transportation Planning

Funding

Tribal transportation representatives most often cited funding inadequacy when asked about the challenges experienced in their transportation planning processes. While resolving this issue is difficult, the Ak-Chin Indian Community said working more closely with ITCA or CAG (the COG that represents the community) might provide an avenue for acquiring additional funding assistance. The Navajo Nation has a fuel tax refund agreement with the State of Arizona, and representatives suggested a renegotiation of the agreement as a way to retain more funding. The next section of this chapter presents a more detailed discussion about the sources of funding used and sought by the tribes for transportation projects, as well as how funding impacts projects and programming.

Capacity

Few tribes reported having transportation departments or individuals dedicated to transportation issues. Instead many tribes dedicated staff from the planning or related departments in part or whole to roads or transportation issues. The Hopi Tribe used a transportation task team to manage transportation planning but noted that a full-time transportation office was necessary to meet the demands and needs of the tribe; those efforts were underway, as the ADOT tribal liaisons reported that the Hopi Tribe has established a transportation department and appointed a director. The Hualapai Tribe also reported insufficient personnel to complete the needed tasks and assignments to address transportation issues. The White Mountain Apache Tribe had successfully used a transportation committee with representatives from different tribal departments; however, representation from key departments, like police, was still desired, as was increased participation from the community.

Coordination with the BIA

Several tribal governments identified issues in working with the BIA, specifically coordination, communication, and timely approvals from BIA administrators. The interviewees recommended holding regular meetings with BIA officials; they also suggested that the BIA hire more personnel to manage contract administration workloads. Some noted concerns that tribal officials interpret federal law requirements differently than do BIA officials (such as competing interpretations of TTP regulations and differing approaches to implementing policy), which sometimes creates conflicts.

Working with Other Jurisdictions

A few tribes noted difficulties in coordination with regional partners on transportation planning. A particular example was the lack of understanding by regional entities (COGs and MPOs) and neighboring agencies (such as adjacent cities or towns) of the opportunities associated with placing other jurisdictions' roads on the National Tribal Transportation Facility Inventory. Previously, other jurisdictions' roads could be included in the inventory to increase the total miles of roadways reported by tribal governments and, thus increasing the tribal transportation funding allocation and ability to fund projects on the roadways. However, MAP-21 had changed this provision; while nontribally owned facilities that serve reservations could be added to the inventory, these miles no longer generated formula funding unless they were included before October 1, 2004 (FHWA 2013). However, MAP-21 was a short-term reauthorization of the transportation act, and the BIA encouraged tribes to maintain and keep up-to-date inventories in anticipation of a new authorization that may change formula funding.

Maintenance of nontribal roads (those owned and maintained by a county or other jurisdiction) was another concern. Several interviewees said nontribal roads on reservation lands were poorly maintained.

Other Challenges

Other transportation planning challenges reported by the tribal transportation interviewees are summarized below.

- Roadway issues:
 - Addressing routes that were used as roads but lack legal access and right of way.
 - Lacking legal access and right of way to establish roadways identified in planning efforts (such as when tribal council could not afford or did not want to purchase right of way).
 - Having too many roadway access points.
 - Needing to add roads to tribal transportation facility inventory.
 - Maintaining safety within rights of way.

- Planning and design issues:
 - Moving from the planning phase to the engineering, design, and construction phases. Planning staff reported difficulties in working and effectively communicating with project engineers.
 - Planning that was too engineering-focused.
 - Lacking standards for design and construction of various facilities (such as for earth roads) to assist in transportation planning.
- Other issues:
 - Infrequency of including tribal projects in the STIP.
 - Politicizing projects.

TRIBAL TRANSPORTATION FUNDING

Range of Funding Sources

The tribal transportation interviewees reported using the following programs and sources to fund transportation projects on their reservations:

- ADOT-administered programs, including the PARA program and Safe Routes to School, funded through the Transportation Alternatives program established under MAP-21
- ARRA funding
- BIA funding, including the TTP program
- COG and MPO funding, such as MAG's Arterial Life Cycle Program, funded in part by voter-approved Proposition 400
- County funding
- FAA funding, FHWA funding, and FTA funding, such as 5300 grant programs
- Fuel excise tax receipts
- Municipality funding
- SAFETEA-LU funding, which was replaced by MAP-21
- TIGER grants
- Tribal funding

In interviews (2012-2013), COG and MPO personnel reported the following additional FHWA programs as sources for funding:

- CMAQ
- Highway Safety Funds
- HSIP
- Surface Transportation Program
- Transportation Enhancement Program, which is currently available through the Transportation Alternatives program established under MAP-21

TTP

The majority of funding for tribal transportation came through the TTP. Jointly administered by FHWA's Federal Lands Highway Program and the BIA, the program provided funding for planning, design, construction, and maintenance of public facilities located on or providing access to tribal lands that are in the National Tribal Transportation Facility Inventory (FHWA 2013).

Tribal governments had five options for implementing the TTP:

- **Self-determination contract** (also referred to as "638" as shorthand for Public Law 93-638). The tribes enter into a contract with the BIA on a project-by-project basis to design, construct, and/or administer projects funded with TTP funds. Work performed on a construction project by the BIA is charged to the tribe's TTP allocation and requires authorization by tribal resolution. As with other Federal-Aid Highway funds, the tribe must make expenditures up front and be reimbursed with TTP funds. Additionally, the tribe must perform at least 15 percent of the work; the remaining work is completed by the BIA and/or by the firm(s) that are subcontracted by the tribe.
- **Self-governance agreement.** The BIA's involvement is minimized. After a negotiated contracting process, TTP funds from the Federal Lands Highway Program are channeled to the BIA DOT and then to the US Department of the Interior's Office of Self-Governance, which distributes funding directly to the tribes before project expenditures are articulated in an approved TTIP.
- **Direct service from the BIA.** The tribes authorize the BIA to complete work as a direct service.
- **FHWA program agreement with the Federal Lands Highway Program.** The tribes receive funds directly from the Federal Lands Highway Program through an annual referenced funding agreement. Funds are placed in a separate tribal bank account that can be used on any project identified in the tribe's TTIP. Each year, FHWA audits fund use.
- **BIA TTP agreement.** The Federal Lands Highway Program distributes funds to the BIA, which distributes funding to the tribe through an annual referenced funding agreement. A tribe can

opt to “buy back” services from the BIA through a direct service addendum (in which funds are held back to pay for BIA work). Unused funds held back for BIA use are returned to the tribe’s referenced funding agreement at the end of the fiscal year. Funds are placed in a separate tribal bank account and can be used for any project identified in an approved TTIP. BIA regional offices audit fund use annually (FHWA 2012f, ADOT 2013b).

Slightly more than three-quarters of the tribes implemented the TTP using a self-determination contract. Table 3 summarizes the tribes’ reported TTP management.

Table 3. Tribe’s Management of the TTP, as Reported in Tribal Interviews (2012-2013)

| TTP Implementation Option | Tribe/Community/Nation |
|---|--|
| Self-determination contract | <ul style="list-style-type: none"> • Ak-Chin Indian Community • Cocopah Indian Tribe • Fort McDowell Yavapai Nation • Fort Mojave Indian Tribe • Fort Yuma Quechan Tribe • Havasupai Tribe • Hopi Tribe • Hualapai Tribe • Kaibab Band of Paiute Indians • Navajo Nation¹ • Pascua Yaqui Tribe • San Carlos Apache Tribe • Tohono O’odham Nation • Tonto Apache Tribe • Yavapai-Apache Nation • Yavapai-Prescott Indian Tribe |
| Self-governance agreement | <ul style="list-style-type: none"> • Salt River Pima-Maricopa Indian Community |
| Self-determination contract, Self-governance agreement | <ul style="list-style-type: none"> • Colorado River Indian Tribes (Chemehuevi, Hopi, Mojave, and Navajo) |
| FHWA program agreement | <ul style="list-style-type: none"> • Gila River Indian Community • Pueblo of Zuni |
| Direct service from the BIA | <ul style="list-style-type: none"> • White Mountain Apache Tribe |

¹ADOT tribal liaisons noted that the Navajo Nation also uses FHWA program agreements with the Federal Lands Highway Program.

Fuel Tax Refund Agreements

ADOT has the authority to enter into agreements with tribal governments to refund taxes paid on exempt motor fuel purchases or use (A.R.S. 28-5610(A)(3), 28-5716(A)(3), and 28-5716(A)(4)). Table 4 identifies the three tribes with fuel tax refund agreements at the time of this research.

Table 4. Tribe’s Fuel Tax Refund Agreements, as Reported in Tribal Interviews (2012-2013)

| Tribe/Community/Nation | Effective Date of Fuel Tax Refund Agreement | Reported Percentage of Funding Applied in Transportation |
|-----------------------------|---|--|
| Navajo Nation | 1999 | 50% |
| San Carlos Apache Tribe | 2003 | 100% |
| White Mountain Apache Tribe | 1998 | Unsure |

Table 5 summarizes interest in pursuing a refund agreement by tribes that did not have one.

Table 5. Tribe’s Interest in a Fuel Tax Refund Agreement, as Reported in Tribal Interviews (2012-2013)

| Level of Interest | Tribe/Community/Nation |
|----------------------------|---|
| Interested | <ul style="list-style-type: none"> • Cocopah Indian Tribe • Fort Yuma Quechan Tribe • Hopi Tribe • Hualapai Tribe • Kaibab Band of Paiute Indians • Pascua Yaqui Tribe • Salt River Pima-Maricopa Indian Community • Tonto Apache Tribe |
| Possibly interested | <ul style="list-style-type: none"> • Colorado River Indian Tribes (Chemehuevi, Hopi, Mojave, and Navajo) • Gila River Indian Community • Yavapai-Apache Nation • Yavapai-Prescott Indian Tribe |
| Mixed interest | <ul style="list-style-type: none"> • Tohono O’odham Nation |
| No current interest | <ul style="list-style-type: none"> • Fort McDowell Yavapai Nation |
| No response | <ul style="list-style-type: none"> • Ak-Chin Indian Community • Fort Mojave Indian Tribe • Havasupai Tribe • Pueblo of Zuni |

Grant Funding

Many grants required the recipient to provide match funding to receive monies. While amounts differed, governments may have been required to supply up to the same amount of funding requested. Several tribal transportation interviewees reported willingness or ability to participate in such programs. However, some reported that tribal councils were reluctant to participate, particularly when tribal budgets were limited. Almost half of the tribes interviewed indicated that it would be difficult to provide the match funding required for many grants. Table 6 summarizes the reported willingness or ability of tribal governments to provide match funding for grants.

Table 6. Tribe’s Willingness or Ability to Provide Match Funding for Grants, as Reported in Tribal Interviews (2012-2013)

| Level of Interest | Tribe/Community/Nation |
|---|--|
| Willing | <ul style="list-style-type: none"> • Ak-Chin Indian Community • Fort McDowell Yavapai Nation • Gila River Indian Community • Hualapai Tribe • Kaibab Band of Paiute Indians • Pascua Yaqui Tribe • Salt River Pima-Maricopa Indian Community • Yavapai-Prescott Indian Tribe |
| Not willing | <ul style="list-style-type: none"> • Cocopah Indian Tribe • Fort Yuma Quechan Tribe • Tonto Apache Tribe |
| Difficult to provide match funding | <ul style="list-style-type: none"> • Colorado River Indian Tribes (Chemehuevi, Hopi, Mojave, and Navajo) • Fort Mojave Indian Tribe • Havasupai Tribe • Hopi Tribe • Navajo Nation • Pueblo of Zuni • San Carlos Apache Tribe • White Mountain Apache Tribe • Yavapai-Apache Nation |
| Unknown | <ul style="list-style-type: none"> • Tohono O’odham Nation |

Identification of Funding Opportunities

Many tribes reported having and using grant writers to identify potential funding sources and apply for funds. In other cases, the tribal transportation interviewees reported that planning personnel or other departmental employees seek and apply for funding. In almost all cases, if funding is sought, transportation personnel reported that it must first be approved by tribal council resolution.

Table 7 summarizes the sources used by tribal transportation personnel to look for funding opportunities, announcements, or information.

Table 7. Sources Used by the Tribes to Identify Funding Opportunities, as Reported in Tribal Interviews (2012-2013)

| Type of Information Source | Source |
|---|---|
| Local and state government | <ul style="list-style-type: none"> • County government • ADOT tribal liaisons |
| Federal government | <ul style="list-style-type: none"> • BIA • Environmental Protection Agency Tribal Assistance Program • FHWA • FTA • IRR Program Coordinating Committee • Local Technical Assistance Program • National Scenic Byways Program |
| Regional organization | <ul style="list-style-type: none"> • COG • ITCA • MPO • TTAP |
| National association or organization | <ul style="list-style-type: none"> • American Association of State Highway and Transportation Officials • American Road & Transportation Builders Association • Intertribal Transportation Association • National Congress of American Indians • Transportation Research Board |
| Website | <ul style="list-style-type: none"> • www.azdot.gov • www.grants.gov |
| Other sources | <ul style="list-style-type: none"> • Community Development Digest (subscription service) |

Effective Communication Mechanisms

When asked how an organization could best notify a tribal government of a funding opportunity, the tribal transportation interviewees routinely cited direct contact with tribal transportation personnel, particularly through e-mail. They reported, for example, that directly communicating with tribal governments, instead of relying on public notices that require the tribal government to search for and monitor funding announcements, ensures the tribes are aware that funding opportunities exist. COGs and MPOs reported that they primarily communicate funding opportunities to the tribes using e-mail, although several COGs reported additional mechanisms: posting opportunities on their websites, coordinating outreach through ADOT, notifying tribal contacts through direct phone calls or mailings, and using committee meetings as a platform to announce opportunities.

The tribal transportation interviewees also noted that ITCA and the ADOT tribal liaisons were effective resources for communicating funding opportunities because they relay information to all tribal governments. Several tribal contacts noted that grant opportunity notifications were sent directly to tribal executives (such as the president, chairman, or governor) instead of to department staff. While this practice is considered appropriate, particularly to steward government-to-government consultation, participants noted it often takes a long time for that correspondence to be delivered to transportation personnel, sometimes leaving little or no time for the department to respond to a funding opportunity. Several tribes reported missing application deadlines because of this delay. Therefore, direct communication to the department—through e-mail, mail, or other format—in addition to notifying leadership was considered the most effective method for communicating a funding opportunity.

Funding Application Process

Easy-to-Complete Funding Applications

The IRR program was routinely cited as the funding source considered easiest to apply for because the funding was already allocated to tribal governments and did not require significant administrative activities by the tribe. Tribal contacts noted that they were most familiar with programs that had the easiest application processes; specific programs cited include the IRR High Priority Projects program, IRR Bridge program, and FTA 5310 program. The Pueblo of Zuni noted that having legislative support for IRR programs assisted the funding process. According to the tribal interviewees, MAG's CMAQ program and ADOT's PARA program had a simple form to complete. The FHWA High Priority Project program and New Mexico's Small Area Studies also had easy application processes that might be considered models for other programs.

Concerning federal funding acquired through COG and MPO prioritization processes, the tribes that are members of a COG or MPO competed for transportation project funding along with the other members. Usually this process involved the COG's or MPO's TAC evaluating submitted requests for projects, then prioritizing them based on established criteria, ultimately funding the highest-priority projects. The COG or MPO TIP would be developed from this prioritization and approved by its governing board prior to submittal to ADOT. NACOG reported that in some cases it used subregional committees to initially evaluate and offer programming recommendations. COG and MPO personnel often said they included tribal governments in the prioritization and funding process "to the extent they will participate," indicating that they perceive that tribal governments do not participate in regional activities to the fullest extent possible.

Working with Partners in the Funding Application Process

Most tribal transportation interviewees said they did not use regional partners or other entities to review, critique, or revise applications. If they did use partners, they typically approached COGs, MPOs, BIA regional offices, counties, and public transportation authorities. The tribes noted below reported seeking guidance from other tribal governments when making applications:

- Fort McDowell Yavapai Nation
- Fort Mojave Indian Tribe
- Gila River Indian Community
- Hopi Tribe
- Navajo Nation
- Pueblo of Acoma and other New Mexico tribes and pueblos
- San Carlos Apache Tribe
- Tohono O’odham Nation
- White Mountain Apache Tribe

COGs and MPOs were asked if they were aware of other organizations or entities that could serve as liaisons to the tribes to help with funding-related activities, such as providing information, identifying funding opportunities, or providing technical writing assistance. The COG and MPO interviewees believed the following organizations and events already do or could potentially assist the tribes with funding-related activities:

- **Federal government:** BIA, Environmental Protection Agency (EPA), FHWA, and FTA
- **State government:** ADOT and Arizona Department of Environmental Quality
- **National associations:** American Planning Association, Community Transportation Association of America, and National Congress of American Indians
- **Organizations providing regional services:** ATSPT (sponsored by ADOT and FHWA), ITCA, and TTAP
- **Other sources:** National Tribal Transit Conference workshops (such as grant writing)

Funding of Priority Projects

The tribal transportation interviewees described how long it typically takes to fund a priority transportation project (Table 8). Because most tribal governments rely on the TTP allocation through the BIA, an identified project could be initiated once funding is available; however, for large projects, it may take years for the tribe to accumulate its annual allocation to secure the needed funding.

Table 8. Time Required to Fund Priority Transportation Projects, as Reported in Tribal Interviews (2012-2013)

| Time Taken | Tribe/Community/Nation | Typical Time Period to Fund Priority Project |
|-------------------------|---|---|
| Less than 1 year | Yavapai-Prescott Indian Tribe | Less than a year |
| | Fort McDowell Yavapai Nation | Up to a year |
| 1 to 5 years | Colorado River Indian Tribes (Chemehuevi, Hopi, Mohave, and Navajo) | 1 year |
| | Yavapai-Apache Nation | 1 year |
| | Tohono O’odham Nation | 2 to 3 years |
| | Salt River Pima-Maricopa Indian Community | 2 to 5 years |
| | Pueblo of Zuni | 3 years |
| | Fort Mojave Indian Tribe | 3 to 5 years |
| 5 to 10 years | Pascua Yaqui Tribe | At least 5 years |
| | Kaibab Band of Paiute Indians | 5 to 10 years |
| | Gila River Indian Community | Up to 7 years |
| | Cocopah Indian Tribe | 8 to 9 years |
| 10+ years | Navajo Nation | 15 to 20 years |
| | Hopi Tribe | Up to 30 years |
| Not specified | Ak-Chin Indian Community | Once a project is in TIP, it is just a matter of receiving a notice to proceed. |
| | Fort Yuma Quechan Tribe | Not very long |
| | Havasupai Tribe | Over a year |
| | Hualapai Tribe | A long time |
| | San Carlos Apache Tribe | If funding is available, not very long. |
| | Tonto Apache Tribe | Depends on circumstances |
| | White Mountain Apache Tribe | Depends on short-range plan in 20-year TIP |

Answers also varied on the largest amount of funding applied for and received by tribal governments. Table 9 summarizes the largest reported projects and the timing for each. While the source of funding was not consistently provided by the tribal transportation interviewees, BIA funding was often cited.

Table 9. Largest Transportation Funding Amount Reported in Tribal Interviews (2012-2013)

| Dollar Range | Tribe/Community/Nation | Funding Description | Project Timing ¹ |
|----------------------------|---|---|-----------------------------|
| Less than \$100,000 | Tonto Apache Tribe | \$89,000 for a long-range transportation plan | 2011-present |
| \$100,000 to \$499,999 | Cocopah Indian Tribe | \$200,000 for a long-range transportation plan | Ongoing |
| | Ak-Chin Indian Community | \$400,000 for a road project | Ongoing |
| \$500,000 to \$999,999 | Fort Yuma Quechan Tribe | \$500,000 for a road project | 2009-present |
| | Kaibab Band of Paiute Indians | \$600,000 for a left-turn lane | Ongoing |
| | Yavapai-Apache Nation | \$900,000 for a culvert project | 2008 |
| \$1 million to \$4,999,999 | Pueblo of Zuni | \$1 million for reconstruction | 2011-2012 |
| | Fort McDowell Yavapai Nation | \$2 million for unpaved roads | 2005-present |
| | Gila River Indian Community | \$2 million for a road project | 2010-2013 |
| | Yavapai-Prescott Indian Tribe | \$2 million for a bridge project | 2007-2009 |
| | Hualapai Tribe | \$2.3 million for patching and chip sealing | 2010-present |
| | San Carlos Apache Tribe | \$2.4 million for road restoration and repairs | 2010-2012 |
| \$5 million or more | Tohono O’odham Nation | \$6.8 million for safety improvements | 2011-present |
| | White Mountain Apache Tribe | \$8 million for road maintenance | 2009-2011 |
| | Salt River Pima-Maricopa Indian Community | \$15 million for road widening and improvements | 2009-2025 |
| | Navajo Nation | \$84 million | 2010-present |
| Not specified | Colorado River Indian Tribes (Chemehuevi, Hopi, Mohave, and Navajo) | N/A | N/A |
| | Fort Mojave Indian Tribe | | |
| | Havasupai Tribe | | |
| | Hopi Tribe | | |
| | Pascua Yaqui Tribe | | |

¹“Ongoing” or “present” indicates that the project identified had not been completed at the time of the interview (2012-2013).

Unsuccessful Applications for Funding

Tribal transportation contacts were asked if they receive feedback if project submissions do not receive funding. Half of the tribes interviewed indicated they receive feedback. COG and MPO representatives said they respond directly to the tribe or publicly through the committee decision process when project funding is denied.

Among the reasons cited for failed funding applications: project cost, insufficient technical information, and timing. Table 10 summarizes the interviewees' responses.

Table 10. Reasons for Failure of Funding Applications, as Reported in COG/MPO Interviews (2012-2013)

| Category | Reason for Failed Funding Application |
|---------------------------------|---|
| Funding/project cost | <ul style="list-style-type: none"> • Applied for a larger amount than can be awarded • Funding not available • Project cost did not justify the stated benefit. • Unable to provide matching funds |
| Lack of data/information | <ul style="list-style-type: none"> • Did not provide enough information in response to technical questions • Lacked documentation and data • Unable to conduct preliminary studies needed to justify and/or define new project (such as predesign) |
| Project-related issues | <ul style="list-style-type: none"> • Project not "shovel-ready" |
| Timing/deadlines | <ul style="list-style-type: none"> • Missed the application deadline (applied for a program, but after the deadline had passed) • Unable to meet aggressive schedule or time frame requirements of the program |
| Responsiveness | <ul style="list-style-type: none"> • Tribe not responsive to grant requirements • Performance using previous awards did not meet the awarding agency's expectations. |

NACOG interviewees indicated that, in their experience, funding was not awarded because applications were submitted for an ineligible activity. PAG noted that without staff engineers or engineering studies, a tribe was unlikely to be able to demonstrate the need, estimated cost, or associated impacts (particularly environmental) of the proposed improvement. Tribes without the ability to provide this information, the COG and MPO interviewees noted, would not successfully compete for funding.

WACOG staff said tribal governments have not been awarded funding because the applications or proposals were missing information. Also, sometimes when a tribe was awarded funding for a project, it was difficult to execute the award because contract language conflicted with the tribe's status as a sovereign nation. WACOG staff members further noted that they "get the overall feeling [that the tribes]

... want to be treated differently; [that] they don't want to be treated the same as all the other member agencies of a COG or MPO.”

Types of Funding Difficult to Obtain

When asked what funding sources they would like but have difficulty obtaining, tribal governments quickly identified TIGER grants. Many tribal staff members reported applying for TIGER grants in the past, but their requests were denied because their projects were not competitive among the many applicants.

Projects that are difficult to fund include fuel and alternative fuel options, park-and-ride facilities, subdivision development (including housing and related transportation infrastructure), and trails. Additionally, tribal staff reported that it was difficult to obtain funding from ADOT transit programs, other transit programs, and COGs. The White Mountain Apache Tribe also said that there was a lack of coordination and a breakdown in communication when trying to acquire funding from the Indian Highway Safety Program.

Tribal transportation contacts noted that, in many cases, grants and other funding were difficult to obtain because tribal governments did not meet minimum requirements for population and traffic volumes. Tribal contacts said that these mostly rural communities could not successfully compete with urbanized centers as tribal populations are small and traffic counts much lower than in more densely populated areas of the state; thus, they were not demonstrating need relative to urban areas. In many cases, the interviewees noted that tribal governments do not retain, do not have access to, or are unable to analyze data (such as crash statistics), making it difficult to justify program eligibility.

The COG and MPO interviewees also noted that tribal governments may not want to share data (such as personal contact information or location of culturally significant sites) because of cultural sensitivity. Also, as noted by WACOG, sometimes funding could not be used even if it had been awarded because an intergovernmental agreement (IGA) or memorandum of understanding (MOU) with funding partners could not be reached, often because of unresolved concerns regarding tribal sovereignty.

Challenges in Tribal Transportation Funding

Challenges Reported by the Tribes

Tribal transportation contacts routinely cited lack of funding as challenging, particularly for road maintenance. Many said that staying informed of funding opportunities and continuing to apply for applicable funding were ways to help address the funding issue, particularly if information about funding opportunities was more readily available and shared. Another strategy suggested for obtaining more funding was applying a holistic approach to grant applications (such as recognizing that transportation affects economic development, safety, and housing).

Tohono O'odham Nation staff said some reservation roads are regionally significant, and funding to maintain them should come from regional or state sources. For example, Phoenix-area residents often use Indian Route 15 to travel to Rocky Point, a popular Mexican vacation spot. Since this tribal roadway

is impacted significantly by nontribal traffic, the tribal transportation contacts said, it should receive funding assistance for maintenance.

Other perceived transportation funding challenges cited by the interviewees include:

- Failure to submit grant renewal applications by the deadline
- Lack of participation from and coordination with schools for Safe Routes to School grant applications; too many strings attached to Safe Routes to School grants
- Lack of road maintenance by other jurisdictions
- Lengthy BIA approval process
- Insufficient staff to acquire and manage funding
- Reclassification of roadways to assist in funding eligibility
- Stigma that tribal governments do not need funding because they operate casinos
- Removal of tribally identified projects from the STIP (such as State Route 264 improvements)

Challenges Reported by COGs and MPOs

The tribal, COG, and MPO interviewees all said that demand for transportation funding to improve tribal roads exceeds available funding, and even if funds are available, there are often barriers to success. NACOG staff said a lack of tribal participation in the statewide programming process further distances those governments from acquiring project funding. YMPO staff, as well as several tribal contacts, said many tribal councils did not have access to or had difficulty providing matching funds for grants.

NACOG staff also cited difficulties working out IGAs with the funding agency. They suggested preparing several case studies that demonstrated how legal issues related to IGAs have been successfully resolved on tribal lands in Arizona; these case studies could serve as models for future agreements.

Finally, WACOG staff observed that tribal governments often lack the capacity to write and administer grants and manage transportation projects, that finding and funding staff to complete grants and projects, and providing the necessary transportation project support (such as data collection and technical assistance) might help the tribes take better advantage of funding opportunities. Additionally, PAG staff suggested proactively reaching out to teach and regularly inform tribal governments about regional and statewide funding processes and opportunities as well as monitoring changing and growing tribal transportation needs.

Mitigating Funding Shortfalls

Other than obtaining additional funding sources, several interviewees offered ideas for mitigating funding shortfalls:

- The Navajo Nation participants suggested ADOT initiate a comprehensive internship program where Native American students could acquire technical skills directly from ADOT personnel.
- The Navajo interviewees also said environmental justice and community-based transportation planning grants such as ADOT's PARA program and environmental justice grants could fund transportation projects. ("Environmental justice" is defined by the EPA as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.) The California Department of Transportation (Caltrans) uses these discretionary funding programs to reach low-income, minority, and tribal populations (Caltrans 2007).
- Tohono O'odham Nation staff suggested using existing tribal resources, such as locally available gravel, to mitigate roadway costs, as well as using value engineering (a function-oriented, systematic, team approach to eliminating and preventing unnecessary cost) to reduce construction estimates and costs.

TRIBAL TRANSPORTATION DECISION-MAKING PRACTICES

Policies and Procedures

For the most part, tribal governments did not have specific transportation decision-making policies or procedures beyond those articulated in federal law (such as the TTP). The Ak-Chin Indian Community reported using its long-range transportation plan and general plan for guidance, the Hopi Tribe reported following SAFETEA-LU guidelines, and the Pueblo of Zuni reported using FHWA specifications and American Association of State Highway and Transportation Officials (AASHTO) design criteria. The Tohono O'odham Nation and White Mountain Apache Tribe indicated they were developing tribal ordinances, policies, and procedures to guide transportation decision making.

Prioritization of Transportation Projects

Prioritizing transportation projects helps tribal governments identify projects that should be initiated when funding becomes available. While federal law articulated that TTIPs needed to reflect a tribe's long-range transportation plans, what influences the prioritized need for a project differs across tribes. The Hualapai Tribe and Yavapai-Prescott Indian Tribe reported prioritizing projects based on their impact on economic development. The Gila River Indian Community said its top priority was safety. The Navajo Nation said it had three priorities: school bus routes, routes with three or more homes, and routes with 25 or more average daily trips. The Tohono O'odham Nation representative said its priorities were safety, school bus routes, and emergency response and access.

A few tribal governments, including the Ak-Chin Indian Community, Cocopah Indian Tribe, and Tonto Apache Tribe, reported using their long-range transportation plans to prioritize funding. The San Carlos Apache Tribe reported using district master plans, and other tribes use community feedback.

Below is a summary of the entities and processes reported by each of the tribes for prioritizing transportation projects at the time of this research. While respondents may not have specified it during the interviews, federal law requires that the public be involved in the review of draft long-range transportation plans and TTIPs.

- **Ak-Chin Indian Community:** Planning department provides management; capital projects department is responsible for design and construction; treasurer is responsible for funding; and contracts and grants unit is responsible for grant monitoring. Tribal council provides final approval.
- **Cocopah Indian Tribe:** Planning department and tribal council prioritize.
- **Colorado River Indian Tribes (Chemehuevi, Hopi, Mojave, and Navajo):** The BIA provides management. Tribal council provides final approval.
- **Fort McDowell Yavapai Nation:** Staff and tribal government prioritize.
- **Fort Mojave Indian Tribe:** Planning department (via tribal planner), tribal council, and the BIA prioritize.
- **Fort Yuma Quechan Tribe:** Community feedback is solicited to develop priority list. Tribal council provides final approval.
- **Gila River Indian Community:** Planner, engineer, and director prioritize.
- **Havasupai Tribe:** Tribal council and the BIA prioritize.
- **Hopi Tribe:** Villages prioritize.
- **Hualapai Tribe:** Public service director prioritizes. Tribal council provides final approval.
- **Kaibab Band of Paiute Indians:** Community provides feedback to transportation department; tribal council provides final approval.
- **Navajo Nation:** Chapters provide feedback to Agency Roads Committee, which makes recommendations to the Resource and Development Committee. Tribal council provides final approval.
- **Pascua Yaqui Tribe:** Consultants prioritize with feedback received from community. Tribal council provides final approval.
- **Pueblo of Zuni:** The BIA makes recommendations. Tribal council provides final approval.

- **Salt River Pima-Maricopa Indian Community:** Departments prioritize with feedback received from community. Tribal council provides final approval.
- **San Carlos Apache Tribe:** Transportation committee prioritizes.
- **Tohono O’odham Nation:** Feedback received from districts and executive branch is provided to oversight committee.
- **Tonto Apache Tribe:** Staff prioritizes. Tribal council provides final approval.
- **White Mountain Apache Tribe:** Transportation committee prioritizes.
- **Yavapai-Apache Nation:** Public works and tribal council prioritize.
- **Yavapai-Prescott Indian Tribe:** Planning, facilities and construction, and real estate departments prioritize. Board of directors provides final approval.

Tribal Transportation Decision-Making Successes

Tribal representatives were asked to describe a successful transportation project that was implemented on their reservations. Some examples of successful projects follow.

