

# TRIBAL TRANSPORTATION PROGRAM AGREEMENTS (TTPA)

2023 ARIZONA TRIBAL  
TRANSPORTATION SAFETY AND  
INJURY PREVENTION SUMMIT  
AUG 9-10, 2023

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FHWA - Office of Tribal Transportation  
Tribal Coordinator  
202.308.6235



# Office of Tribal Transportation

- Administers the Tribal Transportation Program (TTP) and provides stewardship and oversight for direct funding agreements with 135 federally recognized Tribes.
- Provides support for all FHWA activities affecting tribal transportation.



# OFFICE OF TRIBAL TRANSPORTATION

**ERIN KENLEY**  
Office Director



**BRIAN ALLEN, PE**  
Field Operations Manager



**ELIZABETH ROMERO**  
Program Administration Manager



**DAVID CREMER**  
Environmental Specialist



**KYLE KITCHEL**  
Field Operations Team Leader



**JAIME TORRES**  
Field Operations Team Leader



**DANNY CAPRI**  
Grants Management Team Leader



**ADAM LARSEN**  
Senior Program Manager



**MATT BIRD**  
Finance Manager



**ANTHONY SPANN**  
NTTF/ROW/ERFO



**DARCEL COLLINS**  
Tribal Coordinator



**CURTIS JORGENSEN**  
Discretionary Grants Project Manager



**CHRIS KWILINSKI**  
Senior Specialist



**DOUG ROBERTS**  
Financial Management Specialist



**ELAINE KUNIHISA, PE**  
Tribal Coordinator



