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MEETING NOTICE AND AGENDA

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 Mexico

INTERAGENCY TECHNICAL WORKING GROUP ON TRIBAL TRANSPORTATION ISSUES

The Tribal Transportation Issues Working Group may take action on any item appearing on this agenda.

Tuesday, February 6, 2007

1 p.m. – 3 p.m.

Harrah's Rincon Casino and Resort

Lunch: Noon in La Jolla Room
 (hosted by the Rincon Luiseno Band of Indians)

Meeting: Palomar Room

Staff Contact: Jane Clough-Riquelme, Tribal Liaison
 (619) 699-1909
 jcl@sandag.org

AGENDA HIGHLIGHTS

- APPROVAL OF WORKING GROUP CHARTER AND OFFICERS
- 2007 REGIONAL TRANSPORTATION PLAN UPDATE
- TERO ISSUES IN CALIFORNIA
- UPDATE ON INDIAN RESERVATION ROADS INVENTORY IN SOUTHERN CALIFORNIA

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DIRECTIONS TO MEETING LOCATION



Address

Harrah's Rincon Casino & Resort
777 Harrah's Rincon Way
Valley Center, CA 92082

Phone Numbers

General: (760) 751-3100
Toll Free: (877) 777-2457

From the I-15

Take the I-15. Exit at Valley Parkway heading east. Valley Parkway turns into 2nd Street, back to Valley Parkway, and finally turns into Valley Center Road. Follow Valley Center Road for about eight miles. Harrah's Rincon will be on your left.

Park in the parking structure behind the casino and signs will be posted at elevators indicating the location of the meeting room.

INTERAGENCY TECHNICAL WORKING GROUP ON TRIBAL TRANSPORTATION ISSUES

Tuesday, February 6, 2007

ITEM #		RECOMMENDATION
1.	WELCOME BY RINCON TRIBAL COUNCIL AND SELF-INTRODUCTIONS	
2.	PUBLIC COMMENTS AND COMMUNICATIONS	COMMENT
	Members of the public will have the opportunity to address the Interagency Technical Working Group on Tribal Transportation Issues or any issue within the jurisdiction of the Working Group. Speakers are limited to three minutes each.	
+3	APPROVAL OF OCTOBER 26, 2006, MINUTES	APPROVE
+4.	CHARTER FOR INTERAGENCY TECHNICAL WORKING GROUP ON TRIBAL TRANSPORTATION ISSUES (Diane Eidam, SANDAG)	APPROVE
	The SANDAG Board of Directors approved the formation of an ongoing working group on tribal transportation issues which will report to the Borders Committee. The purpose of the Working Group is to serve as a forum for tribal governments in the region to discuss and coordinate transportation issues of mutual concern with the various public planning agencies in the region, including SANDAG, Caltrans, the County of San Diego, and the transit agencies. The Working Group will monitor and provide input on the implementation of the strategies and planning activities related to transportation mutually developed through the San Diego Regional Tribal Summit. This Working Group forms part of the SANDAG organizational structure and will report to the Borders Committee. The Working Group is asked to review and approve the draft Charter.	
5.	SELECTION OF WORKING GROUP CHAIR AND VICE-CHAIR (Diane Eidam, SANDAG)	APPROVE
	Once charter approved, the voting members of the Working Group will select a Chair and Vice-Chair to preside over the Working Group for a period of one year.	
+6.	UPDATE ON THE DEVELOPMENT OF THE 2007 REGIONAL TRANSPORTATION PLAN (RTP) (Rachel Kennedy, SANDAG)	INFORMATION
	SANDAG staff will update the Working Group on the development of the 2007 RTP and provide an overview of various components, including the update of the regional arterial system, development of the unconstrained highway and transit networks, and RTP schedule.	

ITEM #

RECOMMENDATION

- 7. UPDATE ON TRIBAL TRANSIT FEASIBILITY STUDY – EXISTING CONDITIONS REPORT (Steve Wilks, IBI; Dennis Wahl, IBI)

DISCUSSION

SANDAG was awarded a Caltrans grant to study the feasibility of implementing transit service in one or two key transportation corridors between selected tribal reservations and cities and/or urbanized community planning areas in the unincorporated area of San Diego County. The study will look at traditional public transit services, as well as the potential for non-traditional services that could be funded by private sources and/or public-private partnerships and be integrated in the Coordinated Public Transportation and Human Services Transportation Plan (Coordinated Plan). The consultant team will present initial findings from their existing conditions report and will review next steps.