Studies

The Ak-Chin Indian Community used the PARA program funding to conduct a transit and trails study. Coupled with a successful outreach strategy, this study demonstrated a need for transit within the community, allowed the tribe to identify trails in its inventory, and provided the information needed to apply for funding.

The success of the PARA program was routinely cited by other agency representatives, including ADOT district engineers and tribal liaisons, and regional and federal agency staff. The interviewees said tribal governments have leveraged PARA funding to develop long-range transportation plans, which are often required to justify and subsequently receive project funding.

Plans and Assessments

Several tribal governments cited successful use of completed plans and assessments. Fort Yuma Quechan Tribe interviewees recounted how they installed a small driveway to an educational facility served by an Imperial County, California, roadway. When the county asked the tribe to provide additional improvements at its expense, the tribe staff members said they used traffic counts from the long-range transportation plan to demonstrate that the requested improvements were unnecessary.

The Kaibab Band of Paiute Indians expects to use its transportation plan to justify future road improvements. Finally, the Hualapai Tribe said that the road safety assessment completed by ADOT has been very helpful in identifying roadway issues, many of which the tribe had begun to address.

Use of ARRA Funding

The Gila River Indian Community had identified the Vah-Ki Road as a key project but funding was unavailable. When ARRA funding was announced, staff quickly prepared the project to make it “shovel-ready” and eligible for ARRA funding. Completing this project has been a source of tremendous pride for the community.

ADOT Partnership

A few of the tribes cited partnering with ADOT to complete transportation projects: the Colorado River Indian Tribes (Chemehuevi, Hopi, Mohave, and Navajo) mentioned a shoulder-widening project (where ADOT officials initiated early interactions about environmental clearances with the tribal employments rights office), and the Fort McDowell Yavapai Nation noted installing a needed traffic signal along State Route 87.

Below are other successful transportation projects:

- **Cocopah Tribe Indian Tribe:** Creating a transit program
- **Fort Mojave Indian Tribe:** Acquiring needed rights of way
- **Pascua Yaqui Tribe:** Building a new road to connect key activity centers
- **Pueblo of Zuni:** Employing tribal members and local residents in the BIA Route 301 project
- **Salt River Pima-Maricopa Indian Community:** Coordinating and partnering for Pima Road improvements
- **San Carlos Apache Tribe:** Creating a transit program and completing a paving project
- **Tonto Apache Tribe:** Coordinating funding and implementing street lighting
- **White Mountain Apache Tribe:** Using grant funding from the Governor’s Office of Highway Safety for a seat belt and child seat safety education effort

Tribal Transportation Decision-Making Challenges

Several interviewees noted challenges with their tribes’ transportation decision-making processes. Fort Yuma Quechan Tribe staff reported having low public participation in the transportation decision-making process; the interviewees said they would continue to provide notices of public meetings and encourage participation by their members.

Both the Gila River Indian Community and Tohono O’odham Nation staff members noted that they were taking on additional responsibilities from the BIA, which previously had made transportation decisions for them. Tohono O’odham Nation transportation staff said that the issue would resolve itself over time as the tribe took on additional responsibilities and defined a decision-making process. Gila River Indian Community interviewees said that the community would need more staffing as it transitioned to an

“FHWA program agreement” tribe and assumed responsibilities previously performed by the BIA. To strengthen decision-making practices, the Hualapai Tribe, Navajo Nation, Tonto Apache Tribe, and White Mountain Apache Tribe interviewees suggested developing policies, procedures, standards, rules, and regulations, and adopting tools such as a long-range transportation plan or community plan.

CHAPTER 4. REGIONAL AND STATE STAKEHOLDER PERSPECTIVES ON CONSULTATION AND COORDINATION PRACTICES

This chapter presents stakeholders' perspectives on the consultation and coordination activities that occurred between the tribes and the state, regional, and federal agencies participating in the transportation planning, funding, and decision-making processes affecting the tribes. Survey results are provided in the following topic areas:

- Background on consultation and coordination:
- Coordination practices among the tribes and ADOT
- Coordination practices among the tribes, COGs, and MPOs:
- Coordination practices between the tribes and five federal agencies: BIA, FAA, FHWA, TTAP, and FTA.
- Tribal coordination practices through the ITCA transportation program
- Gaps in regional or state coordination of transportation planning from the tribe's perspective and the regional agency's perspective, including the relationship between the tribes and regional agencies.

BACKGROUND ON CONSULTATION AND COORDINATION

ADOT Policy on Consultation and Coordination

In ADOT's internal policy articulating consultation and coordination (MGT-16.01, Department-Wide Native Nation/Tribal Government Consultation Policy [ADOT 2014c]), the term "consultation" is defined as:

- Meaningful and timely discussion in understandable language with tribal governments during the development of regulations, policies, programs, plans, or matters that significantly or uniquely affect federally recognized American Indian and Alaska Native tribes and their governments.
- Identification, discussion, and consideration of the views of Native American tribes, and, where feasible, seeking agreement with them on how historic properties should be identified, considered, and managed.
- Direct and interactive (collaborative) involvement of the tribes in developing regulatory policies on matters that have tribal implications (identifying and seeking input from appropriate Native American governing bodies, community groups, and individuals, and considering their interests as a necessary and integral part of the agency's transportation decision-making process) (ADOT 2014c).

The term “coordination” is defined as the cooperative action taken by agencies and entities to synchronize and integrate activities, responsibilities, and command and control structures to ensure that an organization’s resources are used efficiently toward a specific objective.

ADOT’s consultation and coordination policy contains several provisions related to the transportation planning, programming, and decision-making process; some of the relevant provisions follow:

- ADOT will maintain and operate state-owned transportation infrastructure within Native Nation/tribal lands in the best interest of the state while respecting the concerns of the Native Nations/tribal governments and their communities.
- ADOT will consult with Native Nations/tribal governments during the transportation planning processes and STIP implementation according to FHWA, FTA, and FAA policies and MGT-16.01.
- ADOT, while acknowledging funding and jurisdictional limitations, will work with Native Nations/tribal governments to identify available resources to jointly or individually fund projects that benefit the state and Native Nation/tribal communities.
- ADOT will communicate promptly with Native Nations/tribal governments about decisions that may affect them. ADOT values reciprocity by Native Nations/tribal governments and encourages timely notification about matters that may affect the state.
- ADOT will share appropriate technical information and data with Native Nations/tribal governments according to established ADOT policy. ADOT values reciprocity and encourages all Native Nations/tribal governments to share appropriate technical data with the state according to established Native Nation/tribal government policy.
- ADOT will assist Native Nations/tribal governments to implement transportation programs by providing technical assistance and reference tools, sharing data, conducting joint Native Nations/tribal government and state projects, and cooperatively resolving transportation issues to the extent resources allow.

ADOT Consultation Procedure

While MGT-16.01 recognizes the sovereign status of tribal governments and their jurisdiction over lands within reservations boundaries (18 U.S.C. 1151), it also recognizes ADOT’s exclusive control and jurisdiction over state highways within reservation boundaries (A.R.S. 28-332(A)). Because of this formal relationship, ADOT has designed a procedure for consulting with the tribes that includes:

- Formal consultation correspondence signed by the ADOT director and other designated executive-level official(s) and sent by US mail to the tribal leader
- Copy of formal consultation correspondence sent by US mail and/or e-mail to designated tribal transportation contact(s), tribal cultural resource contact(s), other authorized tribal/tribal-

related agency representative(s), and authorized and/or designated ADOT representative(s) who will be involved in the consultation process

- Follow-up contact through telephone or e-mail communication
- Other follow-up meetings and actions conducted and coordinated by the authorized/designated ADOT and tribal representatives, as appropriate (ADOT 2013b)

Section 106 Considerations

Section 106 of the National Historic Preservation Act of 1966 requires that federal agencies account for the effects of their activities on historic properties and mandates a review process, placing major emphasis on consulting with tribes while respecting tribal sovereignty and the government-to-government relationship. For tribal lands this means that federal agencies are responsible for initiating a Section 106 review with the State Historic Preservation Office and with tribal officials. Some tribes have been certified to designate tribal historic preservation officers who consult with state and federal agencies *in lieu of* the state historic preservation officer. Even tribes that have not been certified according to the Act's regulations have the same consultation and concurrence rights when a federal undertaking takes place, or affects historic properties on, tribal lands; in such cases, the non-certified tribe is consulted *in addition to* the state historic preservation officer. Figure 5 summarizes the steps of ADOT's Section 106 consultation procedure, described in *Tribal Transportation Consultation Process Reference Manual* (ADOT 2009). A Section 106 review includes:

- Gathering information to decide what properties (listed or eligible for listing in the National Register of Historic Places) may be affected
- Determining how those historic properties might be affected
- Exploring measures to avoid or reduce harm to historic properties
- Reaching agreement among preservation officers about measures to resolve adverse effects or obtaining advisory comments from the Advisory Council on Historic Preservation to send to the head of the agency (ACHP 2010)

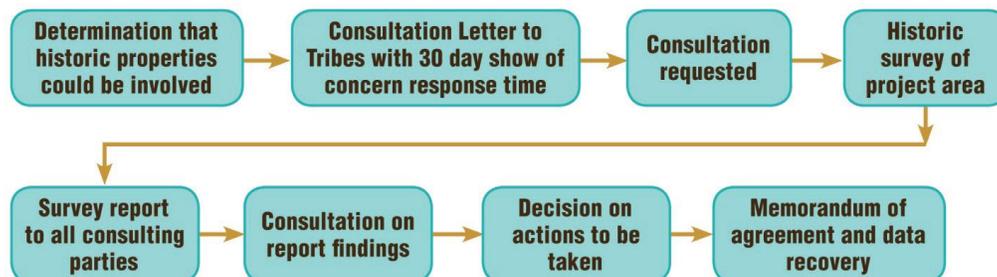


Figure 5. Generalized ADOT Section 106 Consultation Process (ADOT 2009)

COORDINATION PRACTICES AMONG THE TRIBES AND ADOT

The Tribes' Assessment of Relationship with ADOT

Tribal participants were asked to rate their relationship with ADOT using a scale of 1 to 5, where 1 is poor or none and 5 is excellent. The Pueblo of Zuni provided two ratings: one for e-mail and one for in-person interactions. When calculating with the Pueblo of Zuni's rating for e-mail activity, the average rating by the tribes is 3.05. When calculating with the Pueblo of Zuni's rating for in-person interactions, the average rating by the tribes is 2.85. Table 11 summarizes all tribal responses.

Table 11. Rating of Tribe's Relationship with ADOT, as Reported in Tribal Interviews (2012-2013)

| Tribe/Community/Nation | Rating (1 = poor/none; 5 = excellent) |
|--|---|
| <ul style="list-style-type: none"> • Hualapai Tribe • Pueblo of Zuni (e-mail) | 5 |
| <ul style="list-style-type: none"> • Tohono O'odham Nation | 4 to 5 |
| <ul style="list-style-type: none"> • Pascua Yaqui Tribe • San Carlos Apache Tribe | 4 |
| <ul style="list-style-type: none"> • Fort Mojave Indian Tribe • Yavapai-Prescott Indian Tribe | 3 to 4 |
| <ul style="list-style-type: none"> • Gila River Indian Community | 3.5 |
| <ul style="list-style-type: none"> • Ak-Chin Indian Community • Cocopah Indian Tribe • Fort McDowell Yavapai Nation • Salt River Pima-Maricopa Indian Community • White Mountain Apache Tribe | 3 |
| <ul style="list-style-type: none"> • Colorado River Indian Tribes (Chemehuevi, Hopi, Mohave, and Navajo) | 2 to 2.5 |
| <ul style="list-style-type: none"> • Fort Yuma Quechan Tribe • Havasupai Tribe • Kaibab Band of Paiute Indians • Yavapai-Apache Nation | 2 |
| <ul style="list-style-type: none"> • Navajo Nation | 1 to 2.5 |
| <ul style="list-style-type: none"> • Pueblo of Zuni (in-person) • Tonto Apache Tribe | 1 |
| <ul style="list-style-type: none"> • Hopi Tribe | N/A |

In addition to the rating, the interviewees expressed concerns about their interactions with the agency. The areas of greatest concern to the interviewees: coordination, communication, and a lack of understanding of tribal issues. Below is a summary of the tribal interviewees' concerns:

- **Communication**
 - **Havasupai Tribe:** Learn more about funding eligibility through ADOT. *Note:* Based on its Grand Canyon location, no state highways exist, or are likely to exist, on the reservation.
 - **Navajo Nation:** Seek better communication from ADOT.
 - **White Mountain Apache Tribe:** *Recommendation:* Establish more dialogue with ADOT's district office to improve services delivered by ADOT (such as snow removal).
 - **Yavapai-Apache Nation:** Note a lack of information communicated and provided by ADOT.

- **Coordination**
 - **Hopi Tribe:** Desire a direct relationship with ADOT instead of having to work through the COG (NACOG).
 - **Navajo Nation:** Desire better access to ADOT. ADOT not proactive in its relationship with the tribe.
 - **Pueblo of Zuni:** Note that coordination is difficult because of distance between tribal headquarters and ADOT state and district offices.
 - **Salt River Pima-Maricopa Indian Community:** Note ADOT's lack of understanding of how tribal governments work, impeding effective partnerships and working relationships.
 - **Tonto Apache Tribe:** Note that because of its very small staff size, the tribe has not had the capacity to establish better coordination with ADOT and other agencies.

- **Responsiveness**
 - **Fort Yuma Quechan Tribe:** Express significant concerns that ADOT has not been responsive to specific questions posed by the tribe.
 - **White Mountain Apache Tribe:** Describe difficulties in receiving services from ADOT, particularly snow removal on state highways that traverse the reservation.

- **Understanding of tribal issues**
 - **Fort McDowell Yavapai Nation:** Note that ADOT requires a better understanding of archeological issues that pertain to tribal lands.

- **Navajo Nation:** Note that ADOT requires a better understanding of tribal nations and governments.
- **Salt River Pima-Maricopa Indian Community:** Note tribal concerns about impacts to sovereign immunity, particularly as it relates to language contained in IGAs. *Recommendation:* Develop policies and procedures related to IGAs.
- **Yavapai-Prescott Indian Tribe:** Note tribal concerns about impacts to sovereign immunity, particularly as it relates to language contained in IGAs. *Recommendation:* Develop policies and procedures related to IGAs.
- **Outreach among the tribes**
 - **Yavapai-Apache Nation:** *Recommendation:* Encourage the tribes to learn from each other.
- **Policies, procedures, and processes**
 - **Ak-Chin Indian Community:** Desire a better understanding of ADOT’s processes and how often standards are updated to reflect current conditions and technologies.
 - **Hualapai Tribe:** Desire a better understanding of ADOT’s decision-making hierarchy and work process.
 - **Tohono O’odham Nation:** Note that as a rural community, the tribe is often unable to provide justification for funding to mitigate safety issues. Data such as traffic counts or population figures are not substantial enough to compete successfully with projects in urban areas.
- **Training**
 - **Navajo Nation:** *Specific request:* Desire ADOT assistance to provide training and other in-kind assistance to certify Navajo equipment operators.

The Tribes’ Perceived Level of Authority or Influence within ADOT

Tribal governments reported having little or no authority or influence in receiving federal funding through ADOT for transportation projects or for road projects in general. Because several interviewees noted their tribe had not received funding from ADOT for transportation projects, a correlation could be made between the lack of funding received and the perception of little influence. Gila River Indian Community transportation staff said tribal personnel were “persistent” with ADOT in seeking and receiving funding. The White Mountain Apache Tribe reported that its influence fluctuated—that ADOT had little understanding of the tribes and that it could be difficult to stay connected when personnel changes occurred at ADOT.

The Tribes' Interaction with the State Transportation Board

Only a few of the interviewees reported attending a State Transportation Board meeting or interacting with the board. Both the Cocopah Indian Tribe and White Mountain Apache Tribe had hosted a board meeting; the Navajo Nation hosted the board once a year. Others reported having met individual board members or interacting with them during Indian Nations and Tribes Legislative Day, which was hosted by the Arizona Commission of Indian Affairs (ACIA) at the state capitol, or at other committee meetings.

The Tribes' Assessment of Coordination with ADOT and ADOT Districts

Tribal representatives were asked if regular coordination occurs with ADOT's district offices. (Note that the agency's district organization has changed considerably in the years following the 2012-2013 interviews. Figure 6 shows the district structure that existed at the time of the interviews.)

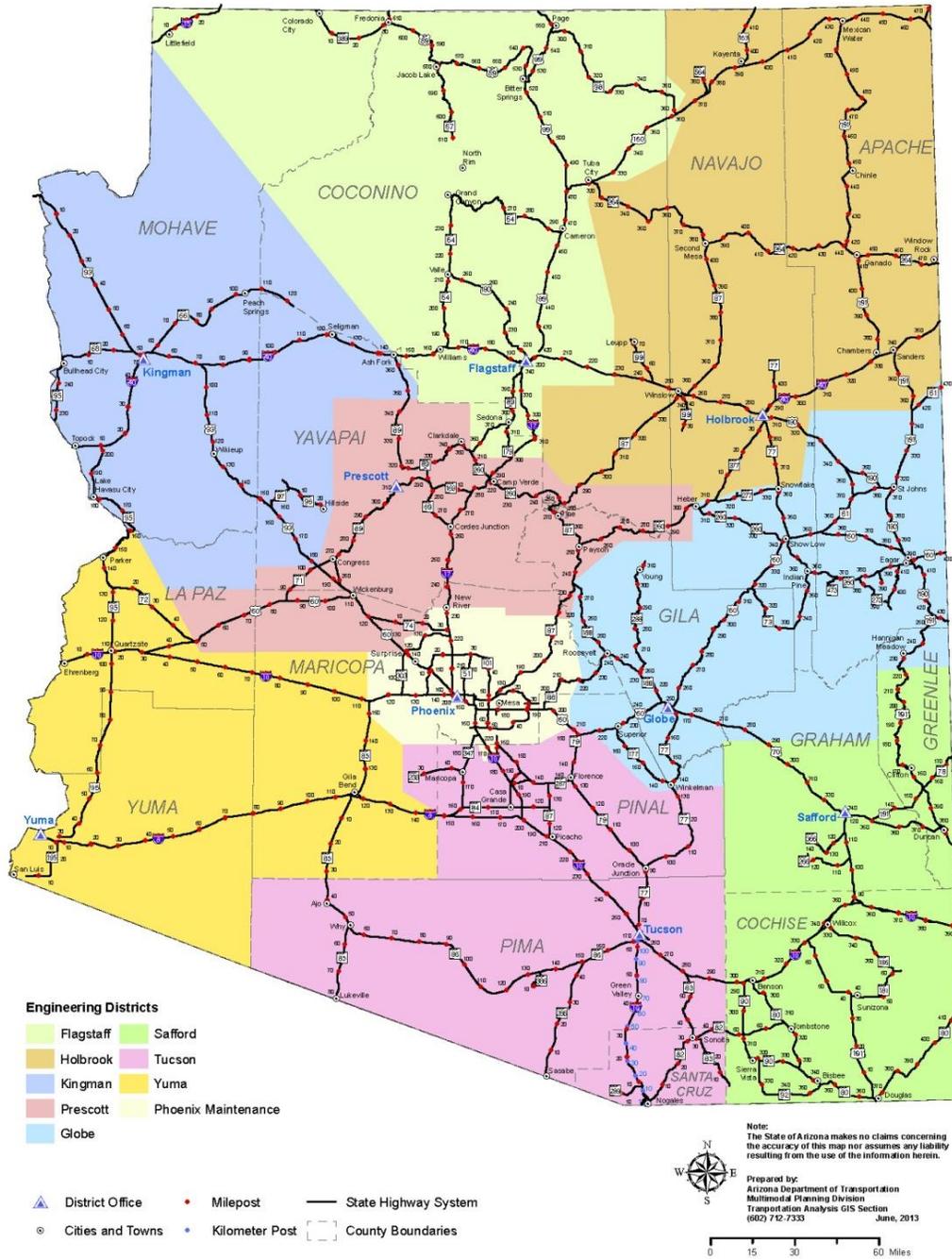


Figure 6. ADOT Engineering and Maintenance Districts in 2012-2013 (ADOT 2013a)

More than half of the interviewees indicated that regular coordination did occur with district offices. One-third of the interviewees reported a lack of regular coordination. Table 12 summarizes the responses.

Table 12. Regularity of Coordination with ADOT Districts, as Reported in Tribal Interviews (2012-2013)

| Regular Coordination? | Tribe/Community/Nation | ADOT District(s) |
|---------------------------------|---|-------------------------|
| Yes | Colorado River Indian Tribes (Chemehuevi, Hopi, Mohave, Navajo) | Yuma |
| | Fort Mojave Indian Tribes | Kingman |
| | Hopi Tribe | Flagstaff, Holbrook |
| | Hualapai Tribe | Kingman, Flagstaff |
| | Kaibab Band of Paiute Indians | Flagstaff |
| | Pueblo of Zuni | Globe |
| | Salt River Pima-Maricopa Indian Community | Phoenix |
| | San Carlos Apache Tribe | Globe, Safford |
| | Tohono O’odham Nation | Yuma, Tucson |
| | White Mountain Apache Tribe | Prescott, Globe |
| | Yavapai-Prescott Indian Tribe | Prescott |
| No | Cocopah Indian Tribe | Yuma |
| | Fort McDowell Yavapai Nation | Phoenix |
| | Fort Yuma Quechan Tribe | Yuma |
| | Havasupai Tribe | Flagstaff |
| | Navajo Nation | Flagstaff, Holbrook |
| | Tonto Apache Tribe | Prescott |
| | Yavapai-Apache Nation | Prescott |
| Depends on circumstances | Ak-Chin Indian Community | Tucson |
| Don’t know | Gila River Indian Community | Phoenix, Tucson |
| | Pascua Yaqui Tribe | Tucson |

The Colorado River Indian Tribes (Chemehuevi, Hopi, Mohave, and Navajo), San Carlos Apache Tribe, Tohono O’odham Nation, and Yavapai-Prescott Indian Tribe reported coordinating regarding projects with the district office in their regions. San Carlos Apache Tribe staff also noted that the district staff in their region participated in the quarterly partnership meeting and attended tribal transportation committee meetings. Ak-Chin Indian Community staff described the relationship with the Tucson District as “hit or miss,” but improving. Fort Mojave Indian Tribe personnel reported working with the Kingman

District to get permits and to coordinate access to tribal land for projects; they noted that the district staff would meet with the tribal council about projects affecting the reservation. The Hualapai Tribe reported setting up quarterly meetings with the district engineer and noted that the district staff had been very helpful in assisting with a number of issues. The Kaibab Band of Paiute Indians reported having semiannual meetings with the district staff while the Salt River Pima-Maricopa Indian Community reported communicating with the district staff on a monthly basis.

Other tribes did not regularly coordinate projects with ADOT's district offices. The Cocopah Indian Tribe said the tribe had little in common with the district. The Fort Yuma Quechan Tribe and Navajo Nation each said the district office in their respective regions did not invite or reach out to the tribe. The Tonto Apache Tribe said it lacked the staffing to better coordinate with the district office, and the Yavapai-Apache Nation was not familiar with the process of working with the district office.

ADOT Areas Overseeing Coordination with the Tribes

The tribes most frequently coordinated with ADOT's tribal liaison program. The Fort Mojave Indian Tribe, Hualapai Tribe, San Carlos Apache Tribe, Salt River Pima-Maricopa Indian Community, and Yavapai-Prescott Indian Tribe said they most frequently coordinated with the applicable district office. The Fort McDowell Yavapai Nation reported coordinating most frequently with ADOT's Local Public Agency section, which administers federal funds for local projects; the Hopi Tribe with "the road section"; the Navajo Nation with the maintenance section and the PARA program (Multimodal Planning Division); the White Mountain Apache Tribe with the planning section and maintenance programs; and the Yavapai-Apache Nation with the 5300 transit program. Both the Pascua Yaqui Tribe and Tohono O'odham Nation reported coordinating most frequently with ADOT's Multimodal Planning Division.

The Tribes' Understanding of Relationship of Regional Agencies to ADOT

Half of the tribes acknowledged that they were not familiar with the relationship (purpose, role, and responsibilities) of COGs and MPOs with ADOT. Many tribal officials recognized that ADOT distributed federal planning funding to COGs and MPOs, which worked with local and tribal governments in their regions. Other responses offered by the tribal interviewees regarding the purpose, role, and responsibilities of COGs and MPOs included providing regional planning, identifying regional transportation projects, coordinating with regional entities to complete transportation projects, providing technical assistance, managing transportation projects, and providing direction and input on ADOT projects.

ADOT Divisions and Sections with Responsibilities to the Tribes

Many ADOT divisions and sections worked directly with tribal governments to plan, maintain, and operate the state's multimodal transportation system. The responsibilities and obligations to tribal governments are summarized below, as reported by division and section representatives in 2012-2013. (Note: Italicized information was provided by the ADOT tribal liaisons at the time.)

- **Aeronautics**
 - Manage the State Aviation Fund and its five programs: state-issued grants for airport development, matching grants to an FAA-issued grant, the Airport Pavement Management System, airport development loans, and statewide system planning and related services.
 - Assist the tribes in justifying applications for FAA airport development funding.
 - *Include the tribes eligible for state aviation funds (per 2013 legislative change).*
- **Bridge**
 - Maintain and ensure the effective use of modern technology and resources for furnishing bridge design, bridge construction assistance, and bridge management to provide and maintain safe and functional bridges and drainage facilities on the state highway system.
- **Communication**
 - Interact with leadership at the local and regional level, including tribal governments.
 - *Interact with the general public, including tribal members living on and off reservations*
- **Engineering Survey**
 - Request right of entry permits for ADOT employees or contractors working on tribal lands.
- **Environmental Planning**
 - Oversee National Environmental Policy Act provisions for projects on tribal lands, including agency and public scoping, and the Section 106 process.
- **Local Public Agency**
 - Support local public agencies and tribal governments with regard to ADOT's implementation of the Federal-Aid Highway Program.

- **Materials**
 - Initiate the programming process for pavement preservation, pavement rehabilitation, and slope stability projects on the state highway system. Maintain material pits that are on tribal land.

- **Right of Way**
 - Respond to inquiries from tribal governments and other entities concerning right of way issues.
 - Provide complete and accurate information concerning right of way issues.
 - *Acquire new ADOT right of way on tribal lands or renew terms of existing easement agreements with tribal governments.*

- **Statewide Project Management**
 - Coordinate all projects on tribal lands (such as right of way, cultural resource impacts, traffic, and construction impacts) with tribal governments.

- **Traffic Engineering**
 - Allocate HSIP funding based on FHWA eligibility requirements.

- **Urban Project Management**
 - Involve the Salt River Pima-Maricopa Indian Community on Loop 101 (Pima Freeway).
 - Involve the Gila River Indian Community on Interstate 10 activities.

Beyond the services and activities performed by each division and section, the tribes reported that the advice, expertise, and knowledge of ADOT’s professionals were resources that the tribes could potentially use more frequently. Several division and section representatives reported that they formally and informally extend the knowledge and expertise of their staff to tribal governments. While most division and section representatives reported having adequate resources to address tribal-related issues, many noted that ADOT staffing limitations could hinder optimal service. In particular, the interviewees from the Aeronautics group said they did not have sufficient staffing if the tribes become eligible for funding from the State Aviation Fund (A.R.S. 28-8202) as their workload would increase. In fact, because of conflicts between state statute and tribal law, Aeronautics staff anticipated such coordination would require significant staff time and resources.

The State Aviation Fund provided for planning, design, development, acquisition of land, construction, and improvements to publicly owned and operated airport facilities. Aeronautics personnel suggested that even if tribal participation is allowed, tribal governments could invoke sovereign immunity as a way

to bypass State Aviation funding requirements; however, Aeronautics staff would have preferred that tribally owned airports be held to the same conditions and assurances as nontribal airports.

In 2013, following these interviews, Arizona legislation was passed and signed into law revising A.R.S. 28-8202 to allow tribally owned airports to participate in the State Aviation Fund. With this revision, the concerns voiced by Aeronautics staff will need to be revisited.

When division and section representatives encounter an issue with a tribal government, they ask the state attorney general's office, the ADOT tribal liaisons, ADOT/FHWA environmental staff, and district staff for assistance. According to the interviewees, districts often employ tribal members who can provide valuable cultural insights at a local level.

ADOT Division and Section Assessment of Communication and Consultation

Division and section representatives reported using various methods to communicate and collaborate with tribal governments, including face-to-face meetings, telephone calls, e-mails, mailed letters, newsletters, and conferences and workshops. Overall, face-to-face and one-on-one meetings were the most effective ways to communicate and collaborate with tribal governments at the tribal leadership, staff, or chapter/district/village/community levels.

Bridge group representatives reported following project development guidelines and processes, Environmental Planning reported interaction through the formal scoping and the Section 106 process, while the Materials group staff noted that communication and collaboration occur through personnel at the districts. A few ADOT interviewees noted they expended extra effort to reach out to tribal representatives, and that obtaining and maintaining current contact information was essential to successful communication.

ADOT staff members also used various methods to consult with tribal governments. Specific consultation activities included written correspondence relative to Section 106, phone calls, face-to-face meetings, and e-mails. However, some reported no consultation activities, while others said Environmental Planning or FHWA managed consultation efforts.

ADOT Districts' Role in Tribal Transportation Planning

Most representatives from Arizona's engineering and maintenance districts said they did not play a significant role in tribal transportation planning beyond activities directly related to state routes that may cross tribal lands. Participation in established tribal partnerships and PARA-related efforts are effective ways some districts reported participating in tribal transportation planning. Many district engineers highlighted the success of PARA-related efforts for tribal governments, specifically as a way to fund transportation planning efforts that are off the state highway system.

The district interviewees suggested that tribal governments should continue to be encouraged to use the PARA program for creating long-range transportation plans and for supporting planning efforts for routes not administered by the state. While most districts were unfamiliar with and inactive in transit-related activities, on more than one occasion ADOT staff highlighted the San Carlos Apache Tribe's

transit program led by administrator Bernadette Kniffin as a potential case study and program other tribal governments should emulate. The interviewees also suggested addressing the potential need for transit on tribal reservations (specifically for the Hopi Tribe and Navajo Nation reservations).

District Interaction with the Tribes

There reportedly is no institutionalized process governing how districts interact with tribal governments. District staff members said their responsibilities were exclusive to maintaining the state highway system. Beyond maintaining state routes, districts said the most frequent interaction with tribal governments was usually to address encroachment permit requests and right of way issues.

Technical Assistance. While resources were limited (and diminishing), district engineers did acknowledge that they could expand their efforts to offer technical assistance to the tribes, specifically by providing access to the district's technical experts. For example, Holbrook District staff often was asked to comment on or provide a second opinion about a technical issue (either on-site or over the phone). Additionally, recognizing the importance of crash data in project and funding applications, Safford District staff annually visit the San Carlos Apache Tribe district police headquarters to redact personal information from all crash data so that the data can be used in tribal and district project applications, while addressing the tribe's desire not to publicly release personal information.

Outreach. The Flagstaff, Holbrook, and Kingman districts reported holding routine meetings with tribal governments, whether through formalized partnerships, tribal transportation committee meetings, or regularly scheduled meetings between the district engineer and tribal staff. Engineers from these districts reported having more collaborative relationships than those with informal or little interaction. And while most districts reported that they did not regularly attend tribal council meetings, all indicated they participate when requested by a tribe or do specific outreach on projects that impact tribal interests.

Most district engineers said they were comfortable reaching out to tribal governments, although the frequency of interaction and outreach varied by district. In-person meetings were the most effective way to communicate, although scheduling these interactions can be challenging. Many districts acknowledged the important role that the ADOT tribal liaisons played in assisting with and fostering communication between the agency and the tribes, with many engineers noting that they turn to the liaisons (specifically, Misty Klann and Don Sneed, the liaisons at that time) for assistance and guidance. In only one instance was a specific issue relative to communication identified: The district engineer said he had been advised that ADOT's Communication group would handle any interactions with the Gila River Indian Community. The inability to communicate directly with Gila River Indian Community personnel had resulted in a severed, fragmented working relationship that had led to misunderstandings.