**JOLENA PALAU, PE**  
Tribal Coordinator



**LOTSE TOWNSEND**  
Discretionary Grants Project Manager



**RUSSELL GARCIA, PE**  
Bridges Program Manager



**MISTY KLANN**  
Program Planning Specialist



**CHRIS RILEY**  
Tribal Coordinator



**KEVIN SPOHRER**  
Tribal Coordinator



**GAURAV RAJ**  
Discretionary Grants Project Manager



**TERRY SCHUMANN**  
Environmental Specialist



**DANA REINKE**  
Transportation Planning Specialist



**TODD BROCKMANN**  
Tribal Coordinator



**MANUEL SANCHEZ**  
Tribal Coordinator



**VACANT**  
Grants Project Manager



**DAVID GARCIA**  
Program Management Analyst



**VACANT**  
Program Management Analyst



**MILES BROOKES**  
Tribal Coordinator



**ALLEN LAUGHRUN**  
Tribal Coordinator



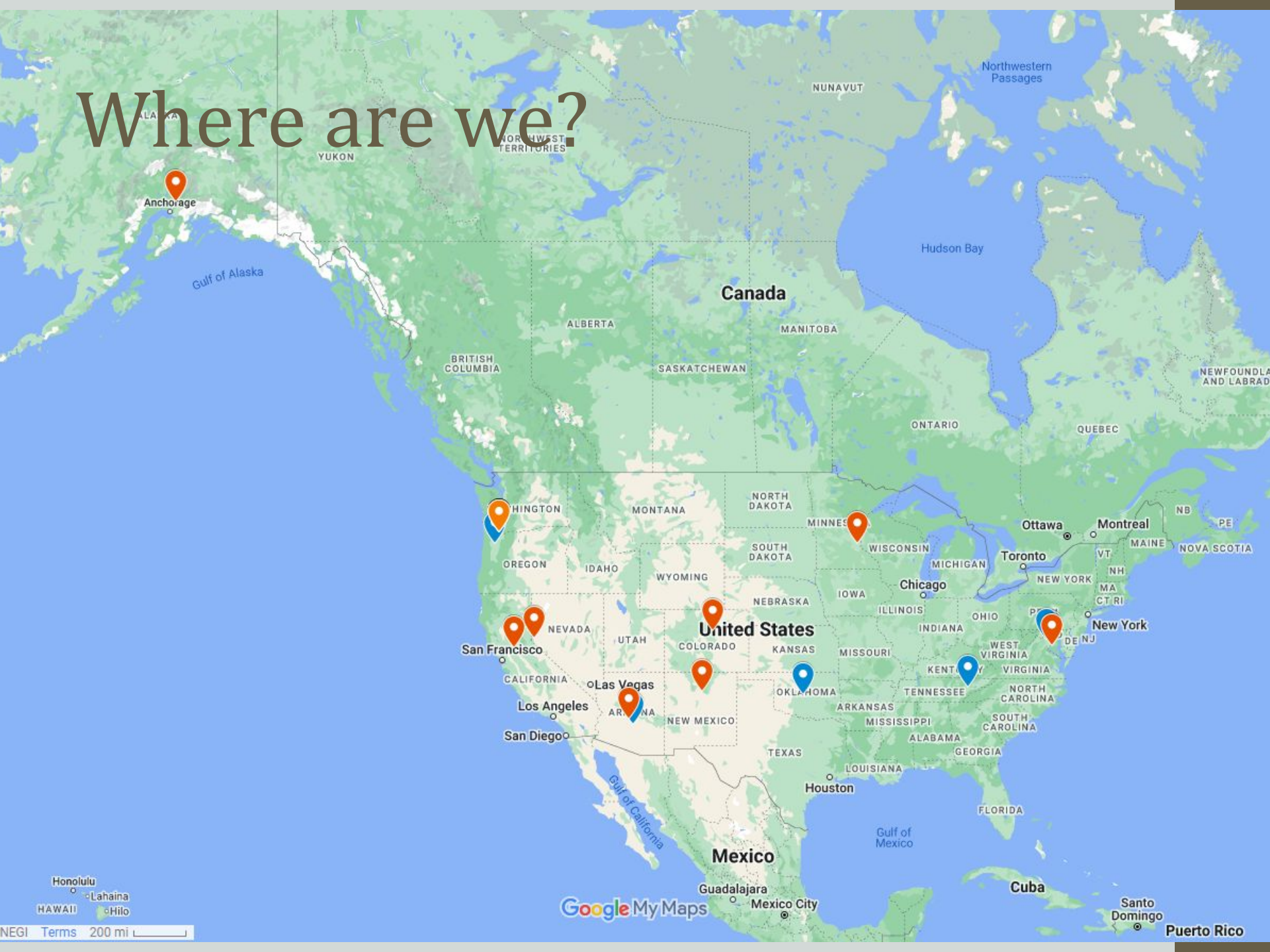
**VACANT**  
Grants Project Manager



**VACANT**  
Tribal Coordinator



# Where are we?

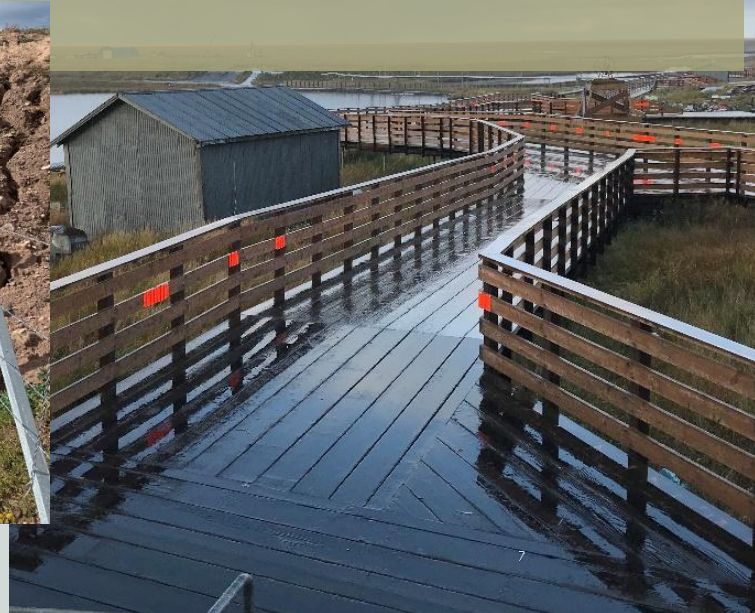



Honolulu  
Lahaina  
HAWAII  
Hilo

Google My Maps

# Our Mission

“Through mutual respect and understanding, enhance the quality of life in Tribal communities by supporting the Tribes’ delivery of transportation prog





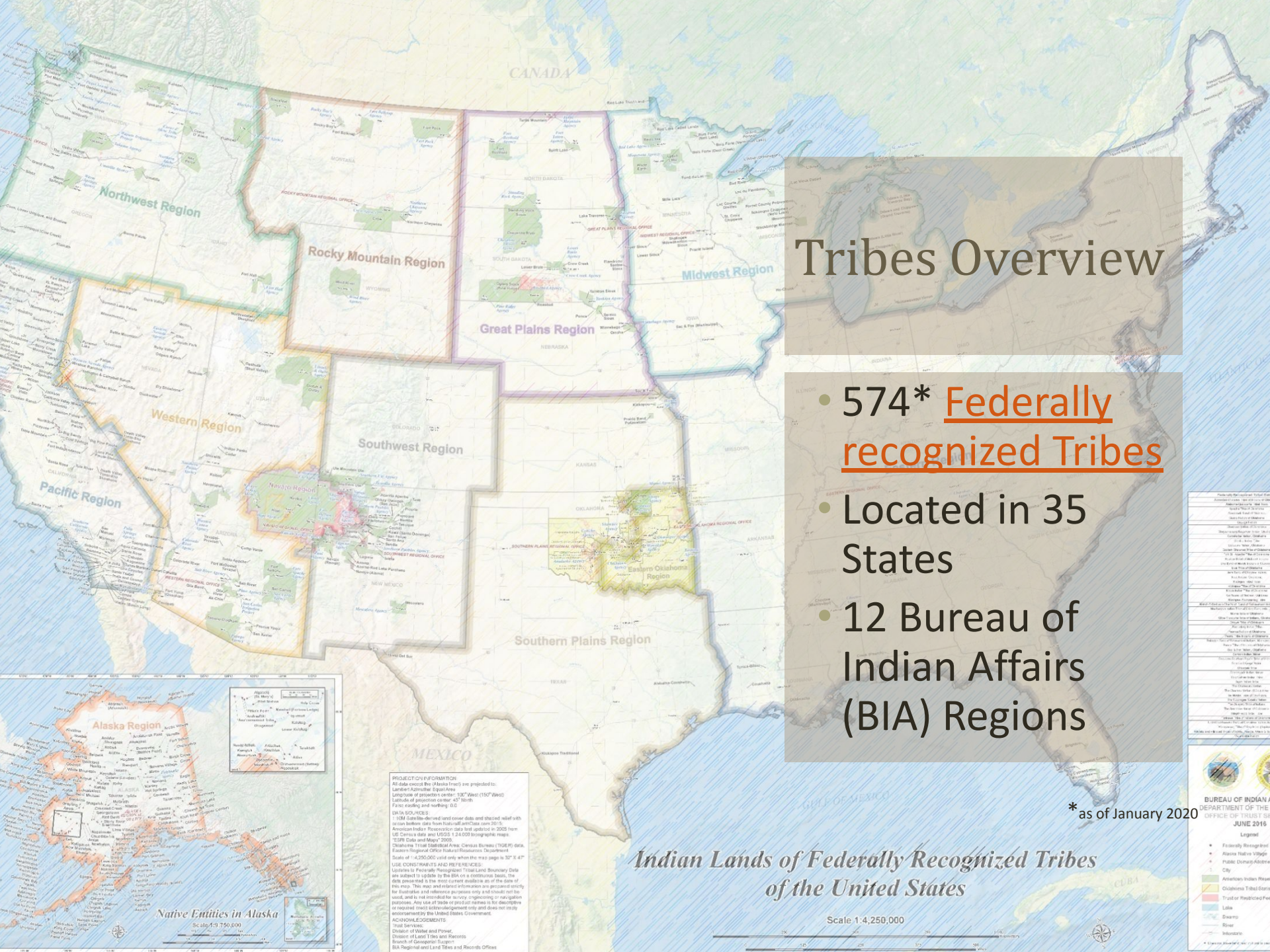
Implementation “in accordance  
with the Indian  
Self-Determination and  
Education Assistance Act”