- +8. FEDERAL TRIBAL TRANSIT FUND PROGRAM (Dan Levy, SANDAG)

INFORMATION

SAFETEA-LU introduced new requirements for a locally developed coordinated plan as well as a new tribal transit set aside. The tribal transit program provides grants directly to Indian tribes for public transportation services on Indian reservations. In the past, tribes received program funds as sub-recipients of States. SAFETEA-LU now defines tribes as eligible direct recipients under the Section 5311 program. SAFETEA-LU provides a set aside of \$8 - \$15 million dollars annually nationwide starting in FY 2006 for tribes, in addition to being eligible for general 5311 funds. Dan Levy, SANDAG Senior Transit Planner, will brief the Working Group on the new Coordinated Plan requirement and the tribal transit program guidelines and requirements. The grant deadline is mid-October of each year. There are three categories for funding, including planning.

- 9. TERO ISSUE AND RIGHT-OF-WAY ON INDIAN LANDS IN CALIFORNIA (Cynthia Gomez, Caltrans; Olivia Fonseca, Caltrans)

INFORMATION/
DISCUSSION

With the passage of proposition 209, an issue has been raised between Caltrans and tribes that have employment ordinances known as TERO (Tribal Employment Rights Ordinance). This ordinance requires contractors on state and federally funded projects to employ tribal members when possible on transportation projects on or near reservations with this ordinance in place. Cynthia Gomez, Branch Chief for Native American Liaison, and Olivia Fonseca, Division Chief for Civil Rights, will facilitate a discussion on this issue.

ITEM #

RECOMMENDATION

- 10. INDIAN RESERVATION ROADS INVENTORY UPDATE IN CALIFORNIA (Cynthia Gomez, Caltrans; Bo Mazzetti, Reservation Transportation Authority)

INFORMATION

There are major new provisions in SAFETEA-LU regarding the Indian Reservation Roads Program with implications regarding the relationship between tribes and the Bureau of Indian Affairs. Cynthia Gomez, Chief of the Caltrans Native American Liaison Branch and Bo Mazzetti, California Representative to the BIA's IRR Advisory Committee, will provide an overview of the changes and what is happening in California to assist tribes in completing their inventory updates.

- 11. ADJOURNMENT AND NEXT MEETING

INFORMATION

The Working Group will discuss the options for the next quarterly meeting date and location.

+ next to an item indicates an attachment

San Diego Association of Governments
INTERAGENCY TECHNICAL WORKING GROUP
ON TRIBAL TRANSPORTATION ISSUES

February 6, 2007

AGENDA ITEM NO.: **3**

Action Requested: APPROVE

OCTOBER 26, 2006, MEETING SUMMARY

File Number 3000200

Agenda Item #1: Welcome and Introductions

Barona Councilmember Thorpe Romero welcomed and thanked the tribal representatives and public agencies for attending and stated that hopefully this is the first step towards working out tribal transportation issues. He announced that it is a tradition of tribal elders to perform a blessing. Tribal Elder Albert 'Boxie' Phoenix gave the blessing. Self introductions were conducted. The meeting was co-chaired by Bo Mazzetti, Reservation Transportation Authority and Diane Eidam, Deputy Director, SANDAG. Chairman Robert H. Smith, Southern California Tribal Chairmen's Association (SCTCA) was unable to attend the meeting.

Agenda Item #2: Public Comments and Communications

No public comments were made.

Agenda Item #3: Opening Remarks

Ms. Eidam, SANDAG Deputy Executive Director, thanked Chairman Smith, although unable to attend, and stated that she hopes the working group will be a milestone in communicating transportation issues between tribal governments and regional agencies. She also thanked the Barona Band of Mission Indians for their generous hosting of the meeting. She made a few personal remarks emphasizing the lack of communication and connection between tribes at the local and state levels and noted that there is room for improved communication at all levels of government. She mentioned that as the former Executive Director of the California Transportation Commission she had observed the situation of tribal governments and transportation at the state level and was looking forward to working at the regional level.

Agenda Item #4: 2006 Tribal Summit Report and Next Steps

Jane Clough-Riquelme, SANDAG Tribal Liaison, reviewed the next steps and priority strategies approved by the SCTCA and SANDAG Boards as follow-up actions from the 2006 San Diego Regional Tribal Summit. She stated that hopefully the summit will become a basis for an intergovernmental relationship. The main focus of the summit was to address tribal transportation issues and determine priority strategies to pursue at the policy level. One of the approved next steps was the formation of a tribal advisory group on transportation issues.