District Engagement with Tribal Transportation Projects

Many district engineers reported that they sympathized with the resource needs that exist on tribal lands, and when available, asphalt millings or other items have been provided (as they are with any

other jurisdiction within the district's boundaries). According to district engineers, state funding has plummeted over the past few years, resulting in the near-exclusive reliance on federal funding for all activities.

In the past, districts were asked to develop prioritization lists for state highway system projects. To develop these lists, many districts requested input formally from the tribes (through letters of support); however, many district interviewees said they assumed tribal participation in state highway system project prioritization occurs (or should occur) through the regional organization (COG or MPO). The importance of building strong working relationships between tribal governments and regional organizations was emphasized by district engineers as the best way for the tribes to participate and successfully garner project funding and related assistance. In other words, even if the tribes are formal members of a COG or MPO, they should be encouraged to become active members, particularly when it comes to participating in the state transportation planning and programming processes.

Only a few districts were aware of tribal entities offering to share project costs, although many agreed that collaborations where match funding is contributed from multiple partners could be a very effective way to obtain funding, particularly for projects benefiting the tribes, a region, and the state. As funding becomes more and more competitive, district engineers said that the mostly rural locations of the tribes will necessitate this regional focus.

Barriers to Completing Projects. According to districts, the biggest barriers to completing projects on tribal lands were related to cultural understanding, specifically, issues related to right of way acquisition; sovereign immunity (such as IGAs, contractual agreements, and liability waivers); and cultural avoidances or clearances (where construction impacts historically or culturally sensitive areas). A few districts said cultural avoidances add significant difficulty to projects, particularly when tribal governments indicate the presence of cultural sites but refuse to provide the necessary information to sufficiently avoid the site. The Safford District also said the tribes' ancestral territories often extend far beyond their reservation boundaries, and impacts to such areas (such as Mount Graham to the San Carlos Apache Tribe) need to be considered.

District Knowledge of Tribal Decision Making

Districts reported understanding the important role BIA funding plays in tribal transportation, but acknowledged knowing few details regarding the TTP or other sources that contributed to tribal transportation efforts (although there was almost universal interest in learning more about tribal transportation funding). Most district interviewees said they did not have specific knowledge about tribal governance and decision-making processes. However, they knew who the decision makers were (tribal council) and understood that decisions in tribal government occurred at a significantly slower pace—and perhaps in more dynamic ways—than other governmental bodies.

Improving the Districts' Working Relationships with the Tribes

Districts said a better understanding of tribal transportation funding mechanisms and decision-making processes would improve their working relationships with tribal governments. Access to current contact

information was also noted; the Flagstaff District, for example, said that the value of knowing who to contact in an emergency was sometimes immeasurable. (The tribal liaisons in ADOT's Multimodal Planning Division maintain and provide tribal contact information.) Citing the February 2013 landslide along U.S. Route 89 on the Navajo Nation, Flagstaff District staff said that because of the vastness of the Navajo Nation and Hopi Tribe reservations in that area, having the contact information of tribal leadership, transportation staff, and local contacts such as chapter officials proved valuable in the crisis.

ADOT's district interviewees also said working relationships with the tribes would improve if tribal officials had a better understanding of the role of the district and, in general, ADOT's responsibilities and process. According to Safford's district engineer, "Constituents need to know that my world is framed in federal law and state statute; I don't have as much latitude or power as they think I have."

ADOT Tribal Liaison Program

The tribal liaisons in ADOT's Multimodal Planning Division are ADOT's front-line resource in tribal transportation issues. The tribal liaisons are primarily responsible for assisting with state planning and programming activities relevant to the tribes, serving as state coordinators and conduits between the tribes and the agency, and ensuring that coordination and consultation with tribal governments occur on statewide efforts (such as the statewide long-range transportation plan, bqAZ, and STIP).

Additionally, the tribal liaisons advise, coordinate, inform, and foster departmentwide activities within ADOT and implement ADOT's consultation policy commitments. They also provide information about funding opportunities, assist formal tribal partnerships, facilitate training, assist partner agencies, and serve as project managers for transportation planning studies conducted for different tribes. The tribal liaisons also manage a dedicated tribal transportation website (www.aztribaltransportation.org).

Consultation

The tribal liaisons are the unofficial stewards of ADOT's tribal consultation policy. They advise project managers and help to facilitate project and study consultation efforts for local and statewide projects. To better institutionalize tribal consultation efforts, liaisons developed "ADOT Tribal Transportation Consultation Online Training Course for ADOT Personnel," an online training course to teach ADOT staff about Native American history, tribal laws, and methods to successfully consult and coordinate with tribal governments.

At the time of this research, the tribal liaisons said that consultation with tribal governments still needs to be institutionalized within ADOT and other federal, state, regional, and local agencies. While ADOT's training course could continue to contribute to this effort within the agency (and potentially beyond), other individuals who work with tribal governments need to make a greater effort. One liaison said she is trying to empower agency staff, indicating that anybody can be a tribal liaison. Successful consultation can easily be measured, one liaison remarked, when someone does not have to ask, "What about the tribes?"

The two tribal liaisons interviewed in 2012-2013 said that ADOT planners had a continuing reluctance to conduct specific outreach to individual tribal governments, particularly as it related to statewide efforts. Instead, liaisons said, planners relied on single-site “tribal meetings” or sought to receive adequate tribal input and feedback through a single source such as ITCA. It is inappropriate, the liaisons said, to ask ITCA to speak on behalf of its 20 member tribes in a unilateral fashion. Tribal governments are sovereign entities with distinct transportation needs and should be consulted individually.

COORDINATION PRACTICES AMONG THE TRIBES, COGS, AND MPOS

Transportation contacts from COGs and MPOs were interviewed to learn about their relationships with the tribes concerning transportation issues on tribal lands. Feedback received from these interviews underscores the importance of establishing or improving the relationships among COGs, MPOs, and tribal governments.

Regional Agencies’ Understanding of ADOT’s Role in Tribal Transportation Planning

COG and MPO staff said a clear definition of ADOT’s role and responsibilities to all of its partnering agencies—not just tribal governments—may be needed. Some participants said they did not know what ADOT’s responsibilities were to tribal governments, while others simply remarked that ADOT’s responsibilities to tribal governments are the same as to any other constituency. Additional descriptions of the agency’s role and responsibilities are listed below:

- Assist with tribal conferences (through the tribal liaison program).
- Engage tribal governments through required consultation process.
- Fix roads up to the reservation boundary. (Note: If a state highway system route traverses tribal lands, ADOT is responsible for operating and maintaining the entire right of way, not just the portion leading up to a tribal government’s boundary.)
- Increase safety and improve mobility.
- Notify the tribes about grant and funding opportunities.
- Plan routes that cross tribal lands. (Note: ADOT is responsible for planning only routes that are, or will be, part of the state highway system. Other jurisdictions, including tribal governments, plan roadways that traverse tribal lands.)
- Provide or distribute federal programming aid and assist in project administration.

The Tribes’ Assessment of Relationship with Regional Agencies

Almost two-thirds of tribal governments interviewed said they were members of an Arizona COG or MPO. Using a scale where 1 is poor or none and 5 is excellent, the average rating among the tribes about the relationship with their COG or MPO is 3.1. Table 13 summarizes the tribes’ responses about their membership and relationship with COGs and MPOs.

Table 13. Tribe’s Relationship with COG or MPO, as Rated in Tribal Interviews (2012-2013)

| Tribe/Community/Nation | COG/MPO | Rating (1 = poor/none; 5 = excellent) |
|---|----------------|--|
| Tohono O’odham Nation | PAG | 5 |
| Fort McDowell Yavapai Nation | MAG | 4 |
| Gila River Indian Community | MAG | |
| Kaibab Band of Paiute Indians | NACOG | |
| Pascua Yaqui Tribe | PAG | |
| San Carlos Apache Tribe | CAG | |
| Ak-Chin Indian Community | CAG | 3 |
| Cocopah Indian Tribe | YMPO | |
| Gila River Indian Community | CAG | |
| Hualapai Tribe | WACOG | |
| Salt River Pima-Maricopa Indian Community | MAG | |
| San Carlos Apache Tribe | SEAGO | |
| Yavapai-Apache Nation | NACOG | |
| Fort Mojave Indian Tribe | WACOG | 1 |
| Navajo Nation | NACOG | 0 |
| White Mountain Apache Tribe | NACOG | No response |
| Colorado River Indian Tribes (Chemehuevi, Hopi, Mohave, and Navajo) | Not members | N/A |
| Fort Yuma Quechan Tribe | | |
| Havasupai Tribe | | |
| Hopi Tribe | | |
| Tonto Apache Tribe | | |
| Yavapai-Prescott Indian Tribe | | |
| Pueblo of Zuni ¹ | | |

¹The Pueblo of Zuni is not a member of an Arizona COG or MPO; it is a member of its regional planning organization in New Mexico.

Tribal Participation in COGs and MPOs

While most COG and MPO staff reported that the tribes were members and paid dues, CYMPO and WACOG said the tribes did not pay dues and NACOG said its members were not required to pay dues. Transportation representatives from the tribes gave various reasons for not belonging to a COG or MPO:

- Colorado River Indian Tribes (Chemehuevi, Hopi, Mohave, and Navajo) wanted to become a member of WACOG, but had to identify funding to cover membership and a designee to serve on the board.
- The Havasupai Tribe and Tonto Apache Tribe said they needed to investigate how they could become involved with the COG before considering becoming a member.
- The Hopi Tribe had not had enough time to get involved with NACOG activities.
- The Yavapai-Prescott Indian Tribe was not a member of CYMPO because the tribe did not agree with some of its bylaws.

Among the tribes that were COG or MPO members, the level of participation in agency activities varied from tribe to tribe. Most member tribal governments reported attending COG and MPO meetings and serving on committees or subcommittees, although the level of commitment and consistency of participation fluctuated. A few tribal representatives said it was difficult to identify a tribal councilperson to sit on the COG or MPO board and consistently attend meetings, which was a barrier to quality participation in the COG or MPO. Most member tribes participated in e-mail communication with their COG or MPO, and sought technical assistance and information about funding opportunities.

The Tribes' Perceived Level of Authority or Influence within Regional Agencies

Most tribal respondents said they had little authority or influence within their COG or MPO. Gila River Indian Community transportation staff members said that while it seemed there was a desire to listen to tribal concerns, they were not sure if that desire translated into actual influence. The Yavapai-Apache Nation attributed a lack of authority or influence to its relatively small size. Representatives from three tribes—Fort McDowell Yavapai Nation, Kaibab Band of Paiute Indians, and Tohono O'odham Nation—reported having influence or authority in their COG through their position on and participation in the regional council and committees. Salt River Pima-Maricopa Indian Community interviewees said their influence was greater than other tribes.

In general, tribal respondents reported limited involvement in the development of the STIP or COG/MPO TIPs. The Ak-Chin Indian Community; Cocopah Indian Tribe; Colorado River Indian Tribes (Chemehuevi, Hopi, Mohave, and Navajo); Pascua Yaqui Tribe; and Tohono O'odham Nation reported attending meetings related to TIP and/or STIP development. The Fort McDowell Yavapai Nation, Hualapai Tribe, Kaibab Band of Paiute Indians, Salt River Pima-Maricopa Indian Community, and White

Mountain Apache Tribe reported submitting projects for and/or reviewing and commenting on their region's TIP.

Regional Agency Engagement with Tribal Transportation Projects

A small number of tribes reported obtaining funding from a COG or MPO for a transportation project, such as transit funding to purchase a van for the elder center (Ak-Chin Indian Community), a cultural enhancement/beautification program (Hualapai Tribe), a multi-use trail project (Navajo Nation), and a CMAQ project (Salt River Pima-Maricopa Indian Community). However, the Ak-Chin Indian Community and Fort McDowell Yavapai Nation had difficulties negotiating a contract and IGA because of impacts on tribal sovereignty. The Hualapai Tribe, Kaibab Band of Paiute Indians (through WACOG), Navajo Nation (through NACOG), Pascua Yaqui Tribe (through PAG), San Carlos Apache Tribe, and Salt River Pima-Maricopa Indian Community (through MAG) had submitted an application or had been awarded funding for a transportation project. The Tohono O'odham Nation planned to submit a project idea to PAG soon.

Fewer tribes reported partnering with a COG or MPO to complete a transportation project. Fort McDowell Yavapai Nation interviewees recounted how they identified miles of roadway in need of paving and worked with MAG to successfully complete the project. However, during the project, difficulties arose with ADOT about Section 106 historic preservation issues on the reservation, which led to long delays. After ADOT, FHWA, and MAG personnel completed a site tour, these agencies had a better understanding of the current site conditions, which resolved the Section 106 concerns and the project continued.

Other partnering successes:

- The Fort Yuma Quechan Tribe reported working with the Southern California Association of Governments on a transit plan.
- The Kaibab Band of Paiute Indians, in coordination with ADOT, worked with NACOG to acquire vans for seniors.
- The San Carlos Apache Tribe reported receiving two Transportation Enhancement grants for unspecified beautification projects.
- The Tohono O'odham Nation worked with PAG on a construction project on State Route 86 by developing an MOU; they also reported that the San Xavier District is working with PAG to build a bridge over the Santa Cruz River.
- The Yavapai-Apache Nation collaborated closely with NACOG for technical assistance as it works to implement a public transportation system from Clarkdale, Arizona, to Camp Verde, Arizona.

Tribal Concerns Regarding Relationships with Regional Agencies

The Ak-Chin Indian Community said CAG and Pinal County sometimes worked on similar efforts, and activities in the region could be redundant (for example, providing traffic data to both entities, but CAG and county models produced different results). The community suggested better communication between CAG and Pinal County to help resolve this issue. The Colorado River Indian Tribes (Chemehuevi, Hopi, Mohave, and Navajo) said it had missed deadlines for WACOG activities, and it would help to learn the application deadlines to prepare submissions in advance. The San Carlos Apache Tribe interviewees said they did not believe they were being treated fairly within SEAGO and that tribal projects did not get the same attention as projects from other local jurisdictions. Because the San Carlos Apache Tribe reservation is distant from other SEAGO members, staff perceived that those communities act as “a voting bloc.” The Navajo Nation interviewees had many concerns regarding their relationship with NACOG. Representatives reported that as members of the COG, they did not believe the communication they received from NACOG was sufficient, noting they were unaware of when meetings and other activities occurred. The Navajo participants also noted that they believed NACOG had different priorities than the Navajo Nation, making it difficult to work with NACOG on projects. The Navajo Nation personnel also observed that NACOG does not rotate the location of its meetings; because the NACOG region is large, the Navajo Nation representatives suggested that meeting locations rotate throughout the region instead of occurring only in Flagstaff, Arizona. The Navajo Nation personnel also articulated a desire for having a representative on NACOG’s regional council.

Regional Agencies’ Assessment of Relationship with the Tribes

COG and MPO personnel were asked to list the tribes within their regions and to describe their relationship with each tribe’s government; Table 14 lists the regional organizations’ responses. Using a rating scale where 1 is poor or none and 5 is excellent, the average rating COGs and MPOs gave for their relationships with the tribes is 3.

Regional organization boundaries typically follow city and county jurisdictional boundaries, not tribal reservation boundaries. As such, many tribes span multiple regional organizations’ boundaries. Some tribal governments with lands within the boundaries of a COG or MPO were not reported and therefore not included in this table; these omissions illustrate a need to ensure that regional organizations are aware of all governmental entities within their regions and that they establish relationships with tribal governments where appropriate.

Table 14. Rating of COG and MPO Relationships with the Tribes, as Reported in COG and MPO Interviews (2012-2013)

| Regional Agency | Tribe/Community/Nation | Rating¹ (1 = poor/none; 5 = excellent) |
|------------------------|--|--|
| CAG | Ak-Chin Indian Community | 3 to 4 |
| | Gila River Indian Community | 4 to 5 |
| | San Carlos Apache Tribe | 3 to 4 |
| | Tohono O’odham Nation | 3 |
| | White Mountain Apache Tribe | 3 |
| CYMPO | Yavapai-Prescott Indian Tribe | 1 |
| MAG | Fort McDowell Yavapai Nation | 5 |
| | Gila River Indian Community | 5 |
| | Salt River Pima-Maricopa Indian Community | 5 |
| NACOG | Havasupai Tribe | 1 |
| | Hopi Tribe | 2 |
| | Hualapai Tribe | 1 |
| | Kaibab Band of Paiute Indians | 1 |
| | Navajo Nation | 2 |
| | Pueblo of Zuni | 1 |
| | White Mountain Apache Tribe | 2 |
| | Yavapai-Apache Nation | 2 |
| PAG | Pascua Yaqui Tribe | 4.5 |
| | Tohono O’odham Nation | 5 |
| SEAGO | San Carlos Apache Tribe | 3 |
| WACOG | Chemehuevi Indian Tribe | 4 |
| | Colorado River Indian Tribes (Chemehuevi, Hopi, Mohave, and Navajo) | 5 |
| | Fort Mojave Indian Tribe | 1 |
| | Hualapai Tribe | 4 |
| | Kaibab Band of Paiute Indians | 3 to 4 |
| YMPO | Cocopah Indian Tribe | 5 |
| | Fort Mojave Indian Tribe | 1 |

¹A rating of “1” represents the lack of an established relationship, not the character of the relationship.

Regional Agencies' Communication and Collaboration with the Tribes

COGs and MPOs typically communicate and collaborate with tribal governments by distributing meeting notices and other regional information to tribal contacts, often through e-mail, but also by phone, in person, or through committee meetings—not unlike how they communicate and collaborate with other COG and MPO members. NACOG also said meetings of federal-state-tribal transportation partnerships were helpful in supporting communication and collaboration with tribal entities, especially when the tribes were not members of the COG. At the time of this research, there were three federal-state-tribal transportation partnerships in Arizona: Hopi Tribe, Navajo Nation, and San Carlos Apache Tribe; NACOG's region encompasses the Navajo Nation and Hopi Tribe (ADOT 2013b). COG and MPO personnel also foster mutually beneficial relationships by establishing official partnerships and participating in the ATSPT.

Regional Agencies' Understanding of a Government-to-Government Relationship

The interviews with COG and MPO staff suggest confusion about what is considered (and how to develop) a government-to-government relationship with the tribes. When COG and MPO interviewees were asked to describe how they understood a government-to-government relationship, answers varied. Because of the sovereign status of the tribes, equal-level coordination can be defined between elected officials (such as the governor of Arizona and the governor, president, or chairperson of the tribe); as such, interviews revealed that regional organization outreach to tribal governments was sometimes perceived as conflicting with a government-to-government relationship. Some participants reported that tribal governments interpreted the government-to-government relationship as working directly with the federal or state government, so membership in a COG or MPO was unnecessary or not valid for the tribal government. Other COG and MPO representatives acknowledged that they did not know what was meant for a tribe to have a government-to-government relationship with another governmental entity.

Regional Agencies' Perspective on Tribal Participation in Transportation Planning

COGs and MPOs said they treated tribal members in the same manner as they treated municipal members in transportation planning processes. This might include communicating and visiting with tribal government staff about regional activities, reaching out to tribal entities during studies, and including tribal entities as members of committees. While COG and MPO staff might have viewed the tribes as equals to municipalities, it is worth reiterating that the tribes, unlike municipalities and states, are sovereign nations and require a distinct and different relationship as defined by federal law, executive order, and court decisions.

COG and MPO staff said that transportation planning activities included participating in regional long-range transportation plan development and TIPs, and serving on committees such as transportation or TACs. No COG or MPO staff member mentioned any specific plans, policies, or adopted procedures related to tribal transportation planning, although both CAG and MAG staff members noted that they provide additional outreach to the tribes if necessary.

COG and MPO staff members did report a lack of tribal participation in the planning process. They underscored the importance of membership and participation in meetings and planning activities, and noted that the organizations would continue to invite the tribes to participate and become members. NACOG staff highlighted tribal participation in federal-state-tribal transportation partnerships and continued coordination through ADOT tribal liaisons as ways to improve regional participation by tribal governments. MAG staff cited a more technical problem related to the different road classification systems of the BIA and FHWA, and recommended an effort to match the classification systems at the federal level.

Regional Agencies' Perspective on Tribal Project Coordination

Most COG and MPO representatives reported having coordinated with the tribes on a variety of projects, ranging from orchestrating construction projects that have mutual benefit to the region to participating in planning efforts occurring on tribal lands. PAG noted a sidewalk project for the San Xavier District of the Tohono O'odham Nation, where PAG and San Xavier District officials worked closely from project initiation to completion. MAG cited success relative to past and ongoing coordination of the Phoenix-area freeway system that bisects the lands of both the Gila River Indian Community and Salt River Pima-Maricopa Indian Community. Representatives from MAG reiterated that reaching out to its smaller member organizations, including its tribal members, has been a meaningful investment in developing positive working relationships. Additional successes included CMAQ program participation and assistance developing IGAs, where MAG coordinated efforts between the tribes and local governments to resolve concerns.

Other COG and MPO representatives reported including tribal transportation projects in the TIPs. SEAGO and WACOG both assisted and supported specific tribal projects, including the Chemehuevi Indian Tribe's ferry boat project—a unique, but regionally important project at Lake Havasu on the Arizona-California state line. WACOG's assistance to the Chemehuevi Indian Tribe also underscores the importance of regionalism in multimodal transportation, and that assistance and support should not end at jurisdictional boundaries.

NACOG discussed another successful TIP project that was delivered by direct service from the BIA, which addressed liability and litigation concerns that surfaced while developing the IGAs since the BIA was responsible for the project's administration, not the tribe.

Most COG and MPO representatives could not recall an example of unsuccessful coordination with a tribe. CYMPO said that the desired widening of State Route 69 was not funded; however, had the Yavapai-Prescott Indian Tribe been a member of CYMPO, funding assistance could have been offered. YMPO representatives said they had collaborated with a tribe on an application for transit funding, but the application was not submitted on time because the tribal planner left the position.

COORDINATION PRACTICES AMONG THE TRIBES AND FEDERAL AGENCIES

Transportation contacts from the BIA, the FAA, FHWA, and the FTA were interviewed to gain their perspective and experience with tribal transportation decision making. Based on these interview results, interagency efforts—if they exist—almost always occurred through ADOT, with minimal federal-to-federal agency interaction.

BIA

The Navajo Regional Office said it provided all transportation planning, design, and construction work for infrastructure on the Navajo Nation; however, the ADOT tribal liaisons said that the Navajo Nation recently established FHWA program agreements with the Federal Lands Highway Program for some transportation projects up to \$10 million. The Western Regional Office provided services based on the delivery options selected by each tribal government (such as self-determination contract, self-governance agreements, and direct service from the BIA). Tribal transportation efforts were guided through 23 U.S.C. 201, 202.

Planning

BIA transportation offices provided both technical assistance and direct service. In terms of planning efforts, however, the Western Regional Office reported most transportation plans were being produced through 638 contract efforts (where the tribe contracts with the agency to complete the work) and, more recently, through ADOT's PARA program. Projects were prioritized based on recommendations developed through planning studies, and those for which funding was approved were included in a TTIP.

Tribal transportation planning efforts were specified within Section 170.400-441 of 25 CFR 170; the BIA was revising those regulations. References to the coordination with COGs and MPOs are in 23 U.S.C. 204 a2. While the Navajo Regional Office worked through the governance structure of the Navajo Nation (including localized efforts through chapters to tribal council), the Western Regional Office offered the tribes a suggested scope of work for a transportation plan to initiate the transportation planning process and ensure the plan included elements necessary for the BIA while at the same time allowing each tribe the flexibility to customize its plan. Staff indicated that technical assistance was the most readily available resource for tribal governments within the Western Regional Office (including oversight and grant assistance); however, BIA resources were seen as continuing to diminish. The Navajo Regional Office reported offering additional technical and training resources, and occasionally computers and GPS equipment.

Consultation and Communication

The Western Regional Office reported facilitating annual consultation with the tribes to review TTP formula results and allocated funding as well as prior year activities and accomplishments, and to discuss how to use project funding. The Navajo Regional Office reported facilitating quarterly consultation meetings. While staff indicated these meetings were to discuss tribal plans, the emphasis was on creating TTIPs, although staff reported that some tribes continued to rely on priority lists. In

addition to BIA-initiated consultation, staff reported participating in consultation efforts sponsored by ADOT, including the ATSPT and its formal partnerships with the Navajo Nation, Hopi Tribe, and San Carlos Apache Tribe.

While the Navajo Regional Office said it (along with the Federal Lands Highway Program) provided guidance on consultation, the Western Regional Office said no formal oversight of federal consultation efforts was provided. Both offices said that consultation was most effective when done in person; however, this could be a significant challenge, especially for the Western Regional Office, given its large territory. While communication with tribal staff had been enhanced through BIA's renewed access to e-mail, representatives said formal consultation usually began with mailed letters. Consultation in its truest form extended to leadership (re-emphasizing the government-to-government relationship) and, as reported by the Western Regional Office, resources simply were not abundant enough to facilitate in-person leadership meetings with all the tribes individually. Because of the resource issues for tribal governments, BIA representatives said tribal leaders have to weigh transportation needs against all other social and infrastructure issues facing their tribes; according to BIA officials, it was already a challenge to keep tribal leaders informed of transportation issues, which further complicated the importance of communicating the role transportation has relative to other needs. Keeping tribal leaders engaged and committed to the importance of transportation, BIA officials said, was a constant challenge. This challenge was not easily remedied, as noted by the Western Regional Office:

[The main concern] is trying to get the tribal leaders more involved in transportation and [to become] more knowledgeable in transportation—encouraging them to come to the meetings and find out what's going on—but [tribal leaders have] so many things going on that transportation may or may not be a high priority. You just have to work with that [realizing] you're not going to get everybody's attention.

As the Navajo Regional Office reported, consultation at its most localized level—the chapter—was difficult on a reservation that extends into three states. However, staff noted that these opportunities to meet directly with residents often provided the most relevant insights into transportation priorities for the Navajo Nation. Beyond these formal consultation recommendations, the Western Regional Office also emphasized the importance of continuing to build better relationships between the tribes and COGs and MPOs to mutually support regional transportation goals.

Funding

Assisting in allocating resources through the TTP, Western Regional Office staff members said they were required to notify tribal governments of funding based on the program formula. However, agency staff acknowledged that the federal government notified the tribes about formula allowances from TTP very late in the year, which placed an enormous burden on tribal governments that depended on the funding. At the time of the interview with the Western Regional Office (April 2013), staff reported that funding availability had not yet been communicated in the third quarter of the fiscal year (a delay which probably resulted from MAP-21). Additionally, both office representatives noted concerns expressed by

tribal governments relative to the new funding formula—specifically, the use of NAHASDA data, which could significantly affect the funding the tribes receive.

However, when funding is sufficient and a project is identified on the TTIP, BIA representatives said the project could be initiated with the tribe selecting the method by which it wanted the project delivered (self-determination contracts, self-governance agreements, direct service from the BIA, FHWA program agreement with the Federal Lands Highway Program, or BIA TTP program agreement). The Western Regional Office said projects were usually awarded (when funding was available) unless audits had indicated a tribal government had a history of noncompliance with previous awards. While this occurred periodically, the office said the tribes in Arizona generally had a good track record for contract compliance. Other reasons tribal governments were not awarded funding included the tribes' lack of technical expertise to appropriately complete the application.

Regional office personnel suggested that other transportation funding agencies should consider establishing separate or dedicated tribal funding. As with the TTP, BIA officials believed that there was justification for reserving a portion of state or regional funds for tribal purposes because of the difficulty these rural, low-population, and expansive land-holding governments face when competing with population-dense urban communities. However, whether or not funding was earmarked for tribal purposes, officials said that the infrastructure needs on tribal lands mandated funding increases.

BIA representatives suggested that the greatest likelihood of success for the tribes to receive funding for transportation projects was through proactive planning: completing long- and short-range transportation plans, developing TTIPs, and preparing data or fieldwork for the project, all of which would contribute to effectively justifying a project. Without an adopted plan or a justifiable (data-driven) needs assessment, the tribes find it difficult to acquire project funding, according to BIA officials. Additionally, offices reported that, like other communities, when political will was demonstrated and the tribe worked together with other jurisdictions and agencies to articulate and lobby support, projects tended to gain traction more quickly. As observed by the Navajo Regional Office, some tribes had been successful at a national level in lobbying Congress to receive special appropriations (such as earmarks), helping to fund specific projects on tribal lands.

FAA

As part of the FAA's larger set of responsibilities governing aviation, a specific office within the airports division of the FAA focused on public-use airports, including tribally owned facilities. FAA staff assisted airport sponsors, including tribal entities, in activities ranging from planning assistance to data acquisition to funding requests.

Planning

According to FAA staff, the primary way to support tribal transportation planning relative to aviation activities was to ensure the tribal airport was entered into the National Plan of Integrated Airport Systems, which identified nearly 3,400 existing and proposed airports that were significant to national air transportation and, thus, were eligible to receive federal grants under the Airport Improvement

Program (AIP). The plan contained all commercial service airports, all reliever airports, and selected general aviation airports (FAA 2014).

Additionally, staff members indicated they coordinated with ADOT's Aeronautics group during its annual planning efforts and informed tribal governments when changes in federal requirements, funding, and projects occurred. FAA interviewees reported that they could serve as technical assets to the tribes since FAA offices employ various aviation experts that can provide specialized experience and advice that may not otherwise be available for capacity-strapped entities, including many tribes.

FAA staff noted that when planning and prioritizing transportation projects, the greatest challenges for the tribes were understanding federal requirements (including obligations assumed when funding is accepted) and the technical aspects of federal agreements. While many tribes used consulting firms to assist with aviation activities, the staff indicated that the institutional understanding of federal assistance was often missing; neither the tribes nor tribal contractors were familiar with the obligations and policies that were associated with federal funding.

Consultation and Communication

FAA interviewees said there were no specific policies and practices governing consultation with the tribes, but noted their appreciation for the tribes' cultural differences and the tribes' diverse governance structures. Specific cultural awareness training was suggested for FAA staff to foster enhanced communication and coordination efforts with the tribes. According to interviewees, personal contact was most effective in working with tribal governments. While staff members wanted to facilitate regular on-site visits to tribally owned aviation facilities, resources were not available to accommodate this level of interaction. However, staff reiterated a commitment to professional interaction with the tribes. FAA interviewees indicated that they participated in joint planning meetings with airport sponsors and ADOT, and assisted with technical review and feedback relative to technical documents and plans.

Funding

The FAA managed the AIP, which provided funding for aviation projects. Funding was largely derived from users of the aviation system through activities, including ticket taxes, and provided through allocations based on a national project comparison as well as discretionary awards. FAA personnel confirmed that funding for smaller airports—including tribally located facilities—was difficult to obtain, and staff believed those projects usually did not compete well against urban airports that serve larger populations. Staff indicated that this was sometimes difficult for the tribes to understand; while a project might be important to a tribe, at a national level, larger airports that submit projects with greater regional value usually receive funding. To better compete, staff stressed, the tribes should develop plans and needs assessments to identify those projects most needed and valued within the region as well as to maintain consistent interaction and engagement with FAA staff.

Staff noted that many federal requirements, such as "Buy America" provisions, disadvantaged business enterprise requirements, and prevailing wage considerations, could be difficult for a tribe to meet. When a tribe accepts federal funding but does not comply with funding provisions, the FAA attempts to

help correct the issue before adverse actions occur. Further, FAA staff expressed that tribal sovereignty relative to federal assistance could also create conflicts, especially if a tribe implied its sovereign status relieved it from various funding obligations. In some cases, staff indicated that a tribe has debated or even rejected funding because of concerns with the associated obligations of the award (such as provisions that require the tribe to waive sovereign immunity). A specific example that staff offered involved the Navajo Nation, which reportedly requested Navajo Nation contractor preference, whereas federal requirements mandate a Native American contractor preference.