Goals and Guiding  
Principles:

Encourage Flexibility and  
Innovation;

Government interprets  
regulations to the benefit  
of the Tribe;

Recognize Tribal  
sovereignty, and the  
“Government-to-Governme  
nt” relationship.



# Tribes Overview

- 574\* Federally recognized Tribes
- Located in 35 States
- 12 Bureau of Indian Affairs (BIA) Regions

\*as of January 2020

## Indian Lands of Federally Recognized Tribes of the United States

Scale 1:4,250,000

**PROJECTION INFORMATION**  
 All data except the Alaska lands are projected to:  
 Lambert Conformal Equal Area  
 Longitude of projection center: 100° West (150° West)  
 Latitude of projection center: 40° North  
 False easting and northing: 0.0

**DATA SOURCES**  
 1:0M Satellite-derived land cover data and shaded relief with  
 vector feature data from National Wetlands Inventory (NWI),  
 American Indian Reservation data last updated in 2009 from  
 US Census data and USDA, NAASD Geographic maps,  
 "TERR Data and Maps" 2009.  
 CHARTERED TRIBAL GOVERNMENTS: Census Bureau (TIGER/Line) data,  
 Eastern Regional Office Tribal Resources Department  
 State of ALASKA: 2000 land use when the 1:500,000 scale 30" x 30" 4E  
 US CONSTITUTIONS AND REFERENCES:  
 Updates to Federally Recognized Tribal Land Boundary Data  
 are subject to update by the BIA on a continuous basis. The  
 data presented is the most current available as of the date of  
 this map. The map and related information are prepared solely  
 for illustrative and reference purposes only and should not be  
 used, and is not responsible for survey, engineering or navigation  
 purposes. Any use of title or product names is for descriptive  
 or contact information purposes only and does not imply  
 endorsement by the United States Government.

**ACKNOWLEDGMENTS**  
 Tribal Services:  
 Division of Native and Prairie  
 Division of Land Title and Records  
 Branch of Geospatial Support  
 BIA Regional and Land Titles and Records Offices

Symbol	Description
Black dot	Federally Recognized Tribe
Red dot	Alaska Native Village
Blue dot	Public Domain-Akrona
Black square	City
Green square	Armed Forces Reserve
Yellow square	Cherokee Trust Lands
Blue square	Trust or Restricted Fee
Light blue square	Land
Blue line	Stream
Blue line	River
Black line	Infrastructure