There were no questions or comments.

Agenda Item #5: Charter for Interagency Technical Working Group on Tribal Transportation Issues

Ms. Clough-Riquelme informed the group that the SANDAG Board of Directors approved the formation of this ongoing working group on tribal transportation issues which will report to the Borders Committee. The purpose of the working group is to serve as a forum for tribal governments in the region to discuss and coordinate transportation issues of mutual concern with the various public planning agencies in the region, including SANDAG, Caltrans, the County of San Diego, and the transit agencies. The Working Group will monitor and provide input on the implementation of the strategies and planning activities related to transportation mutually developed through the San Diego Regional Tribal Summit. The Working Group was asked to review and approve the draft Charter.

Questions and comments included:

Mr. Mazzetti stated that clarification was needed in the language of the draft Charter. He stated that the Charter refers to California tribes in San Diego County and that some of these tribes do not have a land base. He stated that if you are land based tribe you would have transportation issues and if you are a tribe without a land base than you would not. He asked to know what the purpose of the wording of the Charter included those tribes that do not have a land base.

Ms. Clough-Riquelme responded that the other tribes are those associated with Senate Bill 18 that was passed in 2005 which requires all local land use authorities to consult with tribes when making land use decisions within their jurisdictions. As there may be issues related to cultural corridors related to highway projects such as SR76 west of I-15 it seemed appropriate to be inclusive.

Chantel Saipe, Tribal Liaison for the County of San Diego, asked if Ms. Clough-Riquelme is expecting a vote on the draft Charter. Ms. Clough-Riquelme stated that those members who are tribal representatives would be voting on the draft Charter.

Sheilla Alvarez commented that she was unsure if every tribe was represented at the meeting and suggested the draft Charter is taken back to their tribes to make sure that all tribes have an opportunity to read and comment on it.

Mr. Mazzetti suggested that the members in attendance adopt the draft Charter as an interim Charter until final input and recommendations from tribes and other representatives are received and then adopt it at next go around.

Ms. Alvarez asked if there is a format that the tribes should use to designate a representative for this group. Ms. Clough-Riquelme replied that there is not. They should send a letter to SANDAG indicating the name of the representative and alternative.

Boxie Phoenix, Barona, asked what the time frame for the Working Group would be. Ms. Clough-Riquelme stated that the Working Group is up and running and that it is up to the group to suggest how often they would like to meet.

Ms. Eidam clarified Mr. Phoenix's question and asked how quickly SANDAG needs to know who will be acting as the representative from each of the tribes.

Mr. Mazzetti suggested that Ms. Clough-Riquelme send out an e-mail stating that the working group adopted the draft Charter provisionally until all tribal representatives have reviewed the document and give them a deadline for responding.

Ms. Clough-Riquelme suggested postponing the selection of Chair and Vice-Chair until the next working group meeting.

Agenda Item #6: Selection of Working Group Chair and Vice-Chair

Selection is postponed until next meeting.

Agenda Item #7: 2030 Forecast and Methodology for Travel Forecasting

Ed Schafer, SANDAG staff, gave a presentation of the 2030 forecast and methodology, which is an element of the 2007 Regional Transportation Plan (RTP) update. The forecast reflects the probable growth of the region and the expected distribution of the regional growth to jurisdictions and other areas based upon the currently adopted plans and policies of the 18 cities and the most recent information from the County of San Diego General Plan update. Mr. Schafer suggested that SANDAG would be happy to work with tribal governments to assure that the most current data on current and planned land use from the tribes is included in the database to assist in making the forecast more accurate. SANDAG staff is available to work one on one with each nation upon their request.

There were no questions or comments.

Agenda Item #8: Update on the State Route 76 Operational Improvements Study

Mario Orso, Caltrans District 11 and Bo Mazzetti, RTA, provided the group with an update on the State Route 76 operational improvements study. Mr. Orso stated that many issues on State Route 76 can be considered tribal and non-tribal and that Caltrans did not have adequate information on the condition of State Route 76. The federal government was petitioned to obtain federal funding for an operational improvements study. Mr. Orso stated that Caltrans is working with tribes along the SR 76 to determine hot spots within the corridor that need operational improvements. He also suggested that this study may offer additional potential solutions other than expanding road widths.