FHWA

According to FHWA interviewees, FHWA administered the transportation program outlined in MAP-21 but did not participate in how a state allocated its funding. Tribal governments, like other communities, were eligible to receive federal funds from the state through various channels, including COGs and MPOs. In Arizona, FHWA has many oversight responsibilities; for example, it oversees ADOT activities to ensure the agency fulfills responsibilities regarding consultation and outreach in planning and funding processes (23 CFR 771.111(h)(1)). On a more specific level, FHWA manages obligations relative to historic preservation Section 106 requirements as referenced in 23 CFR 771.133. Additionally, FHWA interviewees said that they provided technical assistance and expertise, and served as a point of contact for the tribes, particularly for cultural, historic, and environmental concerns.

Planning

FHWA staff firmly emphasized the important roles COGs and MPOs play in the transportation planning process, and underscored that relationships between regional organizations and the tribes should be cultivated, particularly during the planning process. While DOTs are required to provide the opportunity for the tribes to participate in transportation planning, agency staff noted that it is a “two-way street”: If the tribes don’t participate, the planning process does not stop and wait.

Sometimes with Section 106 issues, FHWA personnel noted that tribal participation in preservation or mitigation efforts was thwarted when a disturbance was noted, but the tribe did not then provide information relevant to mitigating the disturbance. Because of a history of intrusion and vandalism, the tribes are especially protective of sacred sites and, thus, may be cautious to provide information (NCAI 2003). However, as observed by FHWA staff, it was impossible to protect something if the nature, or even location, of the site was not disclosed.

Consultation and Communication

The agency noted that ADOT typically fulfilled the research requirements relative to Section 106 while FHWA managed the formal consultation process through mailed requests. Staff indicated that additional outreach specific to the Section 106 consultation process had been initiated to improve the process.

Additionally, FHWA reported that its personnel participated in various partnering efforts, including ADOT’s three established partnerships (with the Navajo Nation, Hopi Tribe, and San Carlos Apache Tribe) and the ATSP. When an issue arose, FHWA said it contacted tribal entities (such as tribal historic

preservation offices), state partners (including state historic preservation offices), and other resources within the agency (including TTAP) to resolve tribal transportation issues.

In addition to consultation activities, FHWA interviewees noted that they certify TMAs on a periodic basis to ensure the regional government is complying with public participation, civil rights, and other federal regulations. FHWA staff reported that each year, the agency facilitated a process to ensure that the development of the STIP and the overall planning process was consistent with planning requirements. Referred to as a planning finding, this process included review to ensure that engagement of populations was conducted and included consultation with tribal governments. As noted by other agencies, FHWA staff members agreed that increased communication and participation by the tribes with their COG or MPO (and vice versa) should occur to ensure tribal voices were heard early and often in transportation planning, funding, and decision making. They emphasized that this engagement was critically important to getting projects on the COG or MPO TIP. Difficulties can arise, staff noted, if a tribe rejects participation with a COG or MPO as an infringement of government-to-government coordination or cites tribal sovereignty as a reason not to work with a regional entity.

Beyond encouraging the tribes to have strong relationships with COGs and MPOs, FHWA interviewees said they recognized the diversity of tribal governments. Instead of lumping the tribes together and addressing issues in one group meeting, agency staff noted that individual, in-person meetings were the most effective (albeit resource-intensive) ways to work with tribal governments. Participation in tribal conferences and workshops also was noted as a way to foster good partnerships and communication. While efforts were made to communicate with each tribe, FHWA interviewees noted that they rarely received responses to those efforts. As summarized by one FHWA employee, the agency did not know if “no response” to a request was because there was no desire for consultation or if the manner in which the request was made or the method of consultation offered was inappropriate or ineffective.

Funding

Because ADOT allocates federal funding received, the FHWA interviewees reported that they were not directly involved in project prioritization. They did ensure projects selected match the funding eligibility. With the passage of MAP-21, many programs had changed. Staff noted that the scenic byway program had previously been used by tribal entities, and while the program still existed in MAP-21, Congress hadn't funded it. The interviewees indicated that some unique successes were obtained through discretionary program funding (previously available under SAFETEA-LU), such as the Chemehuevi Tribe's ferry boat project in Havasu. However, with the passage of MAP-21, staff noted most discretionary funding had been eliminated. Below is a list of discretionary programs that had been eliminated, although many activities were eligible in other MAP-21 programs:

- Delta Region Transportation Development
- Ferry Boats Discretionary
- Highways for LIFE Demonstration Program

- Innovative Bridge Research and Deployment
- Interstate Maintenance Discretionary
- National Historic Covered Bridge Preservation
- National Scenic Byways
- Public Lands Highway Discretionary
- Railway-Highway Crossing Hazard Elimination in High-Speed Rail Corridors
- Transportation, Community, and System Preservation
- Truck Parking Pilot Program
- Value Pricing Pilot Program (no additional funding, but authority remains) (FHWA 2012d)

When funding was available, FHWA representatives said notifications were published in the *Federal Register* and that they forwarded those notifications to state agencies, COGs and MPOs, and members of the tribal partnerships to which FHWA was a party. While direct communication to each tribe was not conducted, FHWA interviewees said they included ITCA in the notification process; they also assumed the Federal Lands Highway Program provided individual tribal communication.

When tribal governments requested funding and did not receive it, FHWA staff noted that it was typically because the potential project did not meet eligibility requirements. Additionally, staff indicated that projects were prioritized and the rural nature of tribal reservations made it difficult for projects to compete against those in densely populated urban centers. FHWA personnel noted that this was complicated further by the data-poor nature of many tribes who lack the resources to gather and report information necessary to justify various projects.

When funding could be awarded, FHWA noted the difficulty in attaining interagency agreements; dealing with sovereign immunity issues often could become a significant barrier—sometimes causing project cancellation. FHWA concurred with other agencies that the liability acceptance/indemnification for projects and infrastructure efforts continued to be an obstacle that impacts funding for completing projects on tribal lands. However, as noted by FHWA, MAP-21 allowed TTP funding to be used as a match toward other federal aid programs; this option, staff suggested, allowed for tribal transportation funding to be better leveraged.

TTAP

According to the TTAP director, who at the time of the interview was located in Colorado, TTAP was considered a resource outlet providing technical assistance, education, and, to some extent, research efforts to tribal governments. Staff said TTAP was most recognized as a clearinghouse for information (such as its lending library and webinar training). TTAP's resources were not plentiful, according to staff,

particularly as they related to staffing capacity; limitations of the office were easily exceeded based on the range of needs within the four-state TTAP region.

Consultation and Communication

The TTAP director reported that communication most often occurs through direct mail, although e-mail and the program's website had been effectively used to communicate with tribal governments. In terms of training, TTAP reported successfully using both in-person and web-based formats. The organization also hosted an annual tribal transportation conference, collaborating with other federal agencies such as the FTA. While TTAP did not participate in formal consultation activities, its director reported that he participated in the ATSPT and regularly coordinated with ADOT's tribal liaisons.

Regarding communication and coordination efforts with tribal governments by other state and federal agencies, TTAP staff noted that consistent communication was lacking, not just between agencies and the tribes, but among the agencies. Staff noted that TTAP distributed a lot of information, but little was received by TTAP from the tribes and other agencies. While communication by ADOT's tribal liaisons was exemplary, staff observed that cross-agency interactions and coordination efforts were minimal. The TTAP director observed the impacts of fragmented policy direction that sometimes occurred within a tribe: In tribal governments like the Hopi Tribe, Navajo Nation, Tohono O'odham Nation, and Gila River Indian Community, where localized governmental divisions exist (for example, chapters and districts), direction solicited from one level of the tribe can be contradictory to the direction provided by another level. Staff believed that these layers of governance needed to be addressed, if not at least acknowledged, when working with the tribes on transportation planning activities. Finally, staff noted Arizona lacked a specific state tribal advisory body to assist in government-to-government relations, which, among other things, could assist in developing a coordinated state-tribal effort to lobby political bodies for more transportation funding.

Funding

TTAP staff observed that the lack of tribal governments' capacity to operate a full-service DOT was their biggest barrier to receiving project funding. Specifically, TTAP noted that the tribes lack the data necessary to justify projects, which diminished the competitiveness of their funding applications or precluded their eligibility altogether. TTAP remarked that, traditionally, the BIA provided much of the technical capacity for tribal governments, but as that agency's role had diminished in assisting many tribes, no formal process to shift responsibilities from the BIA to tribal governments had occurred, leaving a considerable void that needed to be addressed.

FTA

At its regional level, the FTA offered and administered grants to tribal governments to address transit needs and administer transit solutions. Each of the 10 FTA regional offices interacted with its grantees, with Region 9 (based in San Francisco, California) serving the tribes in Arizona. FTA staff noted that any resources beyond funding allocation, including the Transportation Planning Capacity Building program and its peer exchanges, were underutilized by tribal entities. The Transportation Planning Capacity

Building program provided training and technical assistance to state, local, regional, and tribal governments, as well as to transit operators and community leaders. The USDOT created and sponsored the program to foster effective transportation planning in state, metropolitan, rural, and tribal settings (FHWA 2014b).

Planning

While the FTA said it wished to include transit projects within adopted planning documents, tribal governments often waived the requirement. While FTA personnel reported that they did not formally assist or participate in tribal transportation planning, the agency encouraged the tribes to include projects within its transportation plans and emphasized participation in the MPO (or COG) process to have projects added to the TIP. Staff noted that previously the FTA had discretionary grant funding available that provided \$25,000 for transit planning; while those funds were no longer available, tribal transit program dollars could be used for transit planning. FTA staff cited the lack of technical capacity in tribal governments as the biggest challenge to transportation planning.

Consultation and Communication

As reported by staff, the FTA used its website as well as e-mail distribution to issue funding notifications; staff also indicated that the agency communicated funding opportunities at conferences that tribal personnel attended. FTA staff indicated that one-on-one meetings (particularly on-site) were the most effective, although resource-intensive. FTA staff reported that they did not formally participate in or facilitate tribal consultation.

Funding

According to staff interviewed, FTA relaxed some of its funding requirements for the tribes as compared to other local jurisdiction grantees. While local governments needed to certify over 20 various provisions, staff noted that the tribes were relieved of compliance with most assurances as many might conflict with tribal self-determination. While fewer assurances needed to be met by tribal governments, staff did indicate that projects were prioritized based on selection criteria. To improve the likelihood of funding, the FTA advised the tribes to take a regional approach and partner with other entities to demonstrate service needs to the greatest population possible. As stated by FTA's interviewee:

We like to see the greatest amount of coordination possible among overlapping planning processes and efforts. In those instances, we would score a tribe that is applying for ... funds higher than a tribe that is doing its work totally separate [from] a larger or neighboring planning effort.

Staff said that the most typical reason the tribes were not awarded funding through the FTA was because the applications did not meet the selection criteria of the funding they seek. According to the staff, the FTA had no formal communication process to explain why funding was not awarded, although information was usually communicated informally or through other discussions.

Somewhat unique to the FTA, staff said, was the availability of discretionary funding that allowed the agency to extend funding for transit outside of dense urban centers (such as New York City), where transit operates most effectively and efficiently, and onto rural tribal reservations. Agency staff acknowledged that this act of “discretion” sometimes meant less competitive proposals were selected to provide assistance in parts of the country where transit was underserved or assistance had not been offered.

TRIBAL COORDINATION PRACTICES THROUGH ITCA

ITCA Transportation Program

ITCA’s transportation program focuses on expanding and strengthening consultation, coordination, and cooperation between the tribes and federal, state, and local transportation agencies. The program:

- Monitors, reviews, and comments on transportation initiatives, regulations, and policies
- Provides access to and assists in exchanging transportation-related information with tribal transportation representatives
- Encourages tribal, federal, state, and local collaboration and, as needed, involves elder, economic development, education, housing, law enforcement, cultural resources, environment, health, emergency response, court, and planning departments within the tribes (ITCA 2014b)

These activities were coordinated principally through the ITCA Transportation Working Group, but also with Working Group task forces, the Tribal Transportation Caucus, and the Tribal Leaders’ Transportation Working Group. Created in 1998, the Transportation Working Group had a dedicated transportation coordinator and met quarterly in Phoenix where ADOT, FHWA, and BIA staff provided updates on agency issues or responded to questions or concerns (ATR Institute et al. 2011, ADOT 2012b).

Planning

While ITCA does not directly interact with tribal transportation planning efforts, staff noted that an effective strategy for leveraging planning efforts available to the tribes involved demonstrating the success of a tribe’s use of available projects, resources, or programs. Once a tribe had completed a project (for example, a road safety assessment or PARA study), ITCA staff communicated the tribe’s participation and used it as a demonstration or example for others to emulate. Such exposure, staff noted, provided assurance to other tribes that the program or project was a worthy effort to pursue.

Additionally, ITCA noted the importance of government-to-government consultation to tribal governments in statewide planning efforts. It was not enough, staff noted, to invite the tribes to participate in a public survey about future state transportation needs, for example; such an effort may be considered “public involvement,” but it was not “government-to-government consultation.”

Consultation and Communication

To distribute relevant transportation information to its members, ITCA reported using an e-mail list as well as disseminating information through the Transportation Working Group, which met periodically to review and address tribal transportation issues. Staff noted that the consistent presence of staff from agency partners (including ADOT, the BIA, and FHWA) at work group meetings was especially valuable for its members.

Staff also noted that agencies often would come to ITCA requesting assistance in coordinating outreach and engagement efforts with tribal governments (such as hosting a meeting with all tribal leaders to get feedback on a statewide project). ITCA staff said that all activities provided to its members had an associated cost (even if only to cover labor), and while responding to such requests may have been valuable to its member agencies, ITCA rarely received funding to support these activities.

ITCA also noted that other agencies often overlooked consideration of the tribes as entities distinct from local governments. Few agencies prepared guidebooks or handbooks directed toward tribal governments; the *ADOT Transportation Planning and Programming Guidebook for Tribal Governments* was noted as an exception (ADOT 2012b).

Funding

ITCA is not a funding source for transportation efforts. However, staff reported that ITCA had served as an awarding agency for some federal funding, such as grant funding through the US Department of Health and Human Services Office of Minority Health (which was assisting three tribes in transportation safety efforts) and funding for the Tribal Motor Vehicle Crash Injury Prevention Project (which was working to prevent motor vehicle crash injuries among American Indians).

ITCA noted the biggest barriers experienced by tribal governments applying for transportation funding were associated with the sovereign immunity clause contained in programmatic agreements with tribal nations. Many times, ITCA staff said, tribal legal counsel would uniformly advise the tribe not to sign anything that waived sovereign immunity; this usually meant a project would not receive funding as the state was reluctant to waive liability. At minimum, ITCA staff suggested that entities working with the tribes needed to have a better understanding of and appreciation for a tribe's sovereign status and the implications of waiving sovereign immunity.

Finally, because of the importance of the overlapping social value that a quality transportation network can provide communities, ITCA reported that there was considerable value to including nontransportation staff when conducting transportation planning. By informing the tribes that transportation projects could potentially address other tribal needs, ITCA noted that including nontransportation tribal departments in conversations could assist in the application or justification of a transportation project. Not only had this helped inform the tribes about the importance of a safe, reliable transportation network, staff said, but it had helped some tribes to acquire funding not originally pursued. This cross-departmental coordination could also assist with addressing capacity issues experienced by many tribal governments.

GAPS IN REGIONAL OR STATE COORDINATION OF TRANSPORTATION PLANNING

All interviewed parties were asked to identify if there were any gaps in either regional or state coordination of transportation planning with tribal governments.

Tribal Perspective

During the 2012-2013 interviews, tribal representatives often highlighted a need for better communication and coordination of transportation planning and projects before decisions were made. While tribal contacts acknowledged they could seek more information about transportation planning and decision making, Hualapai Tribe staff members said the tribe lacked the personnel needed to appropriately coordinate with regional entities and ADOT. This demonstrated that even with additional coordination efforts on the part of ADOT, COGs, and MPOs, some tribes simply lacked the personnel and resources necessary to partner in these efforts.

The Salt River Pima-Maricopa Indian Community noted that learning the ADOT process was difficult. In general, the tribal interviewees suggested developing tutorials on how to apply for and use ADOT programs, along with designating a specific ADOT employee who could help tribal governments work through ADOT processes. (Note: ADOT does have the dedicated tribal liaisons to provide this assistance.) Further, many tribal representatives commented that ADOT has had difficulty understanding tribal governments and operations.

Tribal representatives also expressed the need for greater technical assistance as it related to transportation planning and decision making. If additional technical assistance were provided, tribal personnel might be better equipped to engage and participate in regional and statewide transportation planning, thus bolstering the role the tribes play in planning activities.

Coordination and Communication

The Navajo Nation expressed general concerns regarding the lack of coordination and communication, both regionally and statewide. As mentioned earlier, the Navajo Nation interviewees expressed a deep desire to strengthen their relationship with NACOG. They also expressed a desire to see and interact more frequently with ADOT, and that a culture of partnering needed to be fostered between the tribes and ADOT. The Navajo Nation said there was inequity regarding transportation planning and maintenance activities on tribal lands as compared to nontribal communities and suggested an executive, cabinet-level office in Arizona dedicated to Indian affairs. Other tribes expressed the difficulty in competing for transportation project funding because of the very rural nature of most tribal lands in Arizona. The Navajo Nation and Fort Yuma Quechan Tribe specifically expressed concerns that projects on tribal lands were rarely added to the STIP, in their view thus illustrating a lack of attention to transportation needs on tribal lands.

Many tribal transportation staff members noted that access to up-to-date contact information for tribal leaders, staff, and other key individuals was key to adequately coordinating and communicating with

tribal entities. ADOT's tribal liaisons retained this contact information and distributed updates to these lists periodically.

Regional Agency Perspective

When COGs and MPOs were asked what gaps exist in regional or state coordination of transportation planning with tribal governments, many interviewees highlighted the same key concern as was offered by tribal representatives: a lack of communication. The representative for FMPO specifically questioned the level of coordination between the BIA and either ADOT or the COGs and MPOs in regard to funding efforts with the tribes. The representative for MAG observed that each agency—the BIA, FHWA, COGs, and MPOs—seemed “siloed” and argued that no one agency had a complete picture or understanding of tribal transportation planning. The CYMPO representative said there was a void in cultural understanding at the regional and state levels. As also reported by many tribal contacts, both MAG and PAG staff observed that the tribes lacked staff to manage tribal transportation projects and that there was a gap in technical capacity. PAG suggested reconsidering the data requirements necessary for some grants or re-evaluating grant opportunities and the urban focus of these grants as the rural nature of tribal lands reduced or eliminated grant eligibility.

The representative for PAG said that this urban focus contributed to the perception that the State does not recognize the transportation needs of tribal governments. As stated by PAG's interviewee:

I think one of the things I'd like to see is a “set-aside” ... for tribal or low-density [governments] so that these low-density and tribal projects aren't competing with high-density, big-bang-for-the-buck projects. I think that would be a step in the right direction, for again, understanding the tribal context as well as the decision-making level. [...] Until you actually go out into a tribal community [and see that] there were places in America [that were] as poor as some of these tribal communities I've gotten to know, I think a lot of people, even decision makers, don't understand that context. I think American Indians tend to be one of the most segregated communities because of these reservations. [...] Improving that understanding of needs and their capacity, knowing a small tribal community can't fill out a 50-page application that asks for average daily traffic counts ... is just not data they have.

Both NACOG and WACOG staff noted a gap in participation of the tribes in state and regional transportation planning. Representatives from ADOT and federal agencies also noted that tribal interests were not well represented in transportation decisions. NACOG suggested continuing to strengthen ADOT's tribal liaison program as well as the targeted outreach to tribal governments, as demonstrated in the bqAZ and state long-range transportation plans. WACOG staff underscored the importance of tribal participation, particularly at the COG and MPO levels, and suggested that ADOT launch an effort to educate the tribes on the importance of these regional organizations and to encourage their participation in them.

Relationship Between the Tribes and Regional Agencies

Interviews with representatives from the tribes, COGs, MPOs, ADOT (at the district, tribal liaison, division/section, and management levels), and federal agencies revealed that the relationship between a tribe and its region's COG or MPO was underutilized. Many tribes reported that they were not members of a COG or MPO and subsequently were missing out on funding opportunities, planning assistance, and other services provided by COGs and MPOs. Interviewees emphasized that an educational effort to inform the tribes about the roles, responsibilities, and services offered by COGs and MPOs could encourage tribal membership and greater participation in these regional organizations. At the same time, several tribes lacked the staffing resources needed to allow them to function as collaborative partners; however, if benefits of regional participation were more clearly articulated and emphasized, the tribes would be better informed before making decisions regarding dedicated resources.

CHAPTER 5. SURVEY OF TRIBAL TRANSPORTATION PLANNING PRACTICES IN OTHER STATES

In 2015, researchers surveyed multimodal transportation planning and funding practices involving tribal lands in six other states: California, Minnesota, Montana, New Mexico, South Dakota, and Washington. The states were selected because they:

- Included locations with significant, diverse tribal presence and offered an array of institutional, geographic, and demographic considerations
- Featured attributes that are similar to Arizona tribal communities, such as number of road lane miles, infrastructure conditions, and composition of rural or urban setting
- Facilitated or fostered positive state-tribal relationships, practices, or transportation efforts

RESEARCH APPROACH AND METHODOLOGY

Researchers gathered information through a review of each state's planning, programming, and decision-making processes and practices that included reviewing state statutes and regulations, agency manuals, and other relevant resources.

From January through September 2015, researchers contacted the following stakeholders (located in or serving the six states) to assess their experience with transportation-related processes:

- **Federal agencies.** Researchers interviewed staff from region or division offices of the BIA (Northwest, Southwest, Great Plains, and Rocky Mountain); FHWA (California, Minnesota, Montana, South Dakota, and Washington); FHWA Federal Lands Highway Program (Western, Central, and Eastern); and TTAP (Eastern, Western, and Northern Plains).
- **State DOTs.** Tribal liaison representatives from California, Minnesota, New Mexico, South Dakota, and Washington transportation agencies were interviewed. Montana Department of Transportation (MDT) completed a survey.
- **Regional planning agencies.** Researchers interviewed representatives from eight regional planning agencies and received a completed survey from one additional agency. Regional transportation agency representatives in Montana and South Dakota were not interviewed because, in those states, there are no tribal lands within regional planning areas.
- **Tribal governments.** Representatives from federally recognized tribes in each of the selected states were interviewed. Researchers selected the interviewees based on recommendations from DOT tribal liaisons and federal agency staff.

Appendix J provides a list of stakeholders interviewed. The survey questions for each stakeholder group are provided in Appendices K through Q. The remainder of this chapter summarizes the tribal transportation practices of the six states, and each summary reviews:

- Key stakeholders in transportation planning, programming, and funding
- Planning process
- Programming process

CALIFORNIA

California comprises 155,779 square miles and had a population of 37,254,503 (US Census Bureau 2015a). At the time of this research, the state had the nation's largest population of residents identifying as American Indian or Alaska Native (723,225). Many resided in urban areas, including Los Angeles and San Diego, which were home to the second- and 12th-largest populations, respectively, of American Indians and Alaska Natives (US Census Bureau 2012). The state had 110 federally recognized tribes and many others petitioning for federal recognition (CFCC 2012, Caltrans 2014b). A then-current map of Native American trust lands in California is shown in Figure 7.

Key Stakeholders in California Transportation Planning, Programming, and Funding

California State Transportation Agency

In 2013, as a result of a government reorganization, eight state transportation-related entities were consolidated into the California State Transportation Agency (CalSTA), a cabinet-level agency focused solely on addressing California's transportation issues (CalSTA 2014). Two entities within CalSTA addressed issues related to this study—the **California Transportation Commission (CTC)** and the California Department of Transportation (Caltrans).



**Figure 7. Native American Trust Lands in California
(Caltrans 2010)**

CTC. The CTC was responsible for programming and allocating funding for highway, passenger rail, and transit construction projects, and adopting the STIP and State Highway Operations and Protection Program (SHOPP). The commission had 11 voting members: nine appointed by the governor, one appointed by the Senate Rules Committee, and one appointed by the speaker of the state Assembly. The commission also contained two nonvoting ex officio members: one appointed from the Senate and one from the Assembly (Caltrans 2015a).

Caltrans. Caltrans was responsible for the state's multimodal transportation system. The department had six primary programs: Aeronautics, Highway Transportation, Mass Transportation, Transportation Planning, Administration, and Equipment Service Center (Caltrans 2014a).

Caltrans designed, constructed, maintained, and operated California's state highway system and the portion of the Interstate highway system within the state's boundaries. This system comprised over 15,000 miles and traversed approximately 33 percent of tribal lands in the state (USDOT 2014b, Caltrans 2014a). In addition to the highway system, Caltrans provided multimodal services, including rail service, and permits for hundreds of airports and heliports (Caltrans 2014b).

Caltrans received tribal input about transportation issues from its Native American Liaison Branch, which was part of the Caltrans Transportation Planning program, and from another stakeholder, the Native American Advisory Committee (see below). Created in 1998, the Native American Liaison Branch worked to improve the relationship between federally recognized tribes and Caltrans. The Native American Liaison Branch acted as staff to the Native American Advisory Committee and addressed policy-level matters such as facilitating agreements to implement planning and programming provisions, advising the Caltrans director on matters of interest or concern, and serving as a resource to Caltrans and regional transportation agencies. In addition to branch liaisons, each Caltrans district with a federally recognized tribe had at least one district Native American liaison who was the primary day-to-day contact for local tribal governments and who actively engaged in coordination, consultation, meetings, and other communication (Caltrans 2014b, 2015a).

Native American Advisory Committee

Established in 1996, the Native American Advisory Committee was a conduit for tribes to provide direct advice to Caltrans management and to foster government-to-government relationships. Committee members served two-year terms, and were nominated by tribal governments and organizations, recommended by other committee members, and appointed by the Caltrans director. The committee included five members from each of three geographic areas (northern, central, and southern California) along with representatives from three intertribal organizations. Members advocated at large for all Native Americans in California rather than their specific tribe (Caltrans 2014b, 2015b). The deputy director of the Transportation Planning program represented Caltrans on the committee as an ex officio, nonvoting member (Caltrans 2005). The committee met at least three times each year, and had started meeting quarterly to provide more regular advice and guidance (Caltrans 2005, 2015b).

Regional Transportation Agencies

MPOs and regional transportation planning agencies (RTPAs) facilitated transportation planning activities in California. RTPAs prepare the RTP and the regional transportation improvement program (RTIP), and administer state transportation funds. California has 43 RTPAs. Sixty-one of the 110 federally recognized tribes in California are located within the planning areas of MPOs and 58 are within the planning areas of RTPAs (Caltrans 2013b, 2014a).

Tribal eligibility for membership on the governing boards of regional transportation agencies varied depending on statutory authority (such as California Government Code Sections 6500 and 29532, and California Public Utilities Code Division 12.8, Chapter 1, Section 132801) and organizational bylaws. For this study, two California regional planning agencies were interviewed: San Diego Association of Governments (SANDAG) and Humboldt County Association of Governments (HCAOG).

SANDAG. SANDAG recognized only municipal governments as eligible members (California Public Utilities Code Division 12.7, Chapter 3, Section 132350). Because of a significant tribal presence in Southern California, SANDAG had created the Interagency Technical Working Group on Tribal Transportation Issues as a forum for tribal governments to discuss and coordinate transportation issues with planning agencies, including SANDAG, Caltrans, the County of San Diego, the Metropolitan Transit System, and North County Transit District (SANDAG 2009, 2015). Members of this working group were leaders from federally recognized tribes within SANDAG.

HCAOG. HCAOG was a joint powers agency (California Government Code Section 6500) that included seven incorporated cities and Humboldt County. The agency had established membership criteria for federally recognized tribes (HCAOG 2013), although staff reported that no tribal government had yet applied for membership as of 2015.

Other Agencies

Inter-Tribal Council of California. The Inter-Tribal Council of California (ITCC), established in 1968, represented nearly half of California's tribal governments. ITCC, which was administered by tribal government representatives, had created social and community-building programs and services to assist its members (ITCC 2015).

Southern California Tribal Chairmen's Association. Established in 1972, the Southern California Tribal Chairmen's Association (SCTCA) was a consortium of 19 federally recognized tribes in Southern California. Led by a board of tribal leaders, SCTCA administered a variety of social programs and advocates for the interests of San Diego-area tribal members (SCTCA 2015).

SCTCA and SANDAG worked collaboratively on regional transportation planning and other matters. SANDAG regularly attended and participated in SCTCA meetings, and facilitated ongoing coordination with SCTCA in transportation issues. The interagency collaboration of this partnership in relation to developing the regional transportation plan was thoroughly detailed in SANDAG's Tribal Consultation Plan (SANDAG 2013).

Reservation Transportation Authority. Reservation Transportation Authority (RTA) was a nonprofit agency that fostered communication among tribes, regional planning agencies, and Caltrans. Established in 1998 to more effectively represent the transportation interests of Southern California tribal governments, RTA consisted of 14 federally recognized tribes. It was considered a joint, subordinate branch of its members' tribal governments and was recognized by the federal government as the equivalent of a tribal government agency (RTA 2015a).

Unique to this agency is the pooling of members' TTP funding, which RTA used to plan, engineer, and execute road construction projects for its member tribes. RTA also partnered with regional agencies (including SANDAG) to obtain additional funding and grants for multimodal projects (RTA 2015b).

Planning Process

Caltrans was required to develop the California Transportation Plan under California Government Code Section 65070 (Caltrans 2006, 2013b). Sections 14000 and 65072 of the code required that the plan:

- Articulate the state's transportation policies and system performance objectives
- Develop strategies that are systemwide and informed by adopted regional transportation plans
- Include economic forecasts and recommendations to achieve the outlined concepts, strategies, and performance objectives
- Exclude specific transportation projects
- Involve all levels of government and the private sector in its development

At the time this study was conducted, California Transportation Plan 2025 was in effect and updates were commencing for the new plan, California Transportation Plan 2040 (CTP 2040). This long-range transportation plan directed public and private transportation investments to enhance the economy, support communities, and safeguard the environment. The document outlined a vision for the state's transportation system that supported sustainability, mobility, accessibility, collaboration, a prosperous economy, a quality environment, and social equity (Caltrans 2006, 2013a).

When developing the state transportation plan, Caltrans consulted with the state's MPOs and RTPAs. These consultations provide meaningful channels for tribal governments that are active within regional transportation agencies. Recognizing that tribal governments are not local agencies, Caltrans has been committed to ongoing consultation efforts with tribal governments in the update of the long-range transportation plan and has encouraged tribal leadership to participate in consultation efforts. Caltrans hosted regional tribal listening sessions to discuss long-range planning and to inform CTP 2040 development. Tribal governments can also request formal government-to-government consultation (Caltrans 2013b, 2015d).

Programming Process

Informed by the state's long-range transportation plan, Caltrans developed a 10-year SHOPP to identify state highway and bridge maintenance and reconstruction projects. The plan was the basis for Caltrans' budget requests to the state Legislature and for the adoption of its STIP by the California Transportation Commission. California's STIP was a five-year planning document updated and adopted biannually. Most of the projects in the adopted STIP and SHOPP were projects chosen by the regions from their RTPs and RTIPs and then nominated for inclusion; Caltrans also nominated projects that may not have been specified within RTPs or RTIPs to improve transportation between regions (Caltrans 2014d).

California's STIP primarily funded projects articulated in RTPs and RTIPs, so tribal government participation with regional transportation agencies in RTP and RTIP development was valuable. Caltrans reviewed overall work plans of regional governments and encouraged tribal consultation and Native American participation. Caltrans also partnered with tribes to develop tribal transportation needs assessments that could be used to articulate improvements for consideration in the state planning and programming process (Caltrans 2014d).