**BUREAU OF INDIAN AFFAIRS**  
 DEPARTMENT OF THE INTERIOR  
 OFFICE OF TRUST SERVICES  
 JUNE 2016

Legend

# FHWA-Tribal TTP Agreements

- 132 Tribes in Contiguous United States
- 81 Tribes in Alaska



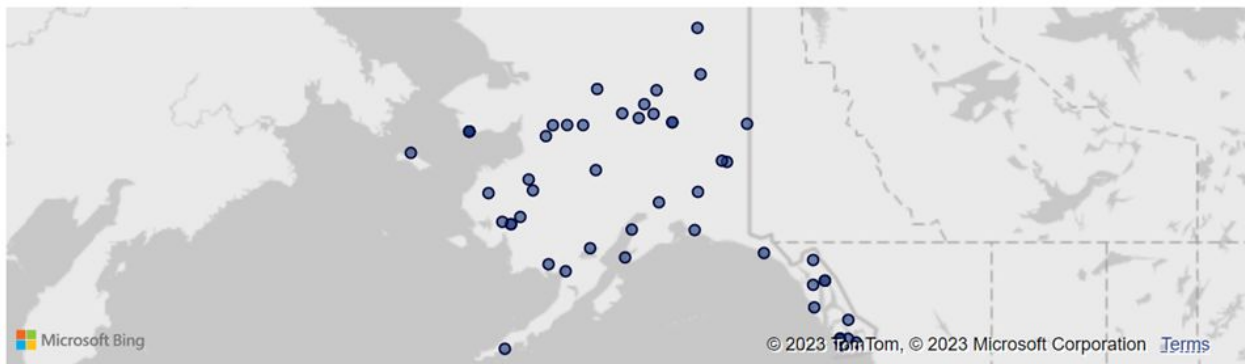


# Program Agreement Tribes

## Contiguous United States



## Alaska



# Tribal Transportation Program (TTP)

- Largest Federal Lands Highway (FLH) Program
- In 1982 (STAA): Indian Reservation Roads Program category of the FLH Program; and later renamed to TTP (MAP-21)
- Jointly managed and administered by the Bureau of Indian Affairs (BIA) and FHWA
- Serves all 574 Federally recognized Tribes
- Regulations: 25 CFR Part 170



