Non-typical Uses of TTP Funds

Determining Eligibility and Allowable Uses of Tribal Transportation Funds
Topics

• Applicable Statutes & Regulations
• Allowable Costs
• Eligibility
• Non-typical Examples
TTP Statutes & Regulations

• 23 U.S. Code § 202 Tribal transportation program
• 23 CFR Part 661 IRR Bridge Program
• Any provision of Title 23 U.S.C.
• 25 CFR Part 170 Tribal Transportation Program
• Tribe’s TTP Contracts or Agreements
• 25 CFR 900
• 2 CFR 200
Known Allowable Costs

1. Appendix A to Subpart B - Allowable Uses of TTP Funds
2. Appendix to Subpart G - List of Eligible Maintenance Activities under the TTP.
3. Activity listed under Title 23?
4. If any questions, work with your Agency Point of Contact.
POP QUIZ

§ 170.112 What activities are not eligible for TTP funding?

TTP funds cannot be used for any of the following:

(a) Structures and erosion protection unrelated to transportation and roadways;

(b) General or Tribal planning not involving transportation;

(c) Landscaping and irrigation systems not involving transportation programs and projects;

(d) Work or activities that are not listed on an FHWA-approved TTPTIP;
25 CFR 170.111  What activities may be carried out using TTP funds?

TTP funds will be used to pay the cost of items identified in 23 USC 202(a)(1). A more detailed list of eligible activities is available in appendix A to this subpart. Each of the items identified in this appendix must be interpreted in a manner that permits, rather than prohibits, a proposed use of funds.
170.112 What activities are not eligible for TTP funding?

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d) Work or activities that are not listed on an FHWA-approved TTPTIP;

e) Condemnation of land for recreational trails;

f) Salaries and/or other incidental costs of any Federal employee or contractor not performing Federal TTP stewardship and oversight, work identified in the appendix to subpart E, or project-related activities identified on an approved TTIP; or

g) Direct and/or incidental costs associated with the Federal Government's acquisition of goods, services, or construction unrelated to the program.
Eligibility: 23 USC 202(a)(1)(A)

- (i) transportation planning, research, maintenance, engineering, rehabilitation, restoration, construction, and reconstruction of tribal transportation facilities;
- (ii) adjacent vehicular parking areas;
- (iii) interpretive signage;
- (iv) acquisition of necessary scenic easements and scenic or historic sites;
- (v) provisions for pedestrians and bicycles;
- (vi) environmental mitigation in or adjacent to tribal land
- (I) to improve public safety and reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; and
- (II) to mitigate the damage to wildlife, aquatic organism passage, habitat, and ecosystem connectivity, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate;
- (vii) construction and reconstruction of roadside rest areas, including sanitary and water facilities; and
- (viii) other appropriate public road facilities as determined by the Secretary;
Eligibility: 23 USC 202(a)(1)(B)&(C)

(B) operation and maintenance of transit programs and facilities that are located on, or provide access to, tribal land, or are administered by a tribal government; and

(C) any transportation project eligible for assistance under this title that is located within, or that provides access to, tribal land, or is associated with a tribal government
Eligibility: 25 CFR 170.5

*Tribal transportation facility* means a *public* highway, road, bridge, trail, transit system, or other approved facility that is located on or provides access to Tribal land and *appears on the NTTFI* described in 23 U.S.C. 202.
Eligibility: 25 CFR 170.410 & .414

170.410 How does a long-range transportation plan relate to the NTTFI?

A LRTP is developed using a uniform process that identifies the transportation needs and priorities of a Tribe. The [NTTFI](see § 170.442) is derived from transportation facilities identified through an LRTP. It is also a means for identifying projects and activities for the TTP.

170.414 How is the Tribal long-range transportation plan used and updated?

The Tribal government uses its TTP long-range transportation plan to develop transportation projects as documented in a Tribal priority list or TTIP and to identify and justify the Tribe's updates to the NTTFI...
Eligibility: Key Criteria

1. Transportation-related
2. Public Facility
3. On the NTTFI
4. On an approved TTIP
5. On your LRTP
New Uses of TTP Funds

25 CFR 170.113 How can a Tribe determine whether a new use of funds is allowable?

(a) A Tribe that proposes new uses of TTP funds must ask BIA or FHWA in writing whether the proposed use is eligible under Federal law.

(1) In cases involving eligibility questions that refer to 25 U.S.C., BIA will determine whether the new proposed use of TTP funds is allowable and provide a written response to the requesting Tribe within 45 days of receiving the written inquiry. Tribes may appeal a denial of a proposed use by BIA under 25 CFR part 2 ...

(2) In cases involving eligibility questions that refer to the TTP or 23 U.S.C., BIA will refer an inquiry to FHWA for decision. FHWA must provide a written response to the requesting Tribe within 45 days of receiving the written inquiry from the Tribe. Tribes may appeal denials of a proposed use by the FHWA...
New Uses of TTP Funds

25 CFR 170.113 (continued)

(b) To the extent practical, the deciding agency must consult with the TTP Coordinating Committee before denying a request.

(c) BIA and FHWA will:

(1) Send copies of all eligibility determinations to the TTP Coordinating Committee and BIA Regional offices;

(2) Coordinate all responses and if the requested agency fails to issue a decision to the requesting Tribe within the required time, the proposed use will be deemed to be allowable for that specific project; and

(3) Promptly make any final determination available on agency Web sites.
Administrative
Administrative
Trail Marking
Boardwalks and Board Roads
Pedestrian Trails
Ice Road Construction & Maintenance
Boat Ramps, Docks
Docks
Docks