Key Stakeholders in Minnesota Transportation Planning, Programming, and Funding

Minnesota Department of Transportation

Established in 1976, Minnesota Department of Transportation (MnDOT) as of 2015 was responsible for the state's multimodal transportation system, which included aeronautics, highways, ports, transit, railroads, and pipelines (MnDOT 2014a). The agency developed and implemented policies, plans, and programs for transportation-related activities within this system, which comprised nearly 12,000 miles in state highway and other multimodal investments (MnDOT 2012b, 2015c; USDOT 2014b).

In 2002, the 11 federally recognized tribes in Minnesota, along with MnDOT and FHWA, co-authored the Government to Government Transportation Accord to encourage better coordination and partnership in transportation planning, development, and maintenance projects (MnDOT 2002). The accord implemented a new agreement to combine efforts and resources toward an improved transportation system. According to provisions in the accord, members of this partnership would meet at least annually to review accord implementation and to ensure that no party waived sovereign immunity.

Recognition of and application for tribal governments in Minnesota was articulated in Executive Order 13-10. Cabinet-level executive branch agencies, including MnDOT, were required to develop and implement tribal consultation policies and to consult at least annually with tribal governments (State of Minnesota 2013).

Tribal Liaison. A tribal liaison within MnDOT provided leadership, direction, and policy development, and fostered meaningful tribal consultation throughout the transportation agency. Reporting directly to the MnDOT commissioner, the tribal liaison was responsible for integrating MnDOT and tribal policy into transportation planning, programming, project development, and implementation. The tribal liaison constantly communicated with tribal governments—facilitating meetings, negotiating intergovernmental agreements, and helping to resolve issues or concerns (MnDOT 2015d, 2015g).

Advocacy Council for Tribal Transportation

The Advocacy Council for Tribal Transportation (ACTT), established in 2006, addressed roadway policy issues that affected reservations. Members included representatives from each of the 11 tribal governments in Minnesota as well as from MnDOT, the BIA, TTAP, Minnesota Indian Affairs Council (MIAC), FHWA, US Forest Service, Minnesota Department of Public Safety, and local governments. During quarterly meetings, with tribal governments taking turns hosting meetings, ACTT members would identify tribal issues, develop statewide policy and legislation, and promote successful practices (MnDOT 2015g).

Regional Transportation Agencies

MPOs and regional development commissions (RDCs) facilitated transportation planning activities in Minnesota. Minnesota's 12 RDCs coordinated transportation efforts regionally with MnDOT through a work program. In some regions, MPO and RDC efforts were coordinated within the same regional entity. Tribes in Minnesota were active members in regional governments (MnDOT 2015e).

Area Transportation Partnerships. Unique to Minnesota is the area transportation partnership (ATP) program, established in 1991 to further decentralize transportation planning and programming, and to bolster collaboration and local engagement. Organized according to the eight MnDOT engineering districts and managed by each RDC, the eight ATPs developed the RTIP and received funding annually from MnDOT. Members included county and municipal leaders, state natural resource and economic development officials, tribal governments, and other transportation interests, including MnDOT (MnDOT 2015a, 2015e).

Other Agencies

MIAC. At the time of this research in 2015, the Minnesota Indian Affairs Council (MIAC) was the official liaison between the state and the 11 tribal governments. Established by statute (Chapter 888, Section 2, 3:922), MIAC participated in a wide variety of advocacy efforts and educational programming. The council also prepared the proposed agenda for the annual summit of elected tribal leaders, legislators, and the governor. Its board consisted of the chairs from each of the 11 tribal governments, a member of the governor's staff, and the commissioners from cabinet-level agencies, including MnDOT (MIAC 2015a).

Planning Process

In 2015, transportation investments in Minnesota were guided by a family of plans (Figure 9). Minnesota GO, the state's long-range transportation plan, provided fundamental direction on long-term planning for multimodal transportation in the state. The 50-year vision was supported by a series of 20-year system investment plans that contained modal-specific strategies and guidance to accomplish the goals of the long-range plan, and performance-based assessments to inform system priorities. The state highway investment plan, one of the state's many investment plans, was required by statute to be updated every four years (Section 174.03, Subdivision 1c) (MnDOT 2012b, 2015b).

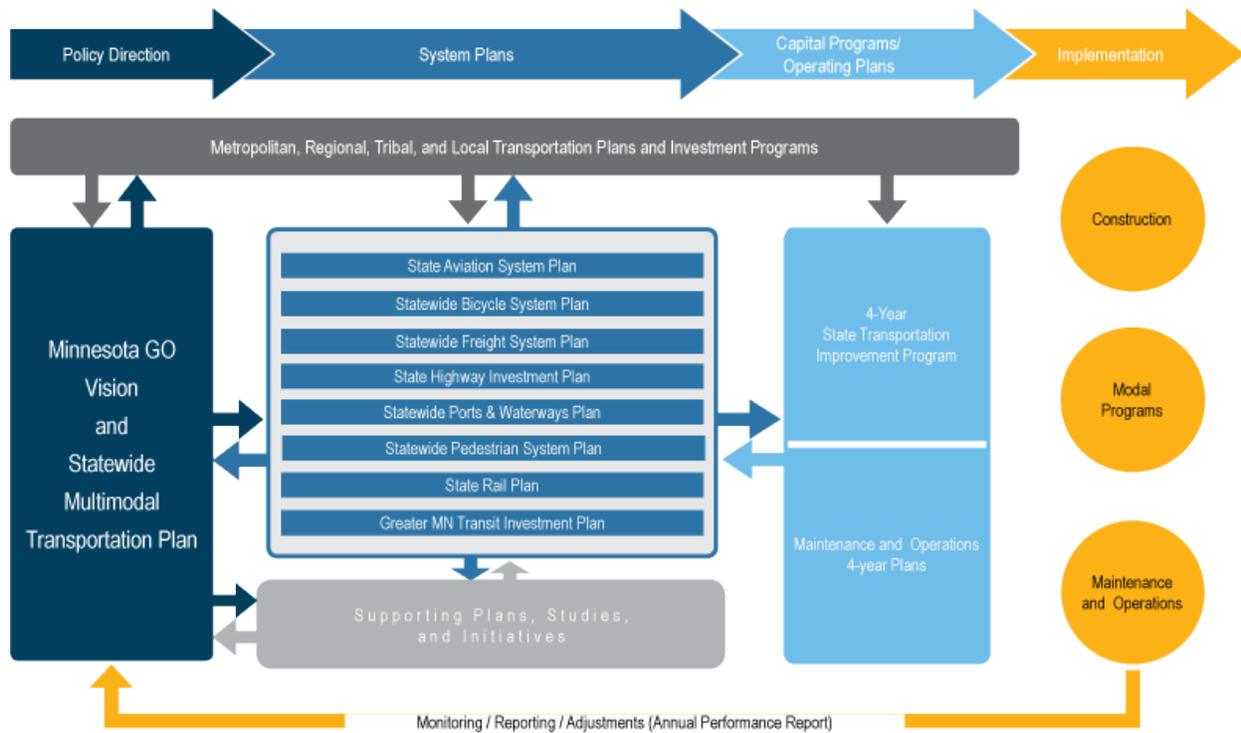


Figure 9. MnDOT Planning Framework (MnDOT 2015b)

Tribal governments were afforded multiple opportunities to participate in MnDOT planning efforts, including Minnesota GO. Active participation in regional governments, particularly in the ATPs, provided the most meaningful opportunities, but tribal representatives also joined policy working groups and other outreach and engagement efforts (MnDOT 2012b).

Programming Process

Minnesota’s STIP would be developed each year and included the schedule of all state and local transportation projects funded by federal highway or transit dollars, or selected by district engineering offices and fully funded by the state. The ATPs would lead the programming process by soliciting and selecting projects for federal funding. These projects were included in the ATP-created RTIP.

Because tribal governments participated in the ATPs, they had ongoing access to the STIP’s development, and tribal interests were heard early in the programming process. In addition, TTP TIPs developed by tribes were forwarded from FHWA to MnDOT for inclusion in the STIP (MnDOT 2014, 2015f). Figure 10 depicts MnDOT’s programming process.

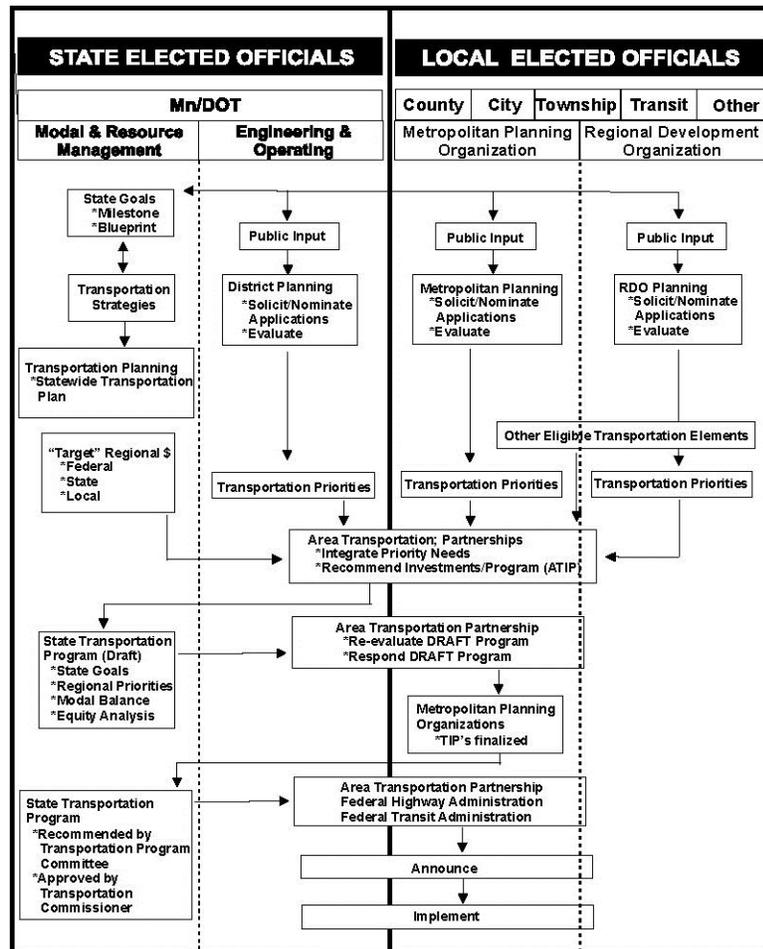


Figure 10. MnDOT Programming Process (MnDOT 2014)

MONTANA

Montana comprises 145,546 square miles and had a population of 989,417 (US Census Bureau 2015c). Approximately 7.9 percent of the state’s population—78,601 people—identified as American Indian or Alaska Native. Billings, Montana, had the fifth-highest percentage of American Indians and Alaska Natives in the country (US Census Bureau 2012). Montana had seven federally recognized tribes and one state-recognized tribe, the Little Shell Tribe of Chippewa Indians (Montana Governor’s Office of Indian Affairs 2015b). A map of Native American trust lands in Montana is shown in Figure 11.

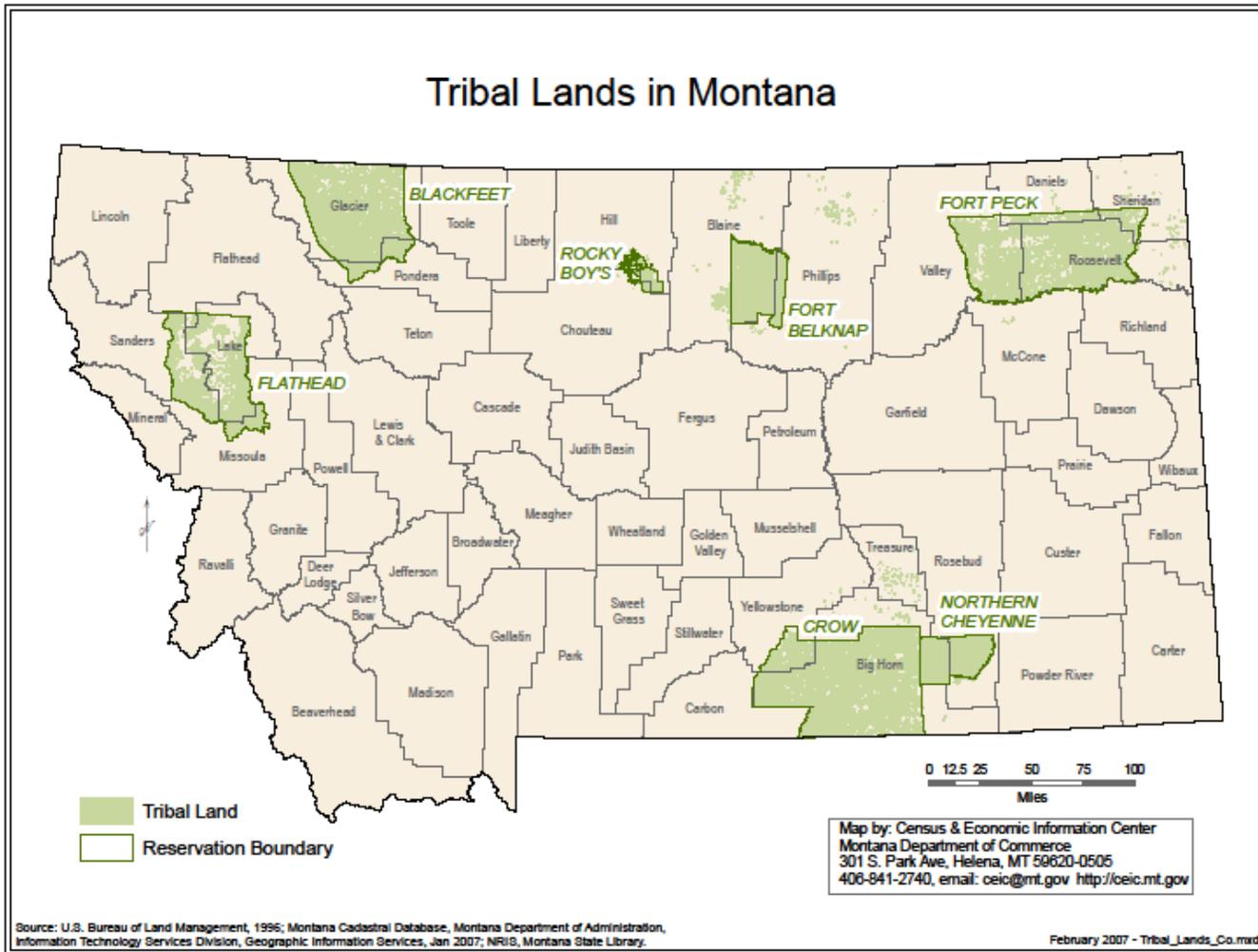


Figure 11. Native American Trust Lands in Montana (Montana Department of Commerce 2017)

Key Stakeholders in Montana Transportation Planning, Programming, and Funding

MDT

Established in 1913, in 2015 MDT had the responsibility to plan, design, and maintain the state highway system, which comprised nearly 13,000 miles with the vast majority of vehicle miles traveled on highways in rural areas (MDT 2014c). In addition to the highway system, MDT operated and maintained state-owned airports, provided general aviation airport planning, coordinated and planned rail infrastructure, and provided transit assistance (LFD 2015).

MDT was guided by two quasi-judicial, governor-appointed boards: the Montana Transportation Commission and the Montana Aeronautics Board. The five-member Transportation Commission selected and prioritized construction and maintenance projects. By statute, at least one member must have had specific knowledge of tribal culture and transportation needs, and must be appointed only after consultation with the Montana members of the Rocky Mountain Tribal Leaders Council. The nine-member Aeronautics Board served MDT in an advisory role, with authority to allocate loan and grant funds. While including a tribal member on the board was not statutorily required, the Aeronautics Board had a long-serving tribal appointee (Billings Gazette 2013; MDT 2014c, 2015a; Montana Governor's Office of Indian Affairs 2015a; MCA 2015).

As of 2015, MDT did not have a formal tribal liaison program. The agency's director served as a tribal liaison unless the director designated another staff member. During the interviews for this study, MDT staff reported that the agency developed MOUs with each tribe that would outline how MDT and the tribe would consult and coordinate.

Regional Transportation Agencies

Montana had an MPO in Billings, Great Falls, and Missoula. None of the three MPOs had planning areas that included reservation lands, all of which were located in rural parts of the state.

Planning Process

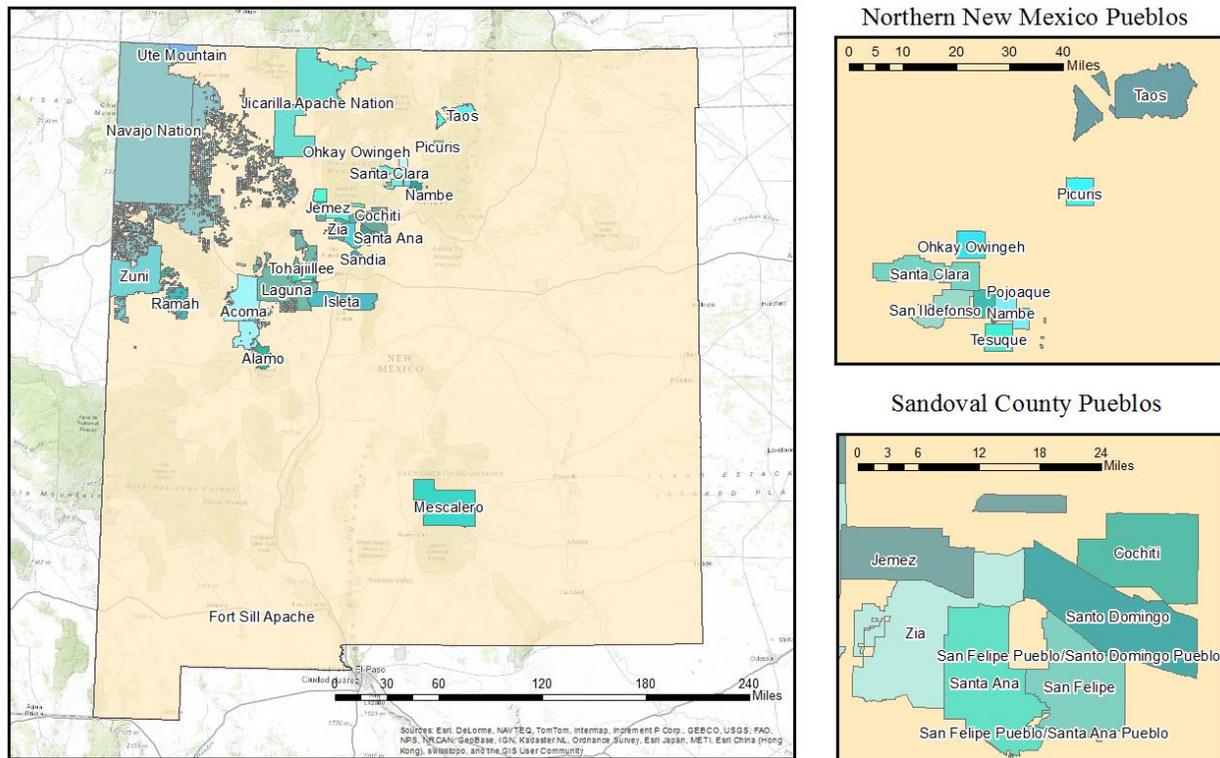
In 1994 MDT created TranPlan 21, the state's long-range transportation policy plan. The plan was updated or amended periodically to comply with current surface transportation legislation (MDT 2015a, 2015b). When TranPlan 21 was amended in 2008, tribal governments were consulted as is required by federal statute. MDT also received input to the state's long-range transportation plan from MPOs and through a biennial stakeholder survey (MDT 2008, 2011, 2014a).

Programming Process

MDT engineering district and program managers would nominate transportation projects for inclusion in Montana's STIP. These projects, along with MPO and TTP TIPs, were then rated based on a variety of criteria, including current surface condition, rideability, traffic safety, and geometrics, as outlined in MDT's asset management program. The proposed program is then distributed for public and stakeholder comment, including feedback from tribal governments (MDT 2011, 2014c).

NEW MEXICO

New Mexico comprises 121,298 square miles and had a population of 2,059,192 (US Census Bureau 2015d). Approximately 10.6 percent of the state's population—219,512 people—identified as American Indian or Alaska Native. Albuquerque, New Mexico, had the seventh-largest number of American Indians and Alaska Natives in the country (US Census Bureau 2012). New Mexico had 22 federally recognized tribes, including the Navajo Nation (IAD 2015). A map of the Native American trust lands in New Mexico is shown in Figure 12.



**Figure 12. Native American Trust Lands in New Mexico
(New Mexico Department of Health 2015)**

Key Stakeholders in New Mexico Transportation Planning, Programming, and Funding

New Mexico Department of Transportation

As of 2015, the New Mexico Department of Transportation (NMDOT) designed, constructed, and maintained 12,000 miles of state highways through its highway operations division. NMDOT's six district offices implemented the state's construction program. While principally a roadway-focused agency, NMDOT also had an office of program and infrastructure that addressed multimodal efforts, including transit, aviation, and rail (NMDOT 2015a, 2015b; Office of the Governor Susana Martinez 2015).

NMDOT was guided by the State Transportation Commission, whose governor-appointed members represented NMDOT's six districts. While tribal representation was not required by law, the commission's District 6 appointee was a member of the Navajo Nation. The commission set broad policy for the agency, including approval of the STIP; NMDOT's cabinet secretary was responsible for the agency's day-to-day operations and management (NMDOT 2015d, Office of the Governor Susana Martinez 2015).

Tribal Liaison Program. NMDOT's tribal liaison program promoted tribal government involvement in state transportation planning and programming processes. Located within NMDOT's Planning and Safety Division, the tribal liaison maintained government-to-government relationships by facilitating coordination, communication, and collaboration between tribal governments in New Mexico and transportation-related agencies, including FHWA, the BIA, regional transportation agencies, and local governments.

A top priority for the tribal liaison was to encourage active tribal participation in regional transportation agency planning processes to ensure tribal projects were included in the STIP. NMDOT had enhanced its relationship with the state's tribal governments by completing MOUs or joint powers agreements (JPAs) with each pueblo and tribal government in the state (NMDOT 2015d, NMDOT 2015e).

The tribal liaison also prepared an annual report on tribal collaboration and coordination, a requirement of the 2009 State-Tribal Collaboration Act (New Mexico Statute §11-18). Other requirements of this statute include establishing tribal liaisons in state agencies; requiring tribal collaboration policies for cabinet-level agencies; establishing an annual state-tribal summit between the governor and tribal leaders; and requiring state-tribal government-to-government training for employees who have ongoing communication with tribal governments (State of New Mexico 2009, 2015e).

Regional Transportation Agencies

As of 2015, MPOs and regional transportation planning organizations (RTPOs) facilitated transportation planning activities in New Mexico. The state had four MPOs—Farmington, Mesilla Valley, Mid-Region, and Santa Fe—and membership in one Texas MPO, El Paso. Because of its unique location close to the New Mexico-Texas state line, the El Paso Metropolitan Planning Organization had interstate interests, operating under a JPA with Texas DOT and an MOA with NMDOT.

Seven RTPOs facilitated transportation planning and decision making in rural areas in New Mexico by developing RTPs and project recommendations for inclusion in the STIP (NMDOT 2015d).

Tribes were eligible voting members of both MPOs and RTPOs. According to the NMDOT tribal liaison, tribes actively participated in MPOs and RTPOs.

Other Agencies

IAD. The New Mexico Indian Affairs Department (IAD) was originally created by statute in 1953 to serve as a liaison between the governor and state Legislature and tribal governments. The agency has since been elevated to a cabinet-level department, providing the secretary direct access to the governor (IAD 2015).

Planning Process

The planning bureau within NMDOT's Asset Management and Planning Division had the responsibility to oversee the statewide transportation planning process. The New Mexico 2040 Plan, NMDOT's long-range transportation plan adopted in September 2015, guided agency decision making. The plan identified a core set of goals and strategies along with agency-level performance measures. The plan included RTPs and incorporated MTPs by reference (NMDOT 2015d, 2015f).

Tribal governments were extensively involved in developing the New Mexico 2040 Plan. Four stakeholder committees contributed to the process, including a dedicated tribal coordinating committee with membership and participation from the state's 22 tribal governments. Additionally, regional tribal participation in the Metropolitan and Regional Coordinating Committee, as well as within statewide and regional topical working groups (such as cultural, historic, and natural resources), ensured that tribal interests were represented (NMDOT 2015c).

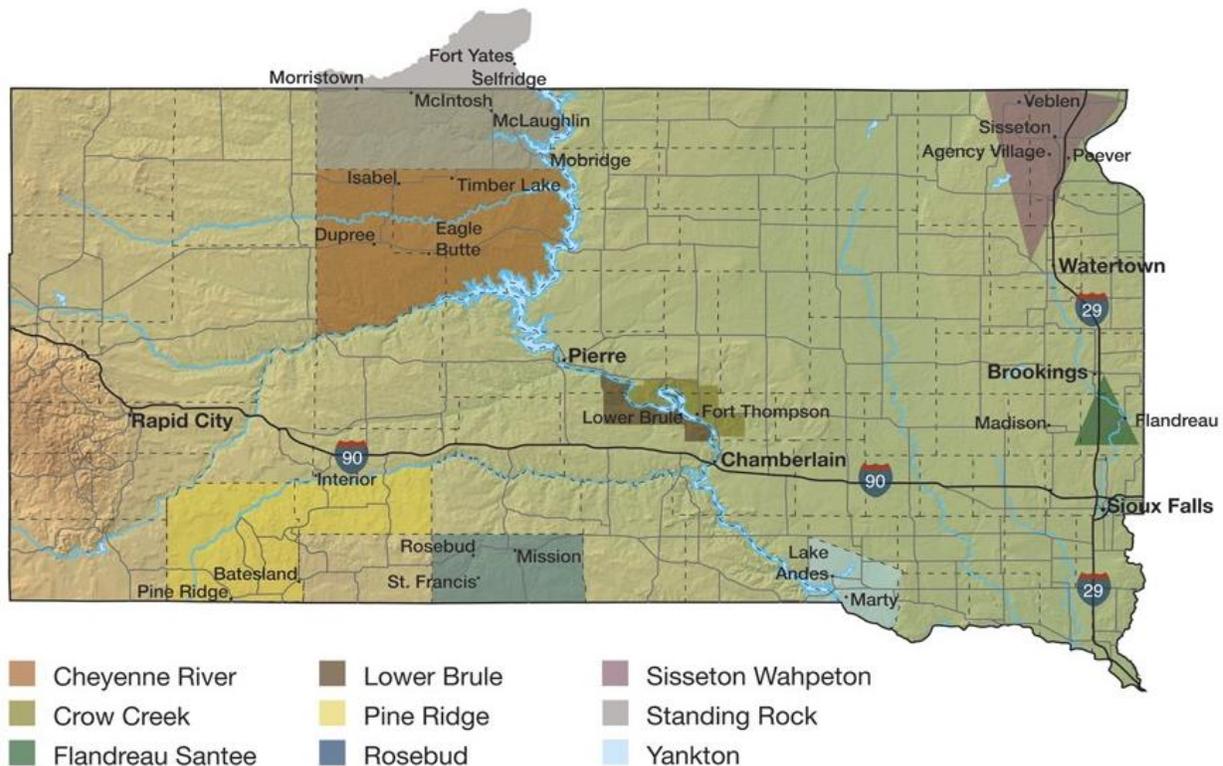
Programming Process

NMDOT's Program Management Division developed the four-year STIP. MPOs and RTPOs begin the programming process by issuing a call for projects from tribal and local governments. A project identification form was completed for each project that was determined to be feasible. MPOs then prioritized projects for inclusion within their TIP; RTPOs also prioritized projects for their TIP, which was reviewed by the NMDOT engineering district. A draft STIP was then developed based on these prioritized projects; the Transportation Commission would then review and adopt the STIP (NMDOT 2014a, 2014b).

Tribal engagement in regional TIP development was significant given that tribes actively participate in the state's MPOs and RTPOs. According to the NMDOT tribal liaison, both the *Tribal/Local Public Agency Handbook* (NMDOT 2014b), which details the programming process, and the state's easy-to-complete project identification form facilitated tribal participation in the programming process.

SOUTH DAKOTA

South Dakota comprises 75,811 square miles and had a population of 814,191 (US Census Bureau 2015e). Approximately 10 percent of the state's population—82,073 people—identified as American Indian or Alaska Native. Sioux Falls, South Dakota, had the 13th-largest percentage of American Indians and Alaska Natives in the country (US Census Bureau 2012). The state had nine federally recognized tribes (South Dakota Department of Tribal Relations 2015). A map of Native American trust lands in South Dakota is shown in Figure 13.



**Figure 13. Native American Trust Lands in South Dakota
(South Dakota Department of Tribal Relations 2015)**

Key Stakeholders in South Dakota Transportation Planning, Programming, and Funding

South Dakota Department of Transportation

As of 2015, South Dakota Department of Transportation (SDDOT) designed, constructed, and maintained nearly 8000 miles of the state highway system as well as aviation and rail facilities. SDDOT was governed by four policymaking entities:

- **Transportation Commission:** A nine-member board, appointed by the governor, that approved the STIP and awarded construction contracts

- **Rail Authority:** An entity that acquired, maintained, and equipped railroad facilities as directed by the state Legislature
- **Railroad Board:** A seven-member board, appointed by the governor, that determined how rail service on properties acquired, leased, or controlled by the state will be operated, managed, financed, marketed, or developed; board members also served as voting members of the Railroad Authority
- **Aeronautics Commission:** Seven governor-appointed commissioners who supervised aeronautical activities and facilities in South Dakota, including airports, wind turbines, cellphone towers, and navigational facilities (SDDOT 2014a)

Tribal Liaison. While SDDOT does not have a formal tribal liaison program, the department had designated a tribal liaison who had multiple responsibilities, including serving as the civil rights compliance officer, Title VI specialist, Americans with Disabilities Act coordinator, and equal employment opportunity officer. During the interview, the tribal liaison reported her position was ever-evolving to improve state-tribal relations.

As the primary SDDOT contact for tribal governments, the tribal liaison would regularly brief the agency secretary on tribal relations. Some SDDOT projects had special provisions for complying with Tribal Employment Rights Ordinance (TERO) requirements. The special provisions varied, depending on a project's scope and location, and may have included American Indian preference hiring goals, a TERO employment fee, other special fees, and/or a compliance plan negotiated between the contractor and the tribe. Compliance plans were specific to each tribe.

Regional Transportation Agencies

South Dakota had MPOs in Rapid City, Sioux City, and Sioux Falls (SDDOT 2015). No reservation lands were included within these planning areas.

Planning Process

SDDOT's long-range transportation plan had a 20-year planning horizon and included the state's bicycle and pedestrian plan, rail plan, and aviation system plan (SDDOT 2010a, 2010b). The agency's public involvement plan required that tribal government consultation occur with each of the nine tribal governments. SDDOT offered a variety of opportunities for tribal governments to participate in the planning process, including informal meetings where tribal governments share topics or issues of concern (SDDOT 2010a).

Programming Process

In 2015, South Dakota's STIP was a four-year plan for completing programmed highway and public transportation projects. The process began with ad hoc meetings with MPOs, tribal governments, federal agencies, and local governments to identify potential needs. SDDOT also facilitated meetings across the state with other interests, including planning and development districts and local officials from nonmetropolitan areas. SDDOT then met with the state's three MPOs to incorporate projects from regionally developed TIPs. Once a draft STIP had been developed, the agency would host public meetings with legislators, tribal leaders, local elected officials, MPOs, and other stakeholders. The Transportation Commission was then responsible for adopting the final STIP (SDDOT 2010a, 2014a).