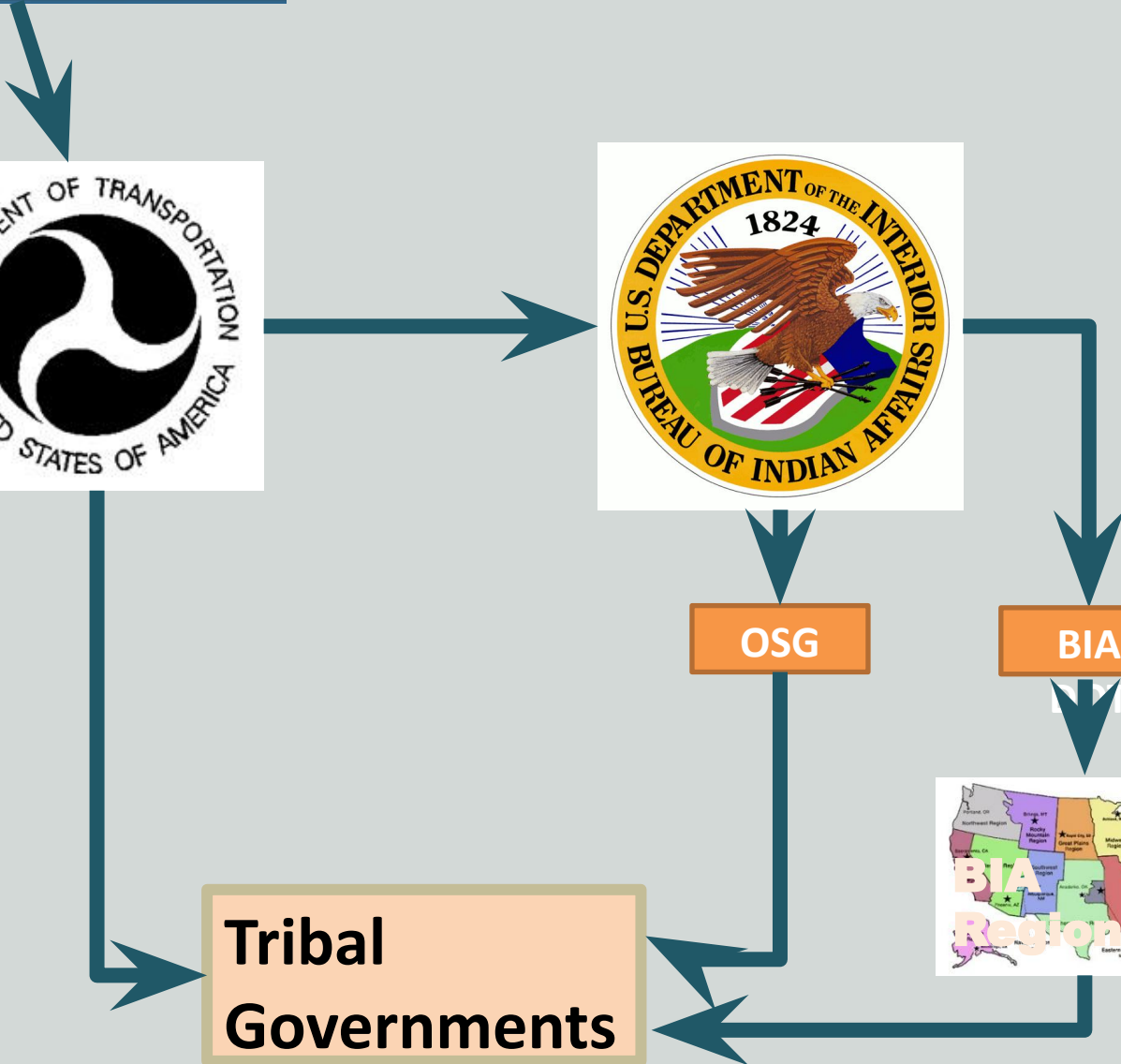
# TTP Funds Distribution



OSG

BIA

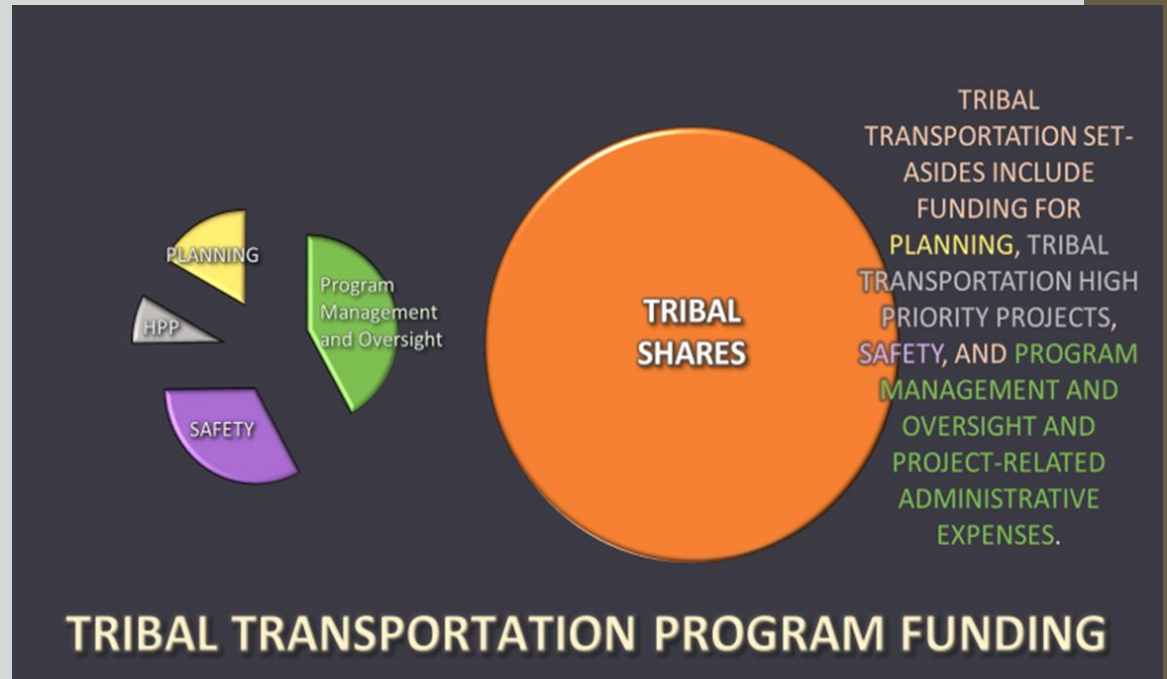
Tribal Governments



# TTP Funds Allocation

**Most** funding goes directly to Tribal Governments through a statutory formula. The other parts are:

- 2% for Planning
- 4% for Safety Program
- 5% for Program Management and Oversight (PM&O) – FHWA & BIA inherent Federal functions
- Obligation Limitation, not available for use, changes each year
  - 12.2% in FY23