In addition to the tribal liaison's ongoing informal coordination and day-to-day interactions with tribes, SDDOT facilitated an annual STIP engagement effort with tribal governments. From January through March, agency representatives traveled to each tribal government to discuss transportation issues and STIP development. Additionally, SDDOT and the BIA hosted a joint meeting in Pierre, South Dakota, to receive further input from tribal governments about the STIP and to coordinate TTP activities (SDDOT 2010a).

WASHINGTON

Washington comprises 66,456 square miles and had a population of 6,724,543 (US Census Bureau 2015f). Approximately 3 percent of the state’s population—198,998 people—identified as American Indian or Alaska Native. Tacoma, Washington, had the eighth-highest percentage of American Indians and Alaska Natives in the country (US Census Bureau 2012). The state had 29 federally recognized tribes and five additional tribes that had traditional homelands or treaty rights within the state (Washington Indian Transportation Policy Advisory Committee 2015). A map of the Native American trust lands in Washington is shown in Figure 14.



**Figure 14. Native American Trust Lands in Washington
(Washington Tribes 2015)**

Key Stakeholders in Washington Transportation Planning, Programming, and Funding

Washington State Department of Transportation

Washington State Department of Transportation (WSDOT) operated and maintained more than 7000 miles of state highways, more than 3600 bridges, and the largest ferry system in the nation. In addition to partnering with others to improve railroads, airports, and public transportation efforts, WSDOT managed the world’s widest tunneling project and the world’s longest floating bridge project (WSDOT 2015a).

Tribal Liaison Program. The tribal liaison program in Washington had a designated liaison at WSDOT headquarters along with additional liaisons and coordinators in offices and regions throughout the state. The tribal liaison at WSDOT headquarters reported directly to the transportation secretary and fostered government-to-government relations with tribal governments, improving agency-tribal communication and ensuring consultation in issues and policies affecting tribes. The tribal liaison also coordinated the biennial tribal-state transportation conference (WSDOT 2015g, 2015h).

Tribal and Regional Coordination Office

The Tribal and Regional Coordination Office (TRCO) worked with the state's regional transportation agencies to further assist and support tribal coordination and planning efforts. It also provided staffing support for the Tribal Transportation Planning Organization (TTPO); see below. TRCO had a tribal liaison and office manager who were located within WSDOT's Multimodal Planning Division (WSDOT 2015f).

Regional Transportation Agencies

MPOs and RTPOs facilitated transportation planning activities in Washington. The state had 17 regional transportation agencies, with all but one containing tribal interests within their planning boundaries (WITPAC 2015; WSDOT 2015b, 2015d, 2015e).

While consultation with tribal governments was required as part of the transportation planning and programming process, membership and voting rights in MPOs and RTPOs was not available to all tribal governments in the state. Several MPOs and RTPOs had amended their bylaws to allow tribes to be full members with voting rights, and a few organizations allowed a non-elected alternate to speak on behalf of a tribe when the delegate (an often overcommitted elected tribal official) could not be present (WITPAC 2015).

Other Agencies

Washington State Transportation Commission. The Washington State Transportation Commission (WSTC) set transportation policy, authored the state transportation plan, and offered policy guidance and recommendations to the governor and state Legislature. The commission had seven members who were appointed by the governor. The WSDOT transportation secretary and a representative from the governor's office served as ex officio members (WSTC 2015a).

TTPO. The Tribal Transportation Planning Organization (TTPO) enhanced tribal governments' access to and participation in statewide transportation planning and programming. Established in 2003 as part of the annual tribal-state transportation conference, the TTPO was supported and staffed by WSDOT and functioned as a nonprofit group. The TTPO met quarterly, and membership was open to local, regional, tribal, state, and federal agencies, with each participating organization allowed one vote (WSDOT 2006, 2007, 2015i).

Washington Indian Transportation Policy Advisory Committee. The Washington Indian Transportation Policy Advisory Committee (WITPAC) was established by WSDOT and the federally recognized tribes to foster a government-to-government dialogue between tribal and state

transportation officials regarding statewide planning and policy matters. As of 2015, WITPAC provided a forum for members to meaningfully discuss and identify emerging transportation issues. The committee met quarterly, and tribal governments could identify a delegate and alternate(s) to consult on issues. WITPAC did not circumvent the sovereign authority of individual tribal governments (WITPAC 2015).

Planning Process

Washington's transportation policy goals were established by the state Legislature and formalized by statute (RCW 47.04.280). The WSTC prepares Washington's long-range transportation plan as required by statute (RCW 47.01.071).

WSDOT and the state's MPOs and RTPOs collaborated to produce the state's Washington Transportation Plan (WTP) 2035. To obtain tribal input on the WTP, WSDOT facilitated outreach and engagement efforts and used established tribal consultation protocols and existing forums, including TTPO and WITPAC (WSTC 2015b, WSDOT 2015b).

Programming Process

The Washington STIP was developed by WSDOT in collaboration with tribes, MPOs, and RTPOs. Each July, WSDOT coordinated with FHWA's Federal Lands Highways Program to obtain TTP TIPs. MPOs submitted their TIPs to WSDOT by October, and the TIPs were approved by WSDOT's transportation secretary. WSDOT would draft a STIP and allow a 30-day public comment period, submitting a final STIP to FHWA and the FTA by December 25. As with the state's planning process, WSDOT facilitated outreach and engagement for the development of the STIP and used established tribal consultation protocols and existing forums, including TTPO and WITPAC, to obtain tribal input (WSDOT 2014, 2015b).

While the STIP was a four-year fiscally constrained program, WSDOT was limited by statute to a two-year capital construction program (WSDOT 2014). This provision gave the state Legislature significant power, as its budget allocation largely determined which projects could be constructed (WSDOT 2015c).

CHAPTER 6. SYNTHESIS OF KEY PRACTICES IN OTHER STATES

This chapter presents information that was current at the time of the research in 2015 on the programs, policies, and activities that stakeholders in the other states identified as key practices in tribal transportation. Federal, state, and regional practices are addressed. Examples of funding practices are also provided and include opportunities to form partnerships and pool resources. Finally, strategies recommended by other states are presented for addressing the largest challenges in completing transportation projects on tribal lands.

FOUNDATION OF SUCCESSFUL RELATIONSHIPS: RESPECT AND TRUST

The history of patriarchal management of tribes by state and federal governments has had significant consequences. In its 2009 book on government-to-government cooperation, the National Conference of State Legislatures wrote, “The antagonistic history of state-tribal jurisdictional battles, the lack of understanding about navigating respective government bureaucracies, and a lack of widespread dialogue about the potential benefits of governmental cooperation are factors that consistently underlie attempts at establishing state-tribal relations” (NCSL 2009). While any government at any level could cite challenges with working across jurisdictions, the misunderstood sovereignty and distinct governance structure of each tribe in the United States add a unique complexity to developing collaborative intergovernmental relationships.

The stakeholders interviewed for this study underscored the importance of respect and trust in developing positive, successful intergovernmental relationships. Many times, interviewees could not specifically identify the elements of successful relationships, only that they existed with some tribal governments but not all. When asked to identify a successful policy, program, or transportation effort, the BIA Southwest Region staff pointed to the way SDDOT approaches its tribal governments: “[SDDOT’s] working relationships and their attitude [are] just a big plus.” From SDDOT’s perspective, trust and respect build quality relationships that pay dividends. According to SDDOT’s tribal liaison, “It’s not as easy to lose your patience with somebody that you know.”

Based on interview responses, the value of one-on-one meetings cannot be overstated. Interviewees across government agencies remarked that the benefits of in-person meetings—formal and informal—were invaluable, particularly since the rural location of many tribal governments presented a barrier to participating in state meetings and conferences that were often centrally located in metropolitan areas. During an interview in Montana, a member of the Confederated Salish and Kootenai Tribes reported that he was meeting with MDT engineers regarding a project on the west side of their reservation the following day to “take a look at the road and walk and kick the dirt.” These informal preplanning meetings were noted as building quality relationships and foster meaningful communication and collaboration among partners.

According to MnDOT's tribal liaison, initial interactions with representatives from tribal governments set the course for a government-to-government relationship:

I find that until you become first-name basis, face-to-face communications is the most effective way of [building trust]. After you've done the initial face-to-face, whether it be consultation or coordination, there's an agreement on how you communicate. ... I think that it really is important to build trust. Not to be a pest, but to build trust, so when you have that official consultation, the tribe should be responsible enough to advise the agency how they want to communicate. And then we should respect that.

While staff-level relationships were deemed important, the special government-to-government relationship between sovereign tribes and states emphasized the significance of relationships between elected and appointed leaders. Several states reported meeting regularly with elected tribal leaders or even visiting and touring reservations simply to foster connections and mutual understanding. A Shakopee Mdewakanton Sioux project manager in Minnesota said fostering relationships, particularly by tribal elected officials to state government leaders, was tremendously beneficial: "Anytime leaders are in the position to speak to somebody—even a few words—anywhere they are, [it] helps the tribe."

The impact of the varying quality of relationships was captured by the example of the Karuk Tribe in California, whose reservation crosses county jurisdictions and RTP boundaries. The tribe's transportation director reported that the active and engaging relationships that the tribe had with Humboldt County and with HCAOG had led to joint efforts and the award of regional transportation project funding. Conversely, the lack of an established relationship—formal or otherwise—with Siskiyou County and the Transportation Commission put the Karuk Tribe "on the very bottom of the list—if we're even on a list."

FEDERAL PRACTICES

Designated Manager

Several BIA regions assign engineers to specific tribal governments to serve as a form of program manager and single contact to tribal governments. Interviewees routinely cited this as a successful practice for improving coordination and communication. In the BIA Southwest Region, the assigned engineer works "cradle to grave" on transportation projects with tribal governments, engaging at the onset of planning and continuing through final project audits. BIA Southwest Region staff emphasized that this model of individual attention to tribal governments promotes uniformity in service delivery and helps to establish strong working relationships. Many regions require engineers to have at least one on-site meeting annually with their assigned tribal governments, although these staff members generally make more frequent visits. According to BIA officials, these regular, face-to-face interactions build relationships, trust, and a tribal transportation program legacy.

Workshops, Summits, and Trainings

Many federal agency offices would host tribal-focused workshops or annual summits. As of 2015, the BIA Northwest Region would host an annual transportation symposium or conference for tribal governments, sometimes partnering with other agencies such as the regional TTAP to coordinate the event. At the conference, tribal government representatives would discuss issues and hear presentations about road and transportation projects.

While the Federal Lands Highway Program was required to offer a minimum of three workshops nationwide each year, in practice the program hosted five or six workshops. California's FHWA field office noted the value of its annual summits, workshops, and forums, but underscored that budget cuts have truncated these important educational and relationship-building opportunities.

The BIA Great Plains Region would host monthly conference calls with tribal planners to provide program updates and funding developments. These conference calls were a mechanism to conveniently and effectively share information, including reports from other agencies. Great Plains also partnered with FHWA and state DOTs to host an annual tribal planners meeting (typically in April) that provides educational training and fosters information sharing.

Road Safety Audits

Tribal transportation safety is a particular focus of the Northern Plains TTAP. According to the program director in 2015, the TTAP performed road safety audits for tribal governments and had hired a circuit rider to assist tribal governments with road safety issues. These audits provided the data necessary for developing tribal safety plans that have been used to successfully acquire funding for a variety of safety improvements on tribal lands. Several other interviewees underscored the value of road safety audits, noting that the TTP specifically set aside funds to address safety issues.

Tribal Transportation Planning Toolkit

FHWA's Office of Planning developed a tribal transportation planning "toolkit" for tribes and other transportation stakeholders (FHWA 2015). The toolkit provided training modules on these topics:

| | |
|---------------------------|--|
| Asset management | Consultation |
| Data collection and use | Long-range transportation plan development |
| TTIP development | Financial planning |
| Funding resources | Introduction to planning |
| Partnering and leveraging | Project prioritization |
| Public involvement | Safety |

STATE PRACTICES

Tribal-State Agreements

Several of the states interviewed for this study had formal agreements between the state and the sovereign tribal governments, and have taken legislative or executive action to define these relationships. These interviewees reported more positive, collaborative state-tribal relationships, citing these foundational decrees as the framework for such success.

Washington was among the states that had formal agreements; however, the state is unique in that tribal chairpersons in addition to the governor were signatories, emphasizing the commitment to a collaborative, constructive relationship. In 1989, the 26 federally recognized tribes and the State of Washington signed the Centennial Accord, affirming their mutual commitment to work together for the benefit of all residents. Ten years later, tribal leaders and the governor signed the Millennium Agreement, reaffirming the importance of the government-to-government relationship and requiring state agencies to produce Centennial Accord plans (Governor's Office of Indian Affairs 2015a, 2015b; WSDOT 2009). WSDOT's plan included:

- Information on relevant department policies and processes, including WSDOT's tribal consultation policy, dispute resolution process, and the role of the WSDOT government relations office
- Functions of key WSDOT divisions and offices that worked with tribal governments, such as:
 - Services, programs, and funding available to tribes
 - Program-specific consultation processes and procedures

Tribal-DOT Agreements

Several states interviewed had created MOUs, JPAs, and other agreements between tribes and the state transportation agency. NMDOT had MOUs and JPAs with each pueblo and tribe in New Mexico. MnDOT had MOUs with each tribe in Minnesota that defined consultation provisions and expectations. In Montana, the following clause from an MOU between MDT and the Crow Reservation (MDT 2016) addressed coordination efforts:

[MDT] shall coordinate with the Nation on all MDT contracts on the Reservation. MDT will also inform the Nation of projects to be developed and constructed near the Reservation. At a minimum, MDT, in conjunction with the Nation, shall schedule quarterly meetings to find areas in which MDT can cooperate with the Nation on all projects to be developed and constructed near the Reservation.

Several states used these agreements to address matters related to tribal employment in transportation projects. MnDOT had MOUs with several tribes to encourage tribal employment in transportation construction projects on or near reservations.

Department Consultation Policies

Several states required department consultation policies that specified implementation of a government-to-government relationship as well as the agency's responsibilities in implementation. MnDOT's tribal consultation policy, for example, contained specific activities and outcomes in order to comply with the governor's Executive Order 13-10. MnDOT's policy included:

- Specific procedures associated with each stage of the transportation process (planning, project development and scoping, design, construction, operations and maintenance, and measurement and evaluation)
- Details about tribal-state training programs
- Specific tribal consultation responsibilities of agency personnel, including the commissioner and tribal liaison (MnDOT 2015d)

Successful consultation, MnDOT's tribal liaison said, was achieved by creating policies that served individual tribal governments, and that contained milestones and deliverables. "I love the role I'm in right now," MnDOT's tribal liaison said, "because the executive order and our [consultation] policy make it very clear for everybody dealing with transportation in Indian country: This is how we work together."

To ensure that tribal governments directly identified which issues were of interest to them, WSDOT's communication and consultation policies included provisions that ensured tribal input on statewide or policy issues. For example, the consultation policy stated that, when WSDOT would formally establish any committee of external stakeholders, at least one tribal representative must be included. WSDOT would begin this member selection process by sending a letter to each tribal chairperson (and an electronic copy to appropriate staff) asking the leader to nominate a representative to the committee. Based on the nominations received, WSDOT then would appoint representatives in proportion to representation from other jurisdictions (WSDOT 2011).

Tribal Policymaking

The role of tribes in transportation policymaking varied from state to state. In Minnesota, the ATP program made decisions related to RTIPs. In South Dakota and Washington, grant committees (such as Safe Routes to School) had tribal representation, and many interviewees said local technical assistance program policy boards included tribal representatives. In New Mexico, the NMDOT tribal liaison served on the New Mexico State Transportation Initiative Council to represent tribal issues and concerns. The Caltrans Native American Advisory Committee had representation from several tribes statewide; the committee acted in an advisory role to Caltrans but played a major role in consultation policy development and implementation. The SANDAG Tribal Working Group and the HCAOG were considered very influential in representing tribal issues in Southern California, though they were advisory to their respective policy boards. During its quarterly meetings, WITPAC ensured tribal consultation policy implementation in Washington and drafted any updates.

Tribes were generally not reimbursed for travel expenses incurred while participating on committees or in the transportation process, but some organized efforts were made to ease the costs and thus encourage participation. The Washington TTPO designated some funding to help with travel expenses so that tribe representatives may attend the TTPO's quarterly meeting and other meetings focused on planning issues. The California RTA (Southern California's regional intertribal organization consisting of 16 tribal governments) used funds from the TTP to provide an honorarium or stipend that covered tribal representatives' per diem and travel expenses to attend the bimonthly board meetings. Caltrans' Native American Advisory Committee, which met three times a year, would try to accommodate member needs if approved in advance.

State-Tribal Summits

Several states would hold annual summits for the governor and tribal government leaders to facilitate government-to-government relations. NMDOT's tribal liaison reported that an executive forum was held before the state's annual summit where tribal leaders would "speed date" with state agency leaders, spending approximately 30 minutes with executives from various state agencies (such as the transportation secretary) to discuss tribal needs and concerns. Based on these executive-to-executive meetings, follow-up consultation meetings would be scheduled and actions taken.

Tribal Access to Transportation Authorities

Of the states interviewed for this project, only Montana required that tribal interests be represented on its Transportation Commission; per statute, at least one of its five governor-appointed members must have specific knowledge of Indian culture and tribal transportation needs (MCA 2015). Interviewees from other states acknowledged the value of such representation on or access to transportation authorities. While New Mexico did not require tribal representation on its Transportation Commission, the governor had appointed a member of the Navajo Nation from District 6 who advocated for tribal interests. Also, the Pueblo of Acoma's planning and engineering director said the pueblo had often hosted State Transportation Commission meetings, which provided additional opportunities to build relationships and discuss tribal transportation projects and needs.

Department Executive Engagement

Many interviewees noted that successful department-tribal relations were most likely to occur when top agency leaders modeled such relationships. WSDOT's tribal liaison would schedule official tribal visits with the transportation secretary; in 2014, the transportation secretary visited 10 tribes. Visits varied in terms of structure and purpose, but those exchanges proved mutually beneficial for the DOT and tribal governments. Similarly, the MDT director regularly visits reservations in Montana.

Tribal government interviewees from several states said they had an established a relationship with the state DOT executive and wouldn't hesitate to pick up the phone and call the agency leader directly. Other interviewees shared their experiences with the "open door policy" of the agency executive. The tribal secretary of the La Jolla Band of Luiseño Indians in California characterized his relationship with the Caltrans director as "awesome," and said that the director was likely to accommodate a same-day

request to meet. MnDOT's commissioner consults annually with tribal leaders on transportation matters, and MnDOT's tribal liaison said the commissioner is always eager to work with tribal officials at other times as well. Whenever tribal leaders visit the agency, the commissioner or highest-ranking department official present welcomes them and extends an invitation to discuss issues or concerns.

Designated Department Tribal Liaisons

While most of the DOTs interviewed for this study in 2015 had formal tribal liaison programs, the size and scope of these programs varied. Three states—Minnesota, New Mexico, and South Dakota—had a single tribal liaison. MnDOT's tribal liaison specifically endorsed the single tribal liaison model. NMDOT's tribal liaison suggested his experience as a pueblo governor had provided tremendous value in building trust and collaboration among tribal governments. The MnDOT and WSDOT tribal liaisons said they had direct reporting authority to the agency's executive, which fostered government-to-government relationships.

Caltrans and WSDOT had regional tribal liaisons. Caltrans had a tribal liaison in each of its districts that contain a federally recognized tribe, but the liaison is simply a district-level employee designated as the tribal contact. Several interviewees expressed the view that this district-level liaison program is as well-intended but functionally underresourced to adequately serve the need. WSDOT also reported that its regions have tribal coordinators who serve as local contacts for tribal governments.

While these programs varied, any tribal liaison program or relationship "conduit" was seen as contributing to successful tribal transportation efforts. As concluded by the Eastern TTAP interviewee, "[The] statewide intertribal effort is lacking in those states that do not have tribal liaisons or some sort of intertribal DOT relationship."

Tribal Engagement in State Long-Range Plan

The consultation process for developing state long-range transportation plans also varies among states. Several interviewees noted NMDOT's effectiveness at engaging tribal governments in the long-range planning process. When the state developed its most recent long-range plan, New Mexico 2040 Plan, the process included the Tribal Coordinating Committee, one of four stakeholder committees, which consisted of transportation personnel from all 22 tribal governments (NMDOT 2015c, NMDOT 2015f). Tribal members serve on other committees (notably the Metropolitan and Regional Coordinating Committee) and participate in topical working groups. The Pueblo of Acoma's director of planning and engineering said the consultation process was excellent and that it ensured tribal recommendations were reflected in the end product. He concluded that overall, the process "really opened the door to welcome Indian tribes' participation."

STIP Engagement

Interviewees frequently recommended SDDOT's tribal outreach program as an example of an effective tribal consultation practice. In addition to the SDDOT tribal liaison's ongoing, informal coordination and day-to-day interactions, SDDOT had established an annual STIP engagement effort. From January to March each year, SDDOT representatives along with the planning/civil rights specialist from FHWA's South Dakota Division office would visit each tribal government to discuss transportation issues and development of the STIP. Additionally, SDDOT and the BIA would coordinate a joint meeting hosted in Pierre, South Dakota, to receive further input on the STIP and to coordinate efforts with the TTP (SDDOT 2010a). Several interviewees noted that this annual process provided an opportunity to discuss other transportation issues, and that, on more than one occasion, coordination and joint scheduling of transportation projects occurred. The regional roads engineer for the BIA Great Plains Region said, "We have a great working relationship with the South Dakota DOT, and [it has a] great outreach program: [It doesn't] wait for the tribes to come to them; they make a point to go out to the tribes."

State Employee Training

In Minnesota, New Mexico, and Washington, government-to-government and consultation-related training is required for all state employees who work with tribal governments. MnDOT works with the University of Minnesota to conduct a formal two-day, in-person employee training. The department also has a Native American employee resource group that facilitates ongoing, informal cultural awareness activities such as Native dance demonstrations, lunchtime storytelling by tribal elders, and lessons about tribal flag symbols. While these events and activities were informal, MnDOT's tribal liaison reported that they were extremely popular and helped to facilitate a fundamental understanding of and appreciation for Minnesota's dynamic cultures.

State and Regional Tribal Advocacy Groups

Several state DOTs had developed tribal transportation forums and intertribal organizations that advocated for tribal issues. The most notable advocacy groups are highlighted below. While interviewees often cited these groups as illustrations of ways to bolster state-tribal government transportation coordination and collaboration, it was noted that tribal governments are sovereign nations and that such efforts can only contribute to, not replace, applicable federal and state requirements regarding government-to-government consultation.

California

- ITCC. Nearly half of California's tribes are represented in this council.
- SCTCA. The SANDAG representative and other interviewees noted SCTCA's success in advocating for tribal interests and serving as a conduit for regional partnerships. The professionally staffed organization has a formal relationship with SANDAG. One interviewee remarked that because SCTCA convenes tribal leaders monthly, the organization's success and value can be measured simply by the growing length of its agendas.

- RTA. This Southern California regional intertribal organization pooled member resources to address transportation needs.
- Native American Advisory Committee. Tribal members advocated for all Native Americans in California rather than their specific tribe.

Minnesota

- MIAC. This official liaison between the state and its 11 tribal governments provided a wide range of advocacy efforts.
- ACTT. This forum included representatives from numerous state agencies and tribes.

Washington

- TTPO. This nonprofit organization actively advocates for tribal transportation capacity in the state.
- WITPAC. This entity participated in statewide planning and policy matters, and identified emerging transportation issues.

REGIONAL PRACTICES

Regional Transportation Agency Engagement

It was noted that the single-most important activity for improving the impact of tribal governments in statewide transportation decision making is active engagement in regional transportation agencies such as MPOs and RTPOs. WITPAC's 2015 handbook, *Tribal Consultation Best Practices Guide for Metropolitan and Regional Transportation Planning Organizations in Washington State (2015)*, was mentioned as a valuable resource that detailed ways to improve access and facilitate success at this fundamental level of engagement.

A tribal transportation planner interviewed for this study emphasized the importance of tribal government participation in regional transportation agencies, concluding that tribal governments—and other agencies and transportation interests—need to have a seat at the table to impact policymaking and obtain funding for projects. Staff from the BIA's Northwest and Southwest regions reinforced the value of tribal participation in regional governments, stating that tribal governments have had success in diversifying their transportation funding sources because of the relationships and participation in their local MPOs and RTPOs.

Membership with full voting rights was also said to be a key factor. Interviewees reported that in states where tribal governments were allowed to be full voting members in regional governments, projects of tribal interest were funded and constructed. In Minnesota and New Mexico regional transportation agencies, tribal government leaders or transportation personnel have been elected or appointed to leadership roles, including chairperson. New Mexico interviewees reported that at one point, to garner tribal involvement, some of the membership dues were waived.

Even when membership for tribes could not be fully realized, it was noted that consultation must still occur as part of transportation planning and programming efforts. Study interviewees often cited SANDAG as a model for fostering an inclusive regional transportation planning and programming process even though tribes could not be full voting members of the agency. Its Interagency Technical Working Group on Tribal Transportation Issues was a successful formal channel for tribes to provide feedback and technical advice on regional transportation activities.

Engineering District Partnerships

In Montana, most of the regional-level coordination occurred through MDT's engineering districts, especially in developing the STIP. MDT district offices regularly consulted with their respective tribal government representatives, either at regular intervals (such as quarterly) or as needed. A Montana tribal transportation department director noted that the regular meetings and interactions with MDT's district administrator had allowed the tribal government to meaningfully contribute to the STIP. Another Montana tribal transportation staff member cited the impact that this district-based relationship had on a major transportation project, which led to the formation of a committee that included federal, state, and tribal planners who met monthly to discuss and coordinate transportation issues and projects.

Several federal, state, regional, and tribal interviewees also cited Minnesota's unique ATP program as a successful example of a district-based partnership.

FUNDING PRACTICES

Partnerships

Many interviewees, particularly those from federal agencies and tribal governments, said that transportation projects were more successful and more competitive when supported by multiple agencies. The BIA Rocky Mountain Region reported that the \$17.6 million "17-mile road" project on the Wind River Indian Reservation in Wyoming received \$8.2 million in competitive TIGER grant funding because of multiagency coordination. The project vastly improved traveler safety while providing construction jobs for approximately 130 tribal members.

The BIA Northwest Region said tribes in Washington had pooled funds with state or local transportation funding sources to complete transit and other transportation projects. In New Mexico, the planning and engineering director for the Pueblo of Acoma said that because of a strong relationship with its RTPO as well as support and advocacy from neighboring agencies, the pueblo received TTP ARRA funding and funds through NMDOT's ARRA allotment.

Fuel Tax

Several states had compacts with tribes that required states to refund all or portions of fuel taxes collected on trust lands. This was a significant funding source for many tribal governments in Washington; WSDOT's tribal liaison reported that the state had compacts with 24 of the 29 tribes that required the state to refund 75 percent of the fuel tax collected on reservations to tribal governments. The tribal share went directly to the tribe, which programmed the funds for transportation and law

enforcement-related purposes. Nisqually Indian Tribe's transportation planner said his entire program was funded by the fuel taxes refunded to the tribal government, an amount he projected to be approximately \$1.5 million for 2016.

Equipment Rental Program

The BIA Rocky Mountain Region administered a popular equipment rental program: Tribal governments could rent a variety of equipment (such as a crusher or paver) at discounted hourly rates. Each year, before the summer construction season began, the Region reviewed equipment rental requests and prepared a rental schedule.

Tribal-Dedicated Funding

Many interviewees reported a lack of a dedicated tribal funding source for transportation-related projects. Most tribal projects had to compete for federal funds through the state transportation funding process. In Washington, the state Legislature was prescriptive with transportation funding all the way down to the project level. Federal transportation funding that went to WSDOT was allocated through the legislative process. Therefore, tribes in Washington have had to become very good at lobbying for project funds.

New Mexico interviewees cited the Tribal Infrastructure Fund (TIF), a unique funding mechanism established in 2005 through the Tribal Infrastructure Act. The TIF has been funded by a severance tax charged to producers or anyone working or receiving royalty interest in the oil or gas operations in New Mexico. Annual appropriations were made to the Department of Finance and Administration and the New Mexico Indian Affairs Department to support the Tribal Infrastructure Board's work. Guided by governor-appointed tribal government representatives and agency secretaries, the board would evaluate infrastructure project proposals made by tribal governments and then award grant funding to qualified projects based on available funding. Five percent of estimated senior severance capacity each year was allocated for tribal projects and 10 percent was set aside for planning. Each tribe could apply for only one project in each of three categories: planning, design, and construction.

Tribes in New Mexico were eligible to compete for transportation funding and could use TTP funds as matching funds (IAD and New Mexico Environment Department 2011).

Project Grant Funding

TIGER grants were another common funding source that was cited: The Pueblo of Laguna in New Mexico developed a bike and pedestrian program using TIGER grant funding. The Wind River Indian Reservation in Wyoming received approximately \$8.2 million in TIGER grant funds to address safety issues along a 17-mile road.

A number of South Dakota tribal projects had received FTA funding. Tribes in New Mexico used Highway Safety Funds to develop roundabouts in a congested area on tribal lands and to repair a state road that traversed a pueblo. Interviewees noted that if tribes have done the planning and projects are shovel-ready, they have the opportunity to get additional funding.

Pooling Tribal Funds

California's RTA has leveraged constrained TTP funding by pooling members' allocations. The agency also has sought additional funding and grants for multimodal projects and partners with regional governments on various projects.

Lower Local Share

According to the interviewees in 2015, none of the states had a lower local share for federal projects if there were significant federal lands within the state.

CHALLENGES AND OPPORTUNITIES

As found in this research (2012-2015), there were challenges to completing transportation projects on tribal lands in Arizona. The departments of transportation in the surveyed states had faced similar challenges and identified the various strategies below for addressing them.

Process

- Develop a more integrated approach (corridor sketch planning) to transportation planning and programming (WSDOT).
- Establish a better connection between conversations and decision making about funding, programming, and policy (Caltrans).
- Develop needed data and build capacity for data monitoring (Caltrans).

Agency-Tribal Relations

- Issue an executive order (policy) and ensure a commitment from top DOT leadership to implement projects. Policies should include deliverables, timetables, milestones, and accountability (MnDOT).
- Increase tribal participation in RTPOs and MPOs (NMDOT).
- Establish active tribal involvement at the district level (MDT).
- Encourage the tribes to host State Transportation Commission meetings (NMDOT).
- Develop a comprehensive tribal natural resources directory of all contacts (MnDOT).

Training

- Conduct a biennial tribal transportation conference to provide the tribes with training and technical assistance to become more competitive in the funding process (WSDOT).
- Offer ongoing training about working with the tribes (SDDOT).
- Provide training from project concept to completion (NMDOT).
- Conduct an annual tribal transportation safety summit (SDDOT).

Policy Manuals and Guidelines

- Develop and maintain a consultation best practices manual that can be used for RTPo and MPO consultation efforts. Guidelines should include tribal requirements, bylaw changes, tribal participation on boards and committees, and frequently asked questions (WSDOT).
- Develop a tribal communications manual that outlines protocol and procedures (MnDOT).
- Develop and maintain an up-to-date tribal transportation guide (Caltrans).
- Develop and maintain an up-to-date tribal environmental manual (Caltrans).

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APPENDIX A: STUDY TECHNICAL ADVISORY COMMITTEE

| TAC Member Affiliation |
|--|
| Ak-Chin Indian Community |
| Colorado River Indian Tribes (CRIT) |
| Inter Tribal Council of Arizona (ITCA) |
| Navajo Nation DOT |
| Bubar & Hall Consulting, LLC |
| Hopi Tribe Transportation Task Team |
| Salt River Pima-Maricopa Indian Community |
| Ft McDowell Yavapai Nation |
| Maricopa Association of Governments (MAG) |
| Pueblo of Zuni |
| Gila River Indian (GRIC) DOT |
| Tohono O’odham Nation |
| ADOT Multimodal Planning Division (MPD) |
| ADOT MPD Tribal Liaisons |
| ADOT (cultural resources) |
| Federal Highway Administration (FHWA) |
| Tribal Technical Assistance Program (TTAP)— Mountain West Office |
| Bureau of Indian Affairs (BIA) WRO Division of Transportation |

APPENDIX B: TRIBES IN ARIZONA

The following tables summarize common features of each tribe in Arizona, including the tribe's location, ancestry, acreage, population, and transportation capacity. As these summaries indicate, the tribes in Arizona are diverse, and no single model or framework can accurately describe the diversity among tribal governments and their tribal membership.

Sources for this information were *The State of Indian Country Arizona: Volume 1* (Arizona Board of Regents 2013) and the *ADOT Tribal Transportation Consultation Online Training Course for ADOT Personnel Handbook* (ADOT 2013b). Definitions of the terms used in the tables follow:

- **Recognized:** Year the tribe was federally recognized as having a government-to-government relationship with the United States.
- **Reservation land area:** Number of acres of reservation land in Arizona.
- **Reservation population:** Number of people living on the reservation, whether or not they are members, based on 2010 U.S. Census data.
- **Enrollment:** Number of members reported by the tribal government based on tribal law, whether or not they live on the reservation.
- **NAHASDA population:** Population calculated under the Native American Housing Assistance and Self-Determination Act (NAHASDA) and used in calculating the FY 2014 TTP funding formula authority.
- **Tribal membership:** Ancestry of the tribes on the reservation.
- **Tribal transportation capacity:** Transportation activities and capacity in which the tribe oversees the functions and substantial staff members are involved in administering transportation activities. Planning and engineering capacity addresses how a tribe handles the technical aspects of transportation planning and engineering. Some tribes have large transportation planning and engineering staffs; other tribes have some technical staff members who are often assigned to transportation part time, but also use consultants; others rely on the BIA for technical services; and a few tribes have formed transportation oversight committees to provide a tribal perspective and direction to transportation issues.
- **ADOT district(s):** ADOT engineering and maintenance districts that cover the reservation

Ak-Chin Indian Community

| | |
|---|---|
| Location | 56 miles south of Phoenix and adjacent to Maricopa on State Route 347 |
| Recognized | 1912 |
| Reservation Land Area | 21,480 acres |
| Reservation Population (2010 Census) | 1,001 |
| Enrollment | 919 |
| NAHASDA Population (2013 TTP) | 782 |
| Tribal Membership | O'odham and Pima |
| Brief Description | The community consists of both Tohono O'odham and Pima Indians who live in the Sonoran Desert of south-central Arizona. In 1984, a water rights settlement was approved by Congress entitling the Ak-Chin Indian Community access to 75,000 acre-feet of Colorado River water. Enterprises include Ak-Chin Farms and Harrah's Casino. |
| Tribal Transportation Capacity | Planning, engineering, and construction administration. Tribal and consultant planning and engineering capacity. |
| ADOT District | Tucson |
| Contact Information | 42057 W. Peters and Nall Rd. Maricopa, AZ 85138 Phone: 520-568-1000 |
| Website | www.ak-chin.nsn.us/ |

Cocopah Indian Tribe

| | |
|---|--|
| Location | 13 miles south of Yuma on U.S. Route 95 |
| Recognized | 1917 |
| Reservation Land Area | 6524 acres |
| Reservation Population (2010 Census) | 817 |
| Enrollment | 1065 |
| NAHASDA Population (2013 TTP) | 616 |
| Tribal Membership | Cocopah |
| Brief Description | The reservation is located adjacent to the Colorado River. Agriculture plays an important role in the tribe's economy. Enterprises include a resort/conference center, casino, speedway, golf course, and family entertainment center. |
| Tribal Transportation Capacity | Limited; BIA provides direct services. |
| ADOT District | Yuma |
| Contact Information | County 15th Street and Avenue G Somerton, AZ 85350 Phone: 928-627-2102 |
| Website | www.cocopah.com/ |

Colorado River Indian Tribes (Chemehuevi, Hopi, Mohave, and Navajo)

| | |
|--------------------------------------|---|
| Location | 189 miles west of Phoenix and adjacent to Parker; traversed by U.S. Route 95 and State Route 95 |
| Recognized | 1865 |
| Reservation Land Area | 225,995 acres; additional lands in California |
| Reservation Population (2010 Census) | 7077 |
| Enrollment | 3895 |
| NAHASDA Population (2013 TTP) | 2677 |
| Tribal Membership | Mohave, Chemehuevi, Navajo, and Hopi |
| Brief Description | The reservation is adjacent to the Colorado River, and straddles parts of the Arizona and California borders. The tribes' economy includes a focus on agriculture and recreation. The tribes have senior water rights to 717,000 acre-feet of Colorado River water, representing nearly 33 percent of the allotment for the state of Arizona. |
| Tribal Transportation Capacity | Planning, engineering, and construction administration. Tribal and consultant planning and engineering capacity. Tribal Transportation Technical Advisory Committee. |
| ADOT District | Yuma |
| Contact Information | 26600 Mohave Rd. Parker, AZ 85344 Phone: 928-669-9211 |
| Website | www.crit-nsn.gov/ |

Fort McDowell Yavapai Nation

| | |
|--------------------------------------|---|
| Location | 23 miles east of Phoenix and adjacent to Fountain Hills on State Route 87 |
| Recognized | 1903 |
| Reservation Land Area | 26,400 acres |
| Reservation Population (2010 Census) | 971 |
| Enrollment | 926 |
| NAHASDA Population (2013 TTP) | 980 |
| Tribal Membership | Yavapai and Apache |
| Brief Description | The nation's reservation is marked by tree-lined bottomlands along the Verde River and cactus-filled rolling hills. Enterprises include the Fort McDowell Gaming Center, Fort McDowell Farms, sand and gravel center, and a tribally owned gas station. |
| Tribal Transportation Capacity | Planning, engineering, and construction administration. Tribal and consultant planning and engineering capacity. Community and economic development division. Planning advisory board. |
| ADOT District | Phoenix |
| Contact Information | P.O. Box 17779 Fountain Hills, AZ 85269 Phone: 480-789-7000 |
| Website | www.ftmcdowell.org |

Fort Mojave Indian Tribe

| | |
|--------------------------------------|---|
| Location | 236 miles northwest of Phoenix on State Route 95 |
| Recognized | 1910 |
| Reservation Land Area | 22,820 acres; additional lands in Nevada and California |
| Reservation Population (2010 Census) | 1004 |
| Enrollment | 1365 |
| NAHASDA Population (2013 TTP) | 634 |
| Tribal Membership | Yuma |
| Brief Description | The Mojave people were prosperous farmers when the Spaniards encountered them. The tribe had established villages and trade routes stretching to the Pacific Ocean. Today the reservation is located adjacent to the Colorado River. Enterprises include farming and two casinos. |
| Tribal Transportation Capacity | Planning, engineering, and construction administration. Tribal and consultant planning and engineering capacity. |
| ADOT District | Kingman |
| Contact Information | 500 Merriman Ave. Needles, CA 92363 Phone: 760-629-4591 |
| Website | mojaveindiantribe.com |

Fort Yuma Quechan Tribe

| | |
|--------------------------------------|---|
| Location | 185 miles southwest of Phoenix and adjacent to Yuma; straddles Interstate 8 to the south |
| Recognized | 1884 |
| Reservation Land Area | 43,958 total acres, majority of which exist in California |
| Reservation Population (2010 Census) | 8 in Arizona |
| Enrollment | 3650 |
| NAHASDA Population (2013 TTP) | 4807 |
| Tribal Membership | Quechan |
| Brief Description | Located adjacent to the Colorado River, the tribe is largely an agricultural community, but also has enterprise operations in sand and gravel, trailer and recreational vehicle parks, a small grocery store, and museum. |
| Tribal Transportation Capacity | Planning, engineering, and construction administration. Tribal planning and engineering capacity. |
| ADOT District | Yuma |
| Contact Information | P.O. Box 1899 Yuma, AZ 85366 Phone: 760-572-0213 |
| Website | No official website |

Gila River Indian Community

| | |
|--------------------------------------|--|
| Location | 40 miles south of Phoenix; straddles Interstate 10; State Routes 87, 187, 387, 587, and 347 traverse the community |
| Recognized | 1859 |
| Reservation Land Area | 373,365 acres |
| Reservation Population (2010 Census) | 11,712 |
| Enrollment | 20,717 |
| NAHASDA Population (2013 TTP) | 20,814 |
| Tribal Membership | Pima and Maricopa |
| Brief Description | The Gila and Santa Cruz rivers traverse the community. Farming is essential to the community's economy and served as justification for its historic water settlement. Other enterprises include sand and gravel operations, several casinos, and an industrial park. |
| Tribal Transportation Capacity | Planning, engineering, and construction administration. Tribal planning and engineering capacity. Transportation department. Transportation technical team and natural resources committee. Federal Highway program agreement. |
| ADOT Districts | Phoenix and Tucson |
| Contact Information | P.O. Box 97 Sacaton, AZ 85247 Phone: 520-562-6000 |
| Website | www.gilariver.org |

Havasupai Tribe

| | |
|--------------------------------------|---|
| Location | 310 miles northwest of Phoenix at the bottom of Grand Canyon National Park; located at the end of Indian Route 18, off historic Route 66 |
| Recognized | 1880 |
| Reservation Land Area | 185,516 acres |
| Reservation Population (2010 Census) | 465 |
| Enrollment | 650 |
| NAHASDA Population (2013 TTP) | 547 |
| Tribal Membership | Havasupai |
| Brief Description | The Havasupai live in the Grand Canyon, practicing irrigation farming in the summer and hunting on the plateaus during the winter. Tourism is the primary economic contributor, but enterprises also include a café, grocery store, museum, cultural center, and art/silkscreen studio. Residents live in Supai Village in the 3,000-foot deep Havasu Canyon. |
| Tribal Transportation Capacity | Limited; BIA provides direct services. |
| ADOT District | Flagstaff |
| Contact Information | P.O. Box 10 Supai, AZ 86435 |
| Website | www.havasupaitribe.com |

Hopi Tribe

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|-----------------------|--|
| Location | 250 miles northeast of Phoenix; traversed by State Routes 87 and 264 |
| Recognized | 1882 |
| Reservation Land Area | 1,542,213 acres |

| | |
|--------------------------------------|--|
| Reservation Population (2010 Census) | 7185 |
| Enrollment | 13,552 |
| NAHASDA Population (2013 TTP) | 24,009 |
| Tribal Membership | Hopi and Tewa |
| Brief Description | Twelve villages are situated on three mesas on the reservation. The Navajo Nation surrounds the reservation. Agriculture plays an important role in the Hopi economy; other important enterprises include hospitality holdings, ranching, and a cultural center. |
| Tribal Transportation Capacity | Planning, engineering, and construction administration. Tribal and consultant planning and engineering capacity. Transportation task team. |
| ADOT Districts | Flagstaff and Holbrook |
| Contact Information | P.O. Box 123 Kykotsmovi, AZ 86039 |
| Website | www.hopi-nsn.gov |

Hualapai Tribe

| | |
|--------------------------------------|---|
| Location | 250 miles northwest of Phoenix on State Route 66 |
| Recognized | 1883 |
| Reservation Land Area | 992,463 acres |
| Reservation Population (2010 Census) | 1335 |
| Enrollment | 2231 |
| NAHASDA Population (2013 TTP) | 1531 |
| Tribal Membership | Hualapai |
| Brief Description | The tribe is located adjacent to the Colorado River and in the Grand Canyon. Enterprises include tourism (including its Skywalk over the Grand Canyon), cattle ranching, timber, and arts and crafts. |
| Tribal Transportation Capacity | Planning, engineering, and construction administration. Tribal and consultant planning and engineering capacity. |
| ADOT Districts | Kingman and Flagstaff |
| Contact Information | P.O. Box 179 Peach Springs, AZ 86434 Phone: 928-769-2216 |
| Website | hualapai-nsn.gov |

Kaibab Band of Paiute Indians

| | |
|--------------------------------------|---|
| Location | 350 miles north of Phoenix, traversed by State Route 389 |
| Recognized | 1934 |
| Reservation Land Area | 120,413 acres |
| Reservation Population (2010 Census) | 240 |
| Enrollment | 341 |
| NAHASDA Population (2013 TTP) | 377 |
| Tribal Membership | Paiute |
| Brief Description | The Kaibab Band of Paiute Indians is located in the northernmost reaches of Arizona. Its enterprises include tourism, livestock, and agriculture. |
| Tribal Transportation Capacity | Planning, engineering, and construction administration. Consultant planning and engineering capacity. |
| ADOT District | Flagstaff |
| Contact Information | HC 65 Box 2 Fredonia, AZ 86022 Phone: 928-643-7245 |
| Website | kaibabpaiute-nsn.gov |

Navajo Nation

| | |
|--------------------------------------|--|
| Location | 260 miles northeast of Phoenix; traversed by Interstate 40, U.S. Routes 64, 89, 160, and 191, and State Routes 64, 87, and 264 |
| Recognized | 1868 |
| Reservation Land Area | 11,601,856 acres; additional lands in New Mexico and Utah |
| Reservation Population (2010 Census) | 101,835 |
| Enrollment | 300,000 |
| NAHASDA Population (2013 TTP) | 203,173 (reservationwide; this figure is higher than the 2010 Census figure that estimated the population on the Navajo Nation reservation in Arizona.) |
| Tribal Membership | Diné |
| Brief Description | Located in the Four Corners region, the Navajo Nation represents the largest tribe in the country, spanning three states. Its vast size is larger than 10 of the 50 states in the country. The nation has a tradition of herding sheep, cattle, and horses. Other significant enterprises include tourism-based activities and gaming. |
| Tribal Transportation Capacity | Planning, engineering, and construction administration. Tribal planning and engineering capacity. Transportation division. Resource development committee. Federal Highway program agreement. |
| ADOT Districts | Flagstaff and Holbrook |
| Contact Information | P.O. Box 663 Window Rock, AZ 86515 Phone: 928-871-6544 |
| Websites | www.navajo-nsn.gov/ www.navajodot.org/ |

Pascua Yaqui Tribe

| | |
|--------------------------------------|---|
| Location | 12 miles west of Tucson; tribal lands also in Guadalupe |
| Recognized | 1978 |
| Reservation Land Area | 1828 acres |
| Reservation Population (2010 Census) | 3,484 |
| Enrollment | 18,000 |
| NAHASDA Population (2013 TTP) | 8508 |
| Tribal Membership | Yaqui |
| Brief Description | The Pascua Yaqui Tribe descended from the ancient Toltecs of northern Mexico. Enterprises include Casino del Sol, a landscape nursery, adobe block manufacturing, and a bingo hall. |
| Tribal Transportation Capacity | Planning, engineering, and construction administration. Consultant planning and engineering capacity. BIA TTP agreement. |
| ADOT Districts | Tucson and Phoenix |
| Contact Information | 7474 S. Camino de Oeste Tucson, AZ 85746 Phone: 520-883-5000 |
| Website | www.pascuayaqui-nsn.gov/ |

Pueblo of Zuni

| | |
|--------------------------------------|---|
| Location | 250 miles northeast of Phoenix; traversed by State Route 180 |
| Recognized | 1877 |
| Reservation Land Area | 12,480 acres; other lands in New Mexico |
| Reservation Population (2010 Census) | 0 (Arizona landholdings are undergoing environmental restoration) |
| Enrollment | 19,632 |
| NAHASDA Population (2013 TTP) | 8540 |
| Tribal Membership | Zuni (Ashiwi) |
| Brief Description | Located principally within northwestern New Mexico, the Pueblo of Zuni have noncontiguous landholdings in Apache County, Arizona. Enterprises include outdoor recreational activities, such as fishing, camping, hiking, and hunting. |
| Tribal Transportation Capacity | None specific to Arizona |
| ADOT Districts | Globe |
| Contact Information | 1203B State Highway 53 P.O. Box 339 Zuni, NM 87327 Phone: 505-782-7022 |
| Website | www.ashiwi.org |

Salt River Pima-Maricopa Indian Community

| | |
|--------------------------------------|--|
| Location | 10 miles east of Phoenix and adjacent to Scottsdale, Fountain Hills, and Mesa; traversed by State Routes 101, 202, and 87 |
| Recognized | 1879 |
| Reservation Land Area | 53,000 acres |
| Reservation Population (2010 Census) | 6289 |
| Enrollment | 9504 |
| NAHASDA Population (2013 TTP) | 4368 |
| Tribal Membership | Pima (Akimel O'odham) and Maricopa |
| Brief Description | Agriculture continues to play an important role in the community's economy. Other enterprises include significant commercial activities, gaming, and a Major League Baseball spring training facility. |
| Tribal Transportation Capacity | Planning, engineering, and construction administration. Tribal planning and engineering capacity. Engineering and contract services department. Self-governance agreement. |
| ADOT Districts | Phoenix |
| Contact Information | 10005 E. Osborn Rd. Scottsdale, AZ 85256 Phone: 480-362-7740 |
| Website | www.srpmic-nsn.gov |

San Carlos Apache Tribe

| | |
|--------------------------------------|---|
| Location | 115 miles east of Phoenix; traversed by U.S. Routes 60 and 70 |
| Recognized | 1871 |
| Reservation Land Area | 1,826,541 acres |
| Reservation Population (2010 Census) | 10,068 |
| Enrollment | 14,873 |
| NAHASDA Population (2013 TTP) | 11,913 |
| Tribal Membership | Apache |
| Brief Description | The tribe's land ranges from alpine meadows to desert. More than one-third is forested or wooded. Enterprises include gaming, timber, tourism, cattle ranching, and recreation. |
| Tribal Transportation Capacity | Planning, engineering, and construction administration. Tribal planning and engineering capacity. Transportation department. Tribal transportation committee. |
| ADOT Districts | Globe and Safford |
| Contact Information | P.O. Box O San Carlos, AZ 85550 928-475-2361 |
| Website | www.sancarlosapache.com |

San Juan Southern Paiute Tribe

| | |
|--------------------------------------|---|
| Location | 200 miles north of Phoenix within distinct communities currently located on the Navajo Nation |
| Recognized | 1990 |
| Reservation Land Area | 0 (in the process of establishing trust lands) |
| Reservation Population (2010 Census) | Unavailable |
| Enrollment | 300 |
| NAHASDA Population (2013 TTP) | 416 |
| Tribal Membership | Paiute |
| Brief Description | While the tribe is culturally distinct from the Navajo, for administrative reasons, the BIA has long regarded the tribe as part of the Navajo. The tribe is currently involved in litigation to establish and secure its land base. Members currently reside in several distinct communities on the Navajo Nation. Enterprises include raising livestock and subsistence farming. |
| Tribal Transportation Capacity | None |
| ADOT District | Communities located within Flagstaff |
| Contact Information | P.O. Box 1989 Tuba City, AZ 86045 Phone: 928-283-4589 |
| Website | No official website |

Tohono O'odham Nation

| | |
|--------------------------------------|---|
| Location | 56 miles west of Tucson on State Route 86 |
| Recognized | 1874, Gila Bend; 1886 |
| Reservation Land Area | 2,854,881 acres |
| Reservation Population (2010 Census) | 10,201 |
| Enrollment | 14,873 |
| NAHASDA Population (2013 TTP) | 14,649 |
| Tribal Membership | Tohono O'odham |
| Brief Description | The reservation is the second largest in the United States. The majority of the reservation is located west of Tucson, sharing a 63-mile border with Mexico. Enterprises include tourism (notably the Mission San Xavier del Bac), an industrial park, and casinos. Kitt Peak National Observatory is located on the reservation. |
| Tribal Transportation Capacity | Planning, engineering, and construction administration. Tribal planning and engineering capacity. |
| ADOT Districts | Yuma and Tucson |
| Contact Information | P.O. Box 837 Sells, AZ 85634 Phone: 520-383-2028 |
| Website | www.tonation-nsn.gov |

Tonto Apache Tribe

| | |
|--------------------------------------|---|
| Location | 93 miles northeast of Phoenix and adjacent to Payson on State Route 87 |
| Recognized | 1972 |
| Reservation Land Area | 85 acres |
| Reservation Population (2010 Census) | 120 |
| Enrollment | 110 |
| NAHASDA Population (2013 TTP) | 144 |
| Tribal Membership | Tonto Apache |
| Brief Description | A reservation was initially established in 1871, but rescinded in 1875 when the Apache (and their Yavapai neighbors) were forcibly moved to the San Carlos Agency east of Phoenix. While the tribe currently has a reservation, legislation is pending to acquire additional trust title lands. Enterprises include a casino and commercial activities. |
| Tribal Transportation Capacity | Planning administration. BIA provides direct engineering and construction services. |
| ADOT District | Prescott |
| Contact Information | Reservation #30 Payson, AZ 85541 Phone: 928-474-5000 |
| Website | No official website |

White Mountain Apache Tribe

| | |
|--------------------------------------|---|
| Location | 194 miles northeast of Phoenix; traversed by U.S. Route 60 and State Routes 73, 260, 273, and 473 |
| Recognized | 1891 |
| Reservation Land Area | 1,664,984 acres |
| Reservation Population (2010 Census) | 13,409 |
| Enrollment | 16,832 |
| NAHASDA Population (2013 TTP) | 13,838 |
| Tribal Membership | Apache |
| Brief Description | By 1875, the US Army relocated the once nomadic Apache to the San Carlos Agency east of Phoenix. Lands for the Apache were established and later separated into two adjacent reservations (the White Mountain Apache Indian Tribe and the San Carlos Apache Tribe reservations). The White Mountain Apache reservation is located in a region with an abundance of natural resources. Enterprises include timber, hunting, a lumber/hardware retail center, a ski resort, and a casino. |
| Tribal Transportation Capacity | Planning, engineering, and construction administration. Tribal planning and engineering capacity. Tribal transportation committee. |
| ADOT Districts | Prescott and Globe |
| Contact Information | P.O. Box 700 Whiteriver, AZ 85941 Phone: 928-338-4346 |
| Website | www.wmat.nsn.us |

Yavapai-Apache Nation

| | |
|----------|--|
| Location | 95 miles north of Phoenix and adjacent to Camp Verde; traversed by Interstate 17 and State Route 260 |
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|---|--|
| Recognized | 1934 |
| Reservation Land Area | 1750 acres |
| Reservation Population (2010 Census) | 718 |
| Enrollment | 2352 |
| NAHASDA Population (2013 TTP) | 849 |
| Tribal Membership | Wipukpa Yavapai and Apache |
| Brief Description | The reservation was initially established in 1871, but rescinded in 1875 when the Yavapai and Apache were forcibly moved to the San Carlos Agency east of Phoenix. The tribe was once reliant on agricultural activities fueled by the Verde River. Today, enterprises include a market, service station, recreational vehicle park, and casino. |
| Tribal Transportation Capacity | Planning, engineering, and construction administration. Consultant planning and engineering capacity. |
| ADOT District | Prescott |
| Contact Information | 2400 W. Datsi St. Camp Verde, AZ 86322 Phone: 928-567-3649 |
| Website | www.yavapai-apache.org |

Yavapai-Prescott Indian Tribe

| | |
|---|---|
| Location | 102 miles north of Phoenix and adjacent to Prescott; traversed by State Routes 69 and 89 |
| Recognized | 1935 |
| Reservation Land Area | 1425 acres |
| Reservation Population (2010 Census) | 192 |
| Enrollment | 161 |
| NAHASDA Population (2013 TTP) | 138 |
| Tribal Membership | Yavapai |
| Brief Description | At one time, the tribe depended on timber, mining, and agriculture to support its economy. Current enterprises include tourism, two casinos, a resort, a business park, and a retail shopping center. |
| Tribal Transportation Capacity | Planning, engineering, and construction administration. Tribal and consultant planning and engineering capacity. |
| ADOT District | Prescott |
| Contact Information | 530 E. Merritt Prescott, AZ 86301 Phone: 928-445-8790 |
| Website | www.ypit.com |

APPENDIX C: ARIZONA STAKEHOLDERS

TRIBES/COMMUNITIES/NATIONS IN ARIZONA

| | |
|---|--|
| Ak-Chin Indian Community | Senior planner |
| Cocopah Indian Tribe | Planning director |
| Colorado River Indian Tribes (Chemehuevi, Hopi, Mohave, and Navajo) | Tribal planner |
| Fort McDowell Yavapai Nation | Planning project manager |
| Fort Mojave Indian Tribe | Tribal planner |
| Fort Yuma Quechan Tribe | Tribal planner |
| | Economic development director |
| | Economic development administrative specialist |
| Gila River Indian Community | Transportation planner |
| Havasupai Tribe | Tribal chairman |
| Hopi Tribe | Tribal transportation chairman/council member |
| Hualapai Tribe | Director |
| Kaibab Band of Paiute Indians | Chairperson |
| Navajo Nation | Program manager |
| | Principal civil engineer |
| | Planners (2) |
| | Principal planner |
| | Senior program and projects specialist |
| | Greasewood Springs (Chapter) president |
| | Many Farms (Chapter) vice president |
| | Many Farms (Chapter) resident |
| Pascua Yaqui Tribe | Development services interim director |

| | |
|-------------------------------|--|
| Pueblo of Zuni | Tribal Roads program manager |
| Salt River Pima-Maricopa | Engineering and construction services assistant director |
| Indian Community | Construction manager |
| San Carlos Apache Tribe | Transportation coordinator |
| | Transportation acting director |
| Tohono O'odham Nation | Road division manager |
| | Transportation planner |
| Tonto Apache Tribe | Roads/transportation coordinator |
| White Mountain Apache Tribe | Public works manager |
| | Planning consultant |
| | Economic planner |
| | Fire chief |
| | Roads manager |
| | Housing authority personnel |
| | Planning grant manager |
| | Game and fish department personnel |
| Yavapai-Apache Nation | Public works manager |
| | Contracts and grants personnel |
| | Public works personnel |
| Yavapai-Prescott Indian Tribe | Tribal planner |

ARIZONA DEPARTMENT OF TRANSPORTATION

Executive Leadership

State transportation engineer/deputy director

Divisions and Sections

| | |
|------------------------------|---------------------------------|
| Aeronautics | Group director |
| Bridge | State bridge engineer |
| Communication | Public affairs manager |
| Engineering Survey | Transportation engineer manager |
| Environmental Planning | Group manager |
| Local Public Agency | Analyst |
| Materials | State materials engineer |
| Right of Way | Chief |
| Statewide Project Management | Senior project manager |
| Traffic Engineering | State safety engineer |
| Urban Project Management | Assistant state engineer |

Engineering and Maintenance Districts

| | |
|----------------------|--------------------------|
| Flagstaff | District engineer |
| Globe | Former district engineer |
| Holbrook | District engineer |
| Kingman | District engineer |
| Phoenix Construction | District engineer |
| Phoenix Maintenance | District engineer |
| Prescott | District engineer |
| Safford | District engineer |

| | |
|--------|-----------------------------|
| Tucson | Assistant district engineer |
| Yuma | District engineer |

Tribal Liaison Planners (2)

FEDERAL AGENCIES

Bureau of Indian Affairs

| | |
|---------------------------------|----------------------------------|
| Navajo Regional Office | Branch chief |
| Western Regional Office | Planner |
| Federal Aviation Administration | Assistant manager |
| Federal Highway Administration | Community planner |
| | Division administrator |
| | Environmental coordinators (2) |
| | Realty officer |
| | Transportation safety specialist |
| Federal Transit Administration | Community planner |

REGIONAL AGENCIES AND OTHER ORGANIZATIONS

| | |
|--|---|
| Central Arizona Governments | Transportation planning director |
| Central Yavapai Metropolitan Planning Organization | Administrator |
| Flagstaff Metropolitan Planning Organization | Manager |
| Inter Tribal Council of America | Transportation project coordinator |
| Maricopa Association of Governments | Governmental relations manager |
| | Transportation program manager |
| | Transportation improvement plan manager |

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|--|---|
| Northern Arizona Council of Governments | Executive director |
| Pima Association of Governments | Senior transportation planner |
| SouthEastern Arizona Governments Organization | Executive director |
| Tribal Transportation Assistance Program | Colorado State University TTAP director |
| Western Arizona Council of Governments | Transportation planner |
| Yuma Metropolitan Planning Organization | Senior planning manager Executive director |

APPENDIX D: TRIBAL COMMUNITY SURVEY

Planning Process

1. Do you have a long-range transportation plan?

[If yes]

1a. When was it last updated and who updated it?

1b. How frequently is it updated?

2. Do you develop a project priority list and/or a tribal transportation improvement plan (TTIP)?

2a. Do you share your priority list or TTIP with ADOT or regional entities such as your regional COG or metropolitan planning organization MPO?

[If no]

2b. Why not?

3. What individuals or entities are involved in the transportation planning process for your community, and what are their roles?

4. Does your community have any specific policies or adopted procedures related to transportation planning? If so, please explain.

5. What works well in your transportation planning process?

6. Are you having any problems with your transportation planning process? If so, please describe.

[If yes]

6a. What are potential solutions to resolve these problems?

Funding

7. What programs and sources do you use to fund transportation projects on your reservation?

8. Do you currently have a fuel tax refund agreement with the state?

[If yes]

8a. What percent of these funds are used toward transportation projects in your community?

[If no]

8b. Is there interest in pursuing a fuel tax refund agreement with the state?

9. What is your process for obtaining funding? Is there a department or division responsible for researching and applying for funds and is there any sort of approval process for applying for funding?

10. Are there any funding sources your tribal community would like to obtain but has difficulty obtaining?

11. Are there any other problems related to transportation funding as it pertains to your tribal community? Please explain.

[If yes]

11a. What are some potential solutions to resolving these problems?

12. How long does it typically take to fund a priority transportation project?

13. What is the willingness of tribal council to provide match funding for grants?

14. When you put together an application for funding, do you utilize regional partners or other entities to review, critique, or fine-tune the application before it is submitted?

15. Do you consult with other tribal communities to obtain guidance on applications or review applications another tribe has previously submitted?

[If yes]

15a. If so, with what tribal communities have you coordinated?

16. When your tribe applies for funding and is not awarded funding, do you receive feedback on why you were not selected?

[If yes]

16a. What are some of the reasons you've been given for not receiving funding in the past?

17. What sources do you use to look for funding opportunities, announcements, or information? Examples might include specific websites or the TTAP.

18. What is the best way an outside organization or entity can communicate a funding opportunity with your tribe?

19. What funding source opportunities are the easiest to apply for? Please explain the programs and what made the process easy or simple to complete.

20. What is the largest amount of funding your tribal community has applied for and received for a project?

20a. When was funding received, and how long did it take to complete the project with this funding?

Internal Decision-Making Process

21. What is the structure of your transportation department and what is the reporting hierarchy?
22. What is your tribe's status regarding control over management of federal programs: Are you a 638 contract tribe or a self-governing tribe?
23. Describe how your community prioritizes funding for transportation projects on your community.
24. What individuals or entities are involved in prioritizing funding for transportation projects in your community and what are their roles?
25. Does your community have any specific policies or adopted procedures related to transportation decision making? If so, please explain.
26. Are there any problems with your current decision-making process? If so, please describe.

[If yes]

- 26a. What might be some solutions to address these problems?

Regional and State Decision-Making Process

27. How would you describe the level of authority and influence your community has in receiving funding from ADOT for transportation projects?
28. Has your community attended State Transportation Board meetings or otherwise interacted with the Board? If so, tell me about your experience.
29. Does your community regularly coordinate with ADOT's District Office?

[If yes]

- 29a. Describe the relationship you have with the District Office.

[If no]

- 29b. Is there a reason you don't regularly coordinate with the District Office?

30. Within what area of ADOT do you coordinate with most frequently?
31. What is your understanding of the purpose, role, and responsibilities of a COG and MPO in how it is connected to ADOT?