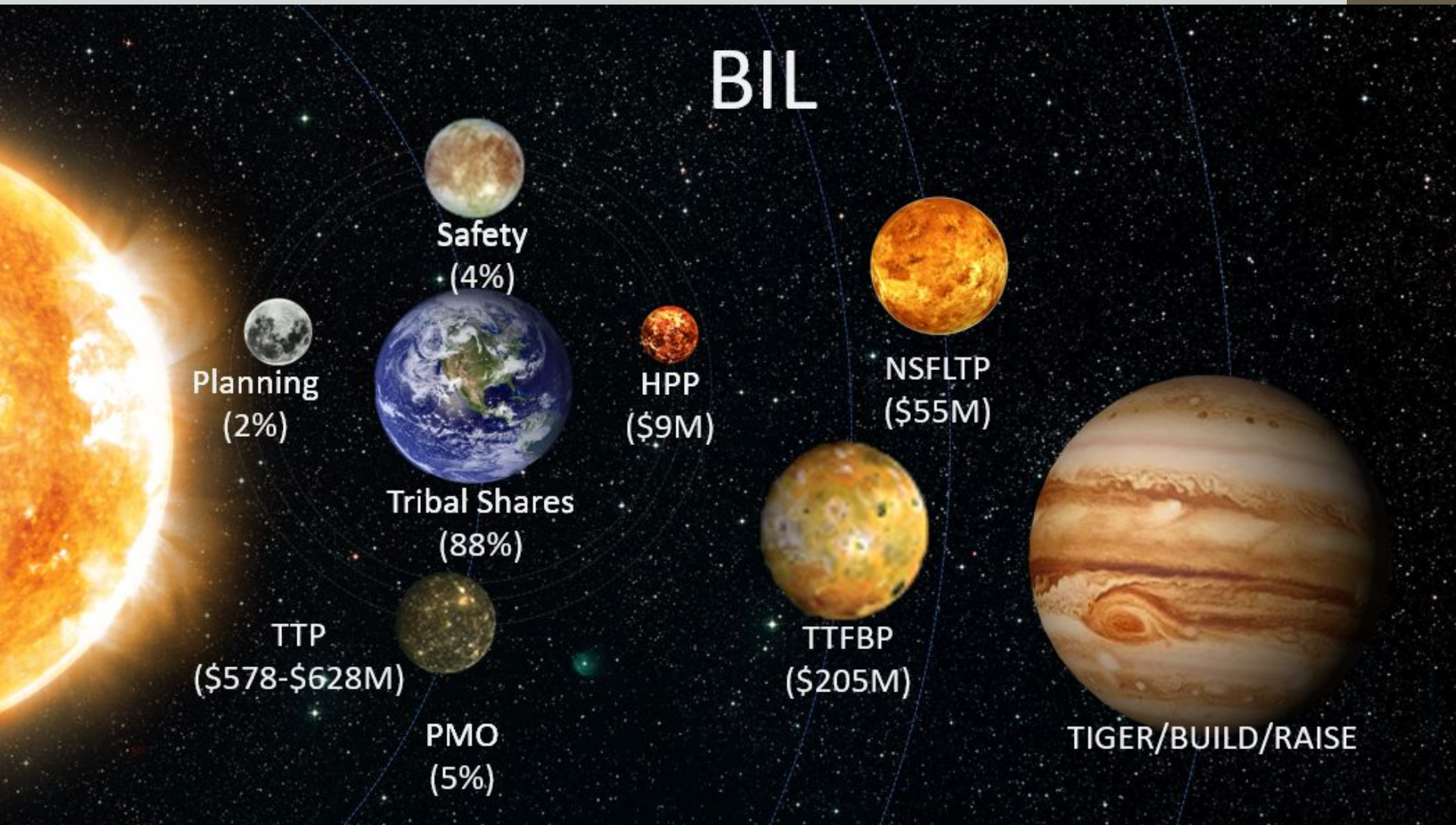


# Activities to be Performed

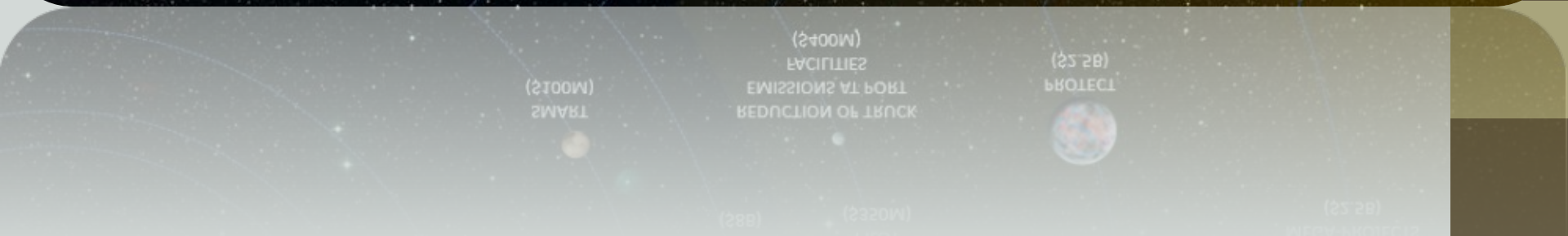
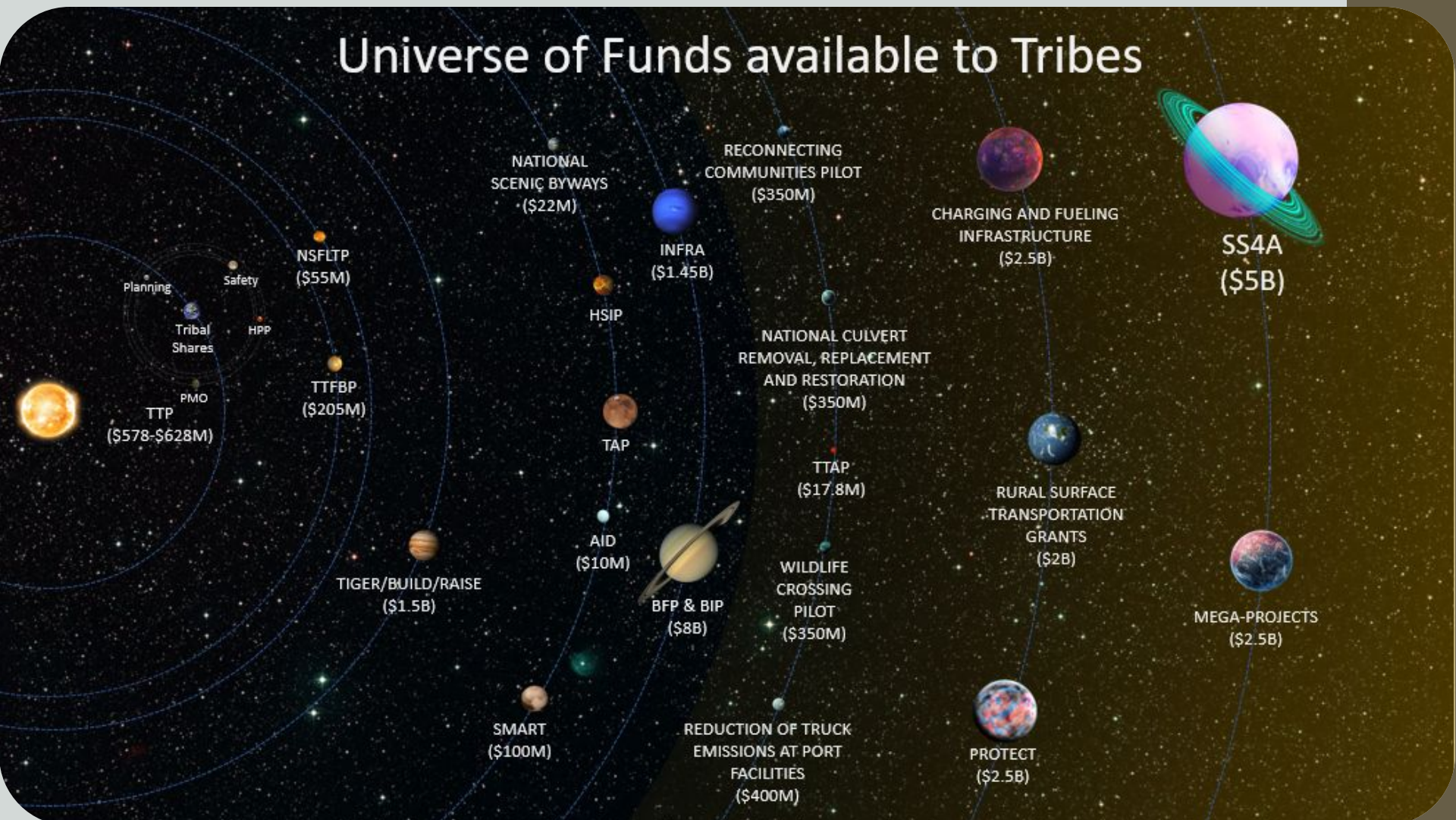
- **Transportation Planning**
- **NEPA**
- **Design**
- **Construction**
- **Program Administration**
- **Road Maintenance**
- **Develop Tribal-State Maintenance Agreements**
- **TTP Safety**
- **TTP Bridge**
- **Other TTP eligible activities as identified in 25 CFR 170 Appendix A to Subpart B**



# BIL



# Universe of Funds available to Tribes



**TRIBAL  
TRANSPORTATION  
PROGRAM  
AGREEMENTS  
(TTPA)**



# **ARTICLE I – AUTHORITY AND PURPOSE**

# Authority

- TTPA authorized by:
  - Constitution and By-Laws of the Tribe
  - Resolution of the Tribal Government
  - 23 USC 2, as amended by STRA-21\* Authorizes Tribe to perform transportation program and project activities.
- TTPA made in accordance with ISDEAA

# Purpose

- Transfers functions and duties that the Secretary of the Interior would have performed, other than those that cannot be legally transferred.
- Carry out FHWA's statutory requirements.
- Distribute Tribe's formula share of TTP funds.

**ARTICLE II – TERMS,  
PROVISIONS, AND  
CONDITIONS**

# Effective Date and Term

- Effective on date of approval by Tribe and FHWA.
- In effect until amended by both parties or terminated by either party.

# Funding

- Tribe receives formula share.
- Provided by electronic transfer to Tribe within 30 days of receiving the signed RFA.
- May accumulate multiple annual allocations of TTP funds and reallocate funds among eligible projects on an FHWA-approved TTP Transportation Improvement Program (TIP).

# Funding (continued)

- Funds must be placed in U.S. insured savings, checking, or investment accounts.
- Interest and investment income that is accrued may be used on TTP projects.
- Tribe may use advanced funds for flexible financing.
- Issue bonds or enter into other debt financing instruments.
- Leverage other funds.
- Pay back loans or other finance instruments for a project.
- Meet matching or cost participation requirements for Federal or non-Federal transit grant or program.

# Powers

- Tribe shall have all powers the Secretary of the Interior would have in administering TTP, except those not legally transferable.

# Dispute Resolution

- Tribe and FHWA agree to use dispute resolution procedures authorized in 25 CFR 170.934
- goal to resolve disputes inexpensively and quickly.

# Construction of Agreement

- TTPA construed to facilitate and enable the transfer of programs authorized by 23 USC § 202.

# Activities to be Performed

- Transportation Planning
- Construction Management
- Program Administration
- Design
- Construction
- Road Maintenance (25% of TTP funds or \$500,000, whichever is greater)
- Develop Tribal-State Maintenance Agreements
- Other TTP-eligible activities (TTP Safety and Bridge)

## Limitation of Costs

- Tribe not required to continue performance if it requires funds greater than the amount awarded.

# Carryover

- Funds available until expended.

## Applicable Regulations

- Regulations in 25 CFR 170 apply to TTPA.

## Use of Tribal Facilities and Equipment

- TTP funds used to pay lease/rental rates and maintenance costs of facilities and equipment.
- Can purchase construction and maintenance equipment if determined more cost effective than leasing.



**ARTICLE III –  
RESPONSIBILITIES OF THE  
TRIBE**

# Health and Safety

- Tribe will meet all applicable health, safety, and labor standards.

## Program Standards and Regulations

- Tribe administers TTP in accordance with the requirements of 25 CFR Part 170, as amended by STRA-21.
- May adopt FHWA or BIA policies, procedures, etc.; or
- Develop Tribal policies, procedures, etc. which meet or exceed federal standards.

# Plans, Specifications & Estimate (PS&E) Approval

- Tribal or BIA-owned facility:
  - Approve PS&E project packages and provide copy to the facility owner and FHWA.
  - Assure construction will meet or exceed applicable health and safety standards.
  - Provide State-licensed civil engineer's certification that PS&E meets or exceeds health and safety standards.