32. Is your tribe a member of a COG and/or MPO?

[If yes]

32a. In what COG or MPO does your tribe hold membership?

[If no]

32b. Why not?

33. What is your level of involvement with the state, COG, and/or MPO transportation improvement program (TIP)?

34. Have you ever coordinated with a COG or MPO to obtain funding for a transportation project? If so, describe the process.

35. Have you ever partnered with a COG or MPO to complete a transportation project? If so, describe the project and the role you played in the partnership.

36. Do you believe there is a void in either regional or state coordination of transportation planning with tribal communities? If so, please explain where that void(s) exists (exist) and how it (they) could be addressed.

37. Think about a successful transportation project that has occurred in your community. Please describe the project and how your role in that project contributed to its success.

38. Now think of a transportation project in your community that failed. Please describe the project, your role in the project, and why the project wasn't successful.

39. Using a scale of 1 to 5, where 1 is poor and 5 is excellent, how would you rate the relationship between your tribe and ADOT?

40. Are there any specific issues regarding your relationship with ADOT? If so, please describe.

[If yes]

40a. What are some solutions to resolving these issues with ADOT?

41. Again, using a scale of 1 to 5, where 1 is poor and 5 is excellent, how would you rate the relationship between your tribe and your COG (if applicable)?

42. How do you participate with your COG (such as engagement in meetings, activities, project coordination, etc.)?

43. Describe the level of authority and influence you think your tribe has within your COG.

44. Do you receive consistent communication from your COG?

45. Are there any specific issues regarding your relationship with your COG? If so, please describe.

[If yes]

45a. What are solutions to resolving these issues with your COG?

46. Returning to a scale of 1 to 5, where 1 is poor and 5 is excellent, how would you rate the relationship between your tribe and your MPO (if applicable)?

47. How do you participate with your MPO (such as engagement in meetings, activities, project coordination, etc.)?

48. Describe the level of authority and influence you think your community has within your MPO.

49. Do you receive consistent communication from your MPO?

50. Are there any specific issues regarding your relationship with your MPO? If so, please describe.

[If yes]

50a. What are solutions to resolving these issues with your MPO?

General Questions

51. Are there any key issues pertaining to transportation planning on tribal lands in Arizona that need to be addressed?

52. Are there any key issues pertaining to transportation funding on tribal lands in Arizona that need to be addressed?

53. What are your ideas for improving the role that tribal communities in Arizona play in statewide transportation planning?

54. What are your ideas for improving the role that tribal communities in Arizona play in statewide transportation project funding?

55. Do you have any additional feedback that you would like to provide related to this study?

APPENDIX E: GOVERNMENT AGENCY SURVEY

Planning Process

1. Please describe your agency's responsibilities and obligations to tribal communities.
2. How do you include tribal communities in transportation planning processes?
3. Does your agency have any specific plans, policies, or adopted procedures related to tribal transportation planning? If so, please explain.
4. What resources or assistance does your agency provide to support tribal transportation planning?
5. How does your agency facilitate or participate in tribal consultation?
6. Does your agency provide oversight to ensure delegated agencies are complying with federal tribal consultation regulations? If so, please explain.
7. How can tribal consultation be improved?
8. What have you observed to be the biggest challenge for the tribes when planning and prioritizing transportation projects?

Funding

9. Describe how your agency prioritizes funding for transportation projects on tribal lands.
10. What sources and programs administered by your agency are used to fund transportation projects on tribal lands?
11. How do you communicate the availability of funding to the tribes?
12. What are the typical reasons why the tribes that apply for funding do not get awarded funding?
13. Do you follow up with the tribes to explain why funding was not awarded?
14. What do you observe as the biggest barrier(s) for either providing funds to the tribes or for the tribes applying for transportation project funding?
15. What can the tribes do to improve their chances to receive funding?
16. Should transportation agencies adopt separate funding application procedures for the tribes? Why or why not?

Decision-Making Process

17. To what extent do you include tribal communities in prioritizing transportation projects or identifying funding for projects?
18. Do you believe there are any problems with your agency's current decision-making process as it pertains to tribal-based transportation prioritization or funding? If so, please describe.
19. What is the best method for a tribe to have a voice in how projects and funds are prioritized and allocated through your agency?

Relationships

20. On a scale of 1 to 5, where 1 is poor and 5 is excellent, how would you rate your agency's current relationship with tribal communities in Arizona? Please explain.
21. Do you feel your agency's relationship with the tribes has changed over the years? Please explain.
22. When you encounter an issue with a tribe, what specific resources do you utilize to address the issue?
23. What are the most effective ways you've found to communicate and collaborate with tribal communities?
24. Does your agency hold regular tribal consultation meetings?
[If yes]
 - 24a. Are they beneficial?
[If no]
 - 24b. Do you think holding regular meetings would improve your relationship with tribal communities?
25. What kind of resources does your agency make available to tribal communities?
26. Which of those resources are used most frequently?
27. Which of those resources are used least frequently?
28. What are the limitations of your agency in assisting tribal communities in transportation decision making and funding?
29. Do you feel that your agency is equipped with the necessary expertise and resources to work effectively with tribal governments? Please explain.

30. When working on a tribal project, do you request a waiver of sovereign immunity, either limited or otherwise, from the tribe? Please explain.

31. Do you believe there is a void in either regional or state coordination with tribal communities? If so, please explain where that void(s) exists (exist) and how it (they) could be addressed.

[Ask of each agency]

32. Describe how you work with ADOT in assisting in tribal transportation issues and project prioritization and funding.

33. Describe how you work with FHWA in assisting in tribal transportation issues and project prioritization and funding.

34. Describe how you work with BIA in assisting in tribal transportation issues and project prioritization and funding.

35. Describe how you work with FTA in assisting in tribal transportation issues and project prioritization and funding.

36. Describe how you work with FAA in assisting in tribal transportation issues and project prioritization and funding.

General Questions

37. Are there any key issues pertaining to transportation decision making or project prioritization on tribal communities in Arizona that need to be addressed?

38. Are there any key issues pertaining to transportation funding on tribal communities in Arizona that need to be addressed?

39. What are your ideas for improving the role that tribal communities in Arizona play in statewide transportation decision making or project prioritization?

40. What are your ideas for improving the role that tribal communities in Arizona play in statewide transportation funding?

41. Do you have any additional feedback that you would like to provide related to this study?

APPENDIX F: ADOT DIVISION/SECTION SURVEY

1. Please explain your division's/section's transportation responsibilities and obligations to tribal communities.
2. How does your division/section communicate and collaborate with tribal communities?
3. What are the most effective ways you've found to communicate and collaborate with tribal communities?
4. How do you consult with tribal communities?
5. Are you aware of ADOT's tribal consultation policy?
6. Have you read ADOT's tribal consultation policy?
7. Are you aware that there is a manual to assist ADOT personnel in working with tribal governments titled *Tribal Transportation Consultation Process Reference Manual*?
8. Are you aware of the governor's executive order pertaining to state agency consultation and coordination with the tribes in Arizona?
9. Are you aware that ADOT produces an annual tribal consultation report that is submitted to the governor, state Legislature, and tribal leaders at the end of each fiscal year?
10. Do you believe there is a void in either regional or state coordination with tribal communities? If so, please explain where that void(s) exists (exist) and how it (they) could be addressed.
11. What kind of resources does your division/section make available to tribal communities?
12. Which of those resources are used most frequently by the tribes?
13. Which of those resources are used least frequently by the tribes?
14. What are the limitations of your division/section in assisting tribal communities with transportation decision making and funding?
15. When you encounter an issue with a tribe, what specific resources do you utilize to address the issue?
16. Do you feel you have adequate resources to help you with tribal-related issues? Please explain.
17. Are there any key issues pertaining to transportation decision making or project prioritization on tribal communities in Arizona that need to be addressed?
18. Are there any key issues pertaining to transportation funding on tribal communities in Arizona that need to be addressed?

19. What are your ideas for improving the role that tribal communities in Arizona play in statewide transportation decision making or project prioritization?

20. What are your ideas for improving the role that tribal communities in Arizona play in statewide transportation funding?

21. Do you have any additional feedback that you would like to provide related to this study?

APPENDIX G: ADOT DISTRICT ENGINEER SURVEY

Planning Process

1. What is your district's current role in tribal transportation planning?
2. What role should districts play in tribal transportation planning?
3. Do you have any suggestions on how to improve the ADOT PARA program specific to tribal transportation planning studies?
4. Do you have any suggestions on how to improve ADOT's public transit planning assistance to the tribes through the FTA's programs?
5. Do you have a good understanding of how the BIA's TTP (formerly the IRR Program) works?

[If no]

- 5a. Would you like to learn more about the TTP?

Funding

6. What type of projects can the tribes request of the district?
 - 6a. What is the process for tribal project requests?
 - 6b. What is the typical funding source for these projects?
7. Do the tribes offer the district the opportunity to share costs for a project?
8. What is your understanding of how the tribes fund transportation projects and where the funding comes from?
9. What could districts do to help the tribes improve their chances of receiving funding for transportation projects?
10. How can ADOT better communicate to the tribes how a project can go from an idea to completion?

Decision-Making Process

11. Does the district solicit input from the tribes on the district's project prioritization? If so, how?
12. Does the district notify the tribes of any changes in project prioritization? If so, how?

13. Do you believe there are problems with your current decision-making process as it pertains to tribal-based projects? If so, please describe.

[If yes]

13a. What are potential solutions to resolving these problems?

14. What do you observe as the biggest barrier(s) for completing projects on tribal land?

15. Describe what you know (or don't know) about the decision-making process of the tribes.

Relationships

16. How do you communicate and collaborate with tribal communities?

17. Do you believe there is a void in either regional or state coordination with tribal communities? If so, please explain where that void(s) exists (exist) and how it (they) could be addressed.

18. Please list the tribal communities that are within your district's region of responsibility.

19. What are the most effective ways you've found to communicate and collaborate with tribal communities?

20. What kind of resources or assistance does your district make available to tribal communities?

21. Which of those resources are used most frequently by the tribes?

22. Which of those resources are used least frequently by the tribes?

23. What are the limitations of your district in assisting tribal communities?

24. Does the district have a designated point of contact for the tribes?

[If yes]

24a. What is the person's position title?

24b. Is the tribal transportation staff informed of whom to make an initial contact?

25. Does the district attend tribal transportation committees/task teams or council meetings? If so, how frequently?

26. How does the district generally hear about tribal transportation issues?

27. What information would you like to know about tribal communities that would improve your working relationship?

28. What information should tribal communities know about districts that would improve your working relationship?

General Questions

29. Are there any key issues pertaining to transportation decision making or project prioritization on tribal communities in Arizona that need to be addressed?

30. Are there any key issues pertaining to transportation funding on tribal communities in Arizona that need to be addressed?

31. What are your ideas for improving the role that tribal communities in Arizona play in statewide transportation decision making or project prioritization?

32. What are your ideas for improving the role that tribal communities in Arizona play in statewide transportation funding?

33. Do you have any additional feedback that you would like to provide related to this study?

APPENDIX H: COG AND MPO SURVEY

Planning Process

1. Please describe your transportation planning process for including projects on tribal lands.
2. Does your COG/MPO have any specific plans, policies, or adopted procedures related to tribal transportation planning? If so, please explain.
3. Are there any problems with this current planning process as it pertains to tribal-based projects?

[If yes]

3a. What are potential solutions to resolve these problems?

Funding

4. What sources and programs are used to fund transportation projects on tribal lands within your region?
5. Are there any problems related to transportation funding as it pertains to tribal lands within your region? Please explain.

[If yes]

5a. What are some potential solutions to resolving these problems?

6. How do you communicate the availability of funding to the tribes?
7. Do you know of any other entities or organizations that serve as liaisons to the tribes and other governmental agencies that could help with funding-related activities, such as providing information, identifying funding opportunities, providing technical writing assistance, etc.?
8. What are the typical reasons why the tribes who apply for funding do not get awarded funding?
9. Do you follow up with the tribes to explain why funding was not awarded?

Decision-Making Process

10. Describe how your COG/MPO prioritizes funding for transportation projects on tribal lands.
11. Does your COG/MPO have any specific policies or adopted procedures related to tribal-based transportation decision making? If so, please explain.

12. Are there any problems with your current decision-making process as it pertains to tribal-based projects? If so, please describe.

[If yes]

12a. What are potential solutions to resolving these problems?

13. How do you include tribal communities in transportation planning processes?

14. To what extent do you include tribal communities in prioritizing transportation projects or identifying funding for projects?

15. How do you communicate and collaborate with tribal communities in your region?

16. Do tribal communities pay dues to your organization?

17. Do you believe there is a void in either regional or state coordination of transportation planning with tribal communities? If so, please explain where that void(s) exists (exist) and how it (they) could be addressed.

18. Think about a transportation project where you had successful coordination between your organization and a tribal community. Please describe the project and what led to its success.

19. Now think of a transportation project where coordination between your organization and a tribal community failed. Please describe the project and why project coordination wasn't successful.

20. Please list the tribal communities that are within your region.

21. Using a scale of 1 to 5, where 1 is poor and 5 is excellent, how would you rate the relationship between you and [the tribal community]?

22. To what extent does [the tribal community] participate in COG/MPO activities (such as board meetings, committee activity, etc.)?

23. Is [the tribal community] a voting member?

24. Do you receive consistent communication from [the tribal community]?

25. Are there any specific issues regarding your relationship with [the tribal community]?

26. What are some solutions to resolving these issues with [the tribal community]?

[Repeat questions for each tribal community within COG/MPO.]

27. Please explain your understanding of ADOT's transportation responsibilities to tribal communities.

28. Describe your understanding of what it means for a tribe to have a government-to-government relationship with another governmental entity.

General Questions

29. Are there any key issues pertaining to transportation planning on tribal communities in Arizona that need to be addressed?

30. Are there any key issues pertaining to transportation funding on tribal communities in Arizona that need to be addressed?

31. What are your ideas for improving the role that tribal communities in Arizona play in statewide transportation planning?

32. What are your ideas for improving the role that tribal communities in Arizona play in statewide transportation project funding?

33. Do you have any additional feedback that you would like to provide related to this study?

APPENDIX I: ITCA AND TTAP SURVEY

1. How does ITCA/TTAP communicate and collaborate with tribal communities?
2. What is ITCA/TTAP's role in tribal transportation decision making?
3. What kind of resources does ITCA/TTAP make available to tribal communities?
4. Which of those resources are used most frequently?
5. Which of those resources are used least frequently?
6. What are the limitations of ITCA/TTAP in assisting tribal communities in transportation decision making and funding?
7. [ITCA ONLY] What is the biggest misconception of ITCA's role as it pertains to coordinating between the tribes and transportation agencies?
8. [TTAP ONLY] What is the biggest misconception of TTAP's purpose and role in tribal transportation?
9. Describe how you work with ADOT in assisting in tribal transportation project prioritization and funding.
10. Describe how you work with FHWA in assisting in tribal transportation project prioritization and funding.
11. Describe how you work with BIA in assisting in tribal transportation project prioritization and funding.
12. Describe how you work with FTA in assisting in tribal transportation project prioritization and funding.
13. Describe how you work with FAA in assisting in tribal transportation project prioritization and funding.
14. What does ITCA/TTAP observe as the biggest barrier(s) for the tribes applying for transportation project funding?
15. What can the tribes do to improve their chances to receive project funding?
16. Do you believe there is a void in either regional or state transportation coordination with tribal communities? If so, please explain where that void(s) exists (exist) and how it (they) could be addressed.
17. Describe an example of a transportation agency that adequately consulted or coordinated with a tribe.
18. What are the most effective ways you've found to communicate and collaborate with tribal communities?

19. Do you have any concerns in how transportation agencies coordinate with ITCA/TTAP?
20. Are there any key issues pertaining to transportation decision making or project prioritization on tribal communities in Arizona that need to be addressed?
21. Are there any key issues pertaining to transportation funding on tribal communities in Arizona that need to be addressed?
22. What are your ideas for improving the role that tribal communities in Arizona play in statewide transportation decision making or project prioritization?
23. What are your ideas for improving the role that tribal communities in Arizona play in statewide transportation funding?
24. Are there other organizations that the tribes can work with or ITCA/TTAP can partner with to help address tribal transportation issues? If so, please describe their potential role(s).
25. Do you have any additional feedback that you would like to provide related to this study?

APPENDIX J: STAKEHOLDERS FROM OTHER STATES

TRIBES/COMMUNITIES/NATIONS/PUEBLOS

California

| | |
|-------------------------------------|-------------------------|
| Karuk Tribe | Transportation director |
| La Jolla Band of Luiseño Indians | Council secretary |

Minnesota

| | |
|---|-----------------|
| Fond Du Lac Band of Lake Superior Chippewa | Director |
| Shakopee Mdewankanton Sioux | Project manager |

Montana

| | |
|--|---------------------------------|
| Confederated Salish and Kootenai Tribes | Division of Water manager |
| Fort Belknap Indian Community | Transportation/Transit director |

New Mexico

| | |
|-----------------|----------|
| Pueblo of Acoma | Director |
|-----------------|----------|

South Dakota

| | |
|--|----------------------------|
| Oglala Sioux Tribe (Pine Ridge Reservation) | Transportation director |
| Sisseton-Wahpeton Oyate | Transportation coordinator |
| | Construction manager |

Washington

| | |
|------------------------|------------------------|
| Nisqually Indian Tribe | Transportation planner |
|------------------------|------------------------|

STATE DOTS

| | |
|-------|--------------------------------|
| MnDOT | Tribal liaison |
| MDT | Administrator (et al.) |
| NMDOT | Native American tribal liaison |
| SDDOT | Tribal liaison |
| WSDOT | Tribal liaison |

REGIONAL PLANNING AGENCIES

California

| | |
|--------|------------------------|
| HCAOG | Executive director |
| SANDAG | Development specialist |

Minnesota

| | |
|---|------------------------|
| Arrowhead Regional Development Commission | Division director |
| Headwaters Regional Development Commission | Development specialist |

New Mexico

| | |
|--|--------------------------------|
| Mid-Region Council of Governments | Transportation program manager |
| Northwest New Mexico Council of Governments | Deputy director |

South Dakota

| | |
|-------------------------------------|--------------------|
| Northeast Council of Governments | Executive director |
|-------------------------------------|--------------------|

Washington

| | |
|------------------------------|--|
| Puget Sound Regional Council | Program managers (3) Senior communications and public involvement coordinator |
|------------------------------|--|

Thurston Regional
Planning Council Senior planners (3)

FEDERAL AGENCIES

BIA

Great Plains (South Dakota) Regional roads engineer

Northwest (Montana and
Washington) Regional roads engineer
Highway engineers (2)

Rocky Mountain (Montana) Transportation development specialist

Southwest (New Mexico) Supervisory civil engineer

FHWA

California Statewide transportation coordinator

 Program development team leader

 Environmental/right of way team leader

Minnesota Technical services team leader

Montana Assistant division administrator

 Planner/engineer

South Dakota Planning/civil rights specialist

Washington Transportation planning program manager

**FHWA Federal Lands
Highway Program**

Central (California, New
Mexico, and South Dakota) Tribal coordinator

Eastern (Minnesota) TTP tribal coordinator

Western (Montana and Washington) TTP support team supervisor

TTAP

Eastern (Minnesota) Director

Northern Plains (Montana and South Dakota) Director

Western (California) Program manager/staff attorney

APPENDIX K: SURVEY OF OTHER STATE TRIBAL GOVERNMENTS

1. Describe your tribe's transportation planning process and specifically what works well.
2. What has your tribe done to successfully acquire funding for transportation projects?

Planning and Programming

3. Describe the relationship your tribe has with the state department of transportation. How do you communicate and coordinate on transportation matters (e.g., engagement in meetings, activities, project coordination, etc.)?
4. Is your tribe a member of or otherwise coordinate with a COG/MPO/RPO? If so, describe your tribe's relationship with that regional government and how you communicate and coordinate on transportation matters (e.g., engagement in meetings, activities, project coordination, etc.).
5. Describe how your tribe or other tribal governments participate in your state's transportation planning process (i.e., the development of long-range transportation plan).
6. Describe how your tribe or other tribal governments participate in your state's transportation programming process (i.e., the development of the STIP or construction program).
7. What's the best way for a tribe in your state to have a voice in how transportation projects and funds are prioritized and allocated through the state department of transportation?
8. What recommendations would you make to strengthen the role of tribal governments in state and regional transportation decision making?

Consultation, Coordination, and Communication

9. Describe how the state department of transportation consults with your tribe.
10. In your opinion, how can tribal consultation be improved?
11. What are the most effective ways the state department of transportation and related agencies can communicate and collaborate with your tribe on transportation matters?

APPENDIX L: SURVEY OF OTHER STATE DOTs

1. Please explain your department of transportation's responsibilities and obligations to tribal governments, as well as resources and assistance you provide tribal governments.
2. Describe your agency's tribal liaison program (or what your job as tribal liaison entails).
3. Do you feel that your agency is equipped with the necessary expertise and resources to work effectively with tribal governments? Please explain.

Planning and Programming

4. Please describe your state's planning process (i.e., development of long-range transportation plan).
5. How are tribal governments involved or included in your state planning process?
6. Please describe your state's programming process (i.e., development of regional transportation improvement programs, state transportation improvement program, construction program).
7. How are tribal governments involved in your state's programming process?
8. What is the best method for a tribe to have a voice in how projects and funds are prioritized and allocated through your agency?

Consultation, Coordination, and Communication

9. How are tribes involved in creating and/or updating your tribal consultation policy? [Request copy.]
10. How has your agency complied with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, and Department of Transportation Order 5301.1, Department of Transportation Programs, Policies, and Procedures Affecting American Indians, Alaska Natives, and Tribes?
11. How does your agency facilitate or participate in tribal consultation (e.g., regular consultation meetings)?
12. How can tribal consultation be improved?
13. Does your agency have any specific plans, policies, adopted procedures, or manuals for or related to tribal transportation? If so, please explain. [Request copies.]
14. What are the most effective ways you've found to communicate and collaborate with tribal governments?
15. Have you observed a void in either regional or state coordination with tribal governments? If so, please explain where that void(s) exists (exist) and how it (they) could be addressed.

Funding

16. What sources and programs administered by your department of transportation are used to fund transportation projects on tribal lands?

17. What do you observe as the biggest challenge for either providing funds to tribes or for tribes applying for transportation project funding?

18. What have tribes in your state done to successfully acquire transportation funding (or what could they do to improve their chances)?

Projects on Tribal Lands

19. What have you observed to be the biggest barrier(s) for completing transportation projects on tribal land?

20. When working on a tribal project, do you request a waiver of sovereign immunity, either limited or otherwise, from the tribe? Please explain.

Summary Questions

21. What recommendations would you make to strengthen the role of tribal governments in state and regional transportation decision making?

22. Who is your FHWA tribal contact/counterpart? [Request contact information.]

23. Are there any tribes that come to mind as particularly successful in transportation planning, programming, funding, or decision making? (What tribes have transportation programs that should be emulated?) Why do you recommend this (these) tribe(s)? [Request contact information.]

24. What COG/MPO/RPO within your state would you recommend contacting to learn more about regional transportation planning and coordination with tribal governments? Why do you recommend this (these) regional government(s)? [Request contact information.]

25. Are there any specific resources you'd suggest I'd review to learn more about your state's planning and programming process or regarding tribal transportation in your state?

26. Do you have any additional feedback that you would like to provide related to this study?

APPENDIX M: SURVEY OF OTHER STATE REGIONAL PLANNING AGENCIES

1. How many tribal governments are within your MPO/COG/RPO's boundaries?
2. Are dues required of local agencies and tribal governments to be a voting member of your MPO/COG/RPO?
3. Does your MPO/COG/RPO provide any specific resources or assistance to tribal governments?

Planning and Programming

4. Please describe your MPO/COG/RPO transportation planning process (e.g., development of long-range transportation plan, regional transportation plan).
5. How are tribal governments involved or included in your transportation planning process?
6. Please describe the process for developing your MPO/COG/ TIP.
7. How are tribal governments involved in the development of your TIP?
8. What have tribes in your MPO/COG/RPO done to successfully acquire transportation funding (or what could they do to improve their chances)?
9. What is the best method for a tribe to have a voice in the regional transportation planning and programming process?

Consultation, Coordination, and Communication

10. What are the most effective ways you've found to communicate and collaborate with tribal governments?
11. Does your MPO/COG/RPO facilitate or participate in tribal consultation or have a formal tribal consultation policy?
12. Are you aware of any policy, program, or practice, or successful tribal transportation project that might serve as a best practice or case study?
13. Are there any specific resources you'd suggest I'd review to learn more about your COG/MPO/RPO planning and programming process or regarding tribal transportation in your region?

APPENDIX N: SURVEY OF OTHER STATE BIA REPRESENTATIVES

1. What resources or assistance does your region provide tribal governments to support transportation efforts (i.e., long-range transportation plan, Tribal Transportation Improvement Program (TTIP), technical resources)?
2. What do you observe as the biggest challenges facing tribal transportation planning, decision making, and funding?
3. How does your agency facilitate or participate in tribal consultation (e.g., regular consultation meetings)?
4. How has your agency complied with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, and Department of Transportation Order 5301.1, Department of Transportation Programs, Policies, and Procedures Affecting American Indians, Alaska Natives, and Tribes?
5. How can tribal consultation be improved?
6. What are the most effective ways you've found to communicate and collaborate with tribal governments in your region?
7. What have tribes in your region done to successfully acquire transportation funding (or what could they do to improve their chances)?
8. How can tribal governments make the most out of MAP-21 and, specifically, the Tribal Transportation Program (TTP)?
9. What are some benefits of (or ways to improve) the TTP Coordinating Committee?
10. What have you observed to be the biggest barrier(s) for completing transportation projects on tribal land?
11. Describe your interaction or relationship with the California/Minnesota/Montana/New Mexico/South Dakota/Washington State Department of Transportation in regards to tribal transportation activities.
12. Are you aware of any state policy, program, or practice; successful tribal transportation project; or effective multiagency tribal coordination effort that might serve as a best practice or case study?
13. What recommendations would you make to strengthen the role of tribal governments in state and regional transportation decision making?

14. Are there any tribes that come to mind as particularly successful in transportation planning, programming, funding, or decision making? (What tribes have transportation programs that should be emulated?) [Request contact information.]

15. Do you have any additional feedback that you would like to provide related to this study?

APPENDIX O: SURVEY OF OTHER STATE FHWA REPRESENTATIVES

1. Please describe your responsibilities and obligations to tribal governments.
2. How are tribal governments involved or included in the California/Minnesota/Montana/New Mexico/South Dakota/Washington planning process (i.e., development of long-range transportation plan)?
3. How are tribal governments involved or included in the California/Minnesota/Montana/New Mexico/South Dakota/Washington programming process (i.e., development of regional transportation improvement programs, state transportation improvement program, construction program)?
4. What is the best method for a tribe to have a voice in how projects and funds are prioritized and allocated in California/Minnesota/Montana/New Mexico/South Dakota/Washington?
5. What resources or assistance does your region/division provide tribal governments to support transportation planning (i.e., long-range transportation plan, Tribal Transportation Improvement Program)?
6. What do you observe as the biggest challenges facing tribal transportation planning, decision making, and funding?
7. How does your agency facilitate or participate in tribal consultation (e.g., regular consultation meetings)?
8. How has your agency complied with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, and Department of Transportation Order 5301.1, Department of Transportation Programs, Policies, and Procedures Affecting American Indians, Alaska Natives, and Tribes?
9. How can tribal consultation be improved?
10. What are the most effective ways you've found to communicate and collaborate with tribal governments in your region?
11. How can tribal governments make the most out of MAP-21 and, specifically, the Tribal Transportation Program?
12. What have tribes in your region done to successfully acquire transportation funding (or what could they do to improve their chances)?
13. What have you observed to be the biggest barrier(s) for completing transportation projects on tribal land?
14. Are you aware of any state policy, program, or practice; successful tribal transportation project; or effective multiagency tribal coordination effort that might serve as a best practice or case study?

15. What recommendations would you make to strengthen the role of tribal governments in state and regional transportation decision making?

16. Are there any tribes that come to mind as particularly successful in transportation planning, programming, funding, or decision making? (What tribes have transportation programs that should be emulated?) [Request contact information.]

17. Do you have any additional feedback that you would like to provide related to this study?

APPENDIX P: SURVEY OF OTHER STATE FHWA FEDERAL LANDS HIGHWAY REPRESENTATIVES

1. Please describe your responsibilities and obligations to tribal governments.
2. How are tribal governments involved or included in the California/Minnesota/Montana/New Mexico/South Dakota/Washington planning process (i.e., development of long-range transportation plan)?
3. How are tribal governments involved or included in the California/Minnesota/Montana/New Mexico/South Dakota/Washington programming process (i.e., development of regional transportation improvement programs, state transportation improvement program, construction program)?
4. What is the best method for a tribe to have a voice in how projects and funds are prioritized and allocated in California/Minnesota/Montana/New Mexico/South Dakota/Washington?
5. What resources or assistance does your region/division provide tribal governments to support transportation planning (i.e., long-range transportation plan, Tribal Transportation Improvement Program)?
6. What resources or assistance does your division provide tribal governments to support implementation of the Tribal Transportation Program (TTP)?
7. How do tribes in California/Minnesota/Montana/New Mexico/South Dakota/Washington use their annual TTP allocation? Are tribes generally able to complete a project or projects annually, or are tribes in the state having to wait and save annual allocations to fund larger projects?
8. What are some benefits of (or ways to improve) the TTP Coordinating Committee?
9. What do you observe as the biggest challenges facing tribal transportation planning, decision making, and funding?
10. How does your agency facilitate or participate in tribal consultation (e.g., regular consultation meetings)?
11. How has your agency complied with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, and Department of Transportation Order 5301.1, Department of Transportation Programs, Policies, and Procedures Affecting American Indians, Alaska Natives, and Tribes?
12. How can tribal consultation be improved?
13. What are the most effective ways you've found to communicate and collaborate with tribal governments in your region?
14. How can tribal governments make the most out of MAP-21 and, specifically, the TTP?

15. What have tribes in your region done to successfully acquire transportation funding (or what could they do to improve their chances)?
16. What have you observed to be the biggest barrier(s) for completing transportation projects on tribal land?
17. Are you aware of any state policy, program, or practice; successful tribal transportation project; or effective multiagency tribal coordination effort that might serve as a best practice or case study?
18. What recommendations would you make to strengthen the role of tribal governments in state and regional transportation decision making?
19. Are there any tribes that come to mind as particularly successful in transportation planning, programming, funding or decision making? (What tribes have transportation programs that should be emulated?) [Request contact information.]
20. Do you have any additional feedback that you would like to provide related to this study?

APPENDIX Q: SURVEY OF OTHER STATE TTAP REPRESENTATIVES

1. Describe the history of your organization hosting this regional TTAP center.
2. Are there any unique resources or services your TTAP center provides that other regional centers may not?
3. What are the limitations of TTAP in assisting tribal governments in transportation planning, decision making, and/or funding? (Are there any specific resource or service gaps to tribal governments that would improve transportation planning, decision making, and/or funding?)
4. What do you observe as the biggest challenges facing tribal transportation planning, decision making, and funding?
5. What are the most effective ways you've found to communicate and collaborate with tribal governments?
6. What have tribes in your state done to successfully acquire transportation funding (or what could they do to improve their chances)?
7. Are you aware of any state policy, program, or practice; successful tribal transportation project; or effective multiagency tribal coordination effort that might serve as a best practice or case study?
8. How can tribal governments make the most out of MAP-21 and, specifically, the TTP?
9. Are there any tribes that come to mind as particularly successful in transportation planning, programming, funding, or decision making? (What tribes have transportation programs that should be emulated?) [Request contact information.]
10. Do you have any additional feedback that you would like to provide related to this study?