# Transportation Planning & Inventory

- Carry out transportation planning process.
  - LRTP
  - TTIP
  - Inventory Updates

# Easements, Maintenance & Utility Agreements, and Environmental Assessments

- Develop appropriate construction easements, and utility & maintenance agreements, in coordination with local jurisdictions.
- Assess environmental impacts through appropriate studies and permit coordination.

# Construction

- Construct projects in accordance with approved PS&Es and Tribally-approved change orders.
- Ensure construction engineering is performed according to applicable FHWA, BIA, or Tribal standards that meet or exceed federal standards.
- Prepare and submit to FHWA, a final construction report and as-built plans for final inspection.
- Allow FHWA Officials the opportunity to visit project sites to carry out its stewardship and oversight responsibilities.

# Reporting Requirements

- Tribe shall :
  - Input data into FHWA's electronic data reporting system no later than December 31 of each year.
  - Acknowledge that the submittal of its data is mandated by statute, and non-compliance may be a sole basis for termination of this Agreement.

**ARTICLE IV –  
RESPONSIBILITIES OF THE  
ADMINISTRATOR**

# Provision of Funds

- FHWA distributes funds pursuant to RFA to the Tribe to carry out the TTPA.

# Authorize Project Work

- FHWA authorizes Tribe to carry out project development & delivery.

# Coordination with BIA & Public Authorities

- FHWA to coordinate with BIA and public authorities to help ensure successful administration of TTP.



# Designated Officials

- Tribal President (or other appropriate position)
- FHWA Associate Administrator of Federal Lands Highways
  - Correspondence copied to Tribal Transportation Director (or similar position) and FHWA's Director – Office of Tribal Transportation Program

# Federal Construction Standards

- Construct projects using Federal standards, or Tribal/state standards that meet or exceed Federal standards.

# Joint Inspections

- FHWA, Tribe and facility owner conduct final inspection and notify BIA that the project was constructed in accordance with PS&E.

# Technical Assistance

- FHWA provides technical assistance upon request by Tribe.

# Reporting

- FHWA provides Tribe with annual reports on TTP matters no later than December 31 of each year.

# Notice of Additional Funds

- FHWA will notify Tribe of availability of additional funding they may be eligible to receive.

# **ARTICLE V – OTHER PROVISIONS**

# Eligibility of Additional Funding and Services

- Tribe eligible for additional TTP and other DOT funds on a competitive, formula, or other basis:
  - TTP Safety and Bridge
  - non-recurring funding such as federal-aid funds under 23 U.S.C. Chapter 1
  - other sources that may be credited to the TTP as provided by 23 U.S.C. § 202 (a)(9)
  - High Priority Projects

## Access to Data

- FHWA will provide the Tribe with all releasable data/information necessary to carry out the functions under TTPA.

# Sovereign Immunity / Trust Responsibility

- Nothing in the TTPA shall be construed as:
  - affecting, modifying, diminishing, or otherwise impairing the sovereign immunity of the Tribe.
  - authorizing the termination of any existing trust responsibility of the U.S.
  - absolving the U.S. from any responsibility to individual Indians/Tribe (including the trust relationship and any treaty, executive order, or agreement between U.S. and the Tribe).

# Federal Tort Claims Act/Insurance

- For purposes of the Federal Tort Claims Act, the Tribe and its employees are deemed employees of the Federal government while performing work under the TTPA.
- Tribe authorized to use funds provided under TTPA to purchase insurance coverage.
- Tribal contractors required to purchase and maintain adequate workers compensation, auto, and general liability insurance coverage with statutory minimums and local construction industry standards when completing construction projects under TTPA.
- Insurance requirement does not apply to the Tribe itself.

# Indian and Tribal Preference

- Preference given to Indians and Indian organizations/Indian-owned economic enterprises.
- Tribe to have full and open competition procurement standards.
- Tribal labor and force account may be used.
- Tribe must provide a written request to FHWA to justify using a procurement method not established in its procurement standards or force account procedures.

# Program Review

- Tribe agrees to allow FHWA officials or their designees/representatives to perform an annual review of the Tribe's TTP.
- Allows FHWA to carry out its oversight and stewardship responsibilities.
- Within 45 days of completion of review, FHWA will provide a draft report to the Tribe for comment.
- After receipt of comments from the Tribe, or after an additional 45 days, the report will be put into final form and distributed accordingly.



# Severability/Termination of TTPA

- If any part of the TTPA is determined invalid, the remaining parts will continue in full force and effect.
- If the Tribe wishes to terminate TTPA, it shall notify FHWA in writing of its intention and date of termination.
- If FHWA finds the Tribe has failed to comply with the terms of the TTPA, it shall notify the Tribe in writing.
- Upon termination of the TTPA, FHWA will allocate the funds that would have been provided to the Tribe under the TTPA to the Secretary of the Interior to provide continued transportation services in accordance with applicable law.

# Amendments/Good Faith/ Successor Agreements

- Modifications of the TTPA will be in the form of written amendments and signed by Tribe and FHWA.
- Tribe and FHWA will act in good faith and consider improvements to the delivery and cost effectiveness of transportation services.
- When a new Highway Bill is enacted a new TTPA will replace the current TTPA.

# Questions?

Manuel Enrique Sanchez, MPA  
Office of Tribal Transportation  
202.308.6235

- FHWA OTT website:  
<https://flh.fhwa.dot.gov/programs/tto/>
- FHWA OTT Safety website:  
<https://www.tribalsafety.org/>