Mr. Mazzetti, Reservation Transportation Authority, stated that there are numerous tribal reservations located along SR 76. The RTA wanted to make sure that the tribes were involved and represented. He mentioned that in the past the tribes have often kept to themselves and stayed away from the County of San Diego and Caltrans. This is due to the fact that tribes tend to deal with their own land uses internally and many times do not know future land uses. Mr. Mazzetti stated the study tries to determine what the current traffic count is presently, by conducting current traffic counts from various routes to the various reservations along SR 76. In addition, the study tries to determine the number of trips actually going to the reservations or simply using the road for travel. Traffic counts were conducted in the AM and PM on Friday and Saturday, and now the data is being compiled in conjunction with the County and SANDAG. Mr. Mazzetti noted that Caltrans

and the RTA study could not want to wait for the County 2020 plan and that the study will be completed in February 2007.

Mr. Orso stated that GIS, accident data, building standards, and time estimates are being developed. Data on proposed land uses on reservations was collected from the transportation needs assessment conducted by Caltrans and SANDAG last year. The other source for planned land use is the approved and accepted compacts with the State. Caltrans and the RTA are working together to make sure that the best information is available on the needs on the SR 76. The study will help determine fair share requirements for both tribes and non-tribal entities, as well as the state to make this route meet operational standards. The study has been a learning curve, sometimes assumptions and ideas have not panned out; however, it will help to educate the needs and land uses of the corridor.

Mr. Mazzetti stated that the corridor study is beginning to evolve into transportation demand management (TDM).

Questions and comments included:

Mr. Phoenix stated that Barona is not on a major corridor and asked how the study will work for the tribe. Mr. Orso stated that State Route 67 is also a corridor to look at and that this working group will be another stepping stone for better communication and addressing of tribal needs. Mr. Orso also stated that we need to be realistic from a regional perspective; the demands are greater than the funds to fix all roads, but the more we dialogue the more likely we are to come up with feasible solutions.

Carmen Mojado (San Luis Rey Band of Mission Indians) asked if the study is taking into consideration that there is a major river on the side of SR 76 and that there are several sacred sites along the corridor. Mr. Orso responded that the cultural analysis is a major component of the study.

Agenda Item #9: Update on County of San Diego General Plan 2020- Circulation Element

Ivan Holler, County of San Diego, provided the working group with an update on the County of San Diego General Plan 2020 Circulation Element (powerpoint available upon request). Mr. Holler discussed the existing and proposed Circulation Element network and the Board of Supervisors map network. The County used planning criteria with the goal of improving regional and local connectivity, matching road classifications to the locations, minimizing environmental impacts, and building consensus. Mr. Holler discussed some outstanding transportation issues such as the widening of Interstate 15, unprogrammed Caltrans improvements, and also significant transportation issues in North County and East County. The County used two traffic forecasts to conduct the update- the SANDAG Series 10 Model, as well as a customized GP2020 Model that helped determine preliminary alternative networks.

Questions and comments included:

Mr. Mazzetti asked what happens if the transportation modeling and the forecast from SANDAG determines that a two lane road should be a four lane road. Mr. Holler responded that the transportation modeling looks at traffic volumes and then the County decides whether to widen or modify the road from proposed four lanes to two lanes. Mr. Mazzetti asked who makes the final

decision to change the number of lanes. Mr. Holler replied that the County Board of Supervisors makes that final decision.

Agenda Item #10: Kick-Off: Reservation Transit Feasibility Study

Dan Levy, SANDAG staff, informed the group that SANDAG was awarded a Caltrans grant to study the feasibility of implementing transit service in one or two key transportation corridors between selected tribal reservations and cities and/or urbanized community planning areas in the unincorporated area of San Diego County. The study would look at traditional public transit services, as well as the potential for non-traditional services that could be funded by private sources and/or public-private partnerships and be integrated in services coordinated by the Consolidated Transportation Services Agency.

He added that there is a new Tribal Transit Program in the new Transportation Bill (SAFETEA-LU) which will allow tribes to apply directly to the Federal Transit Administration for funding of transit services, based on plans. This feasibility study will provide the technical justification for the tribes in San Diego to develop coordinated plans in several corridors and apply directly for funding next year. The existing conditions report and criteria for corridor selection will be presented to the Working Group next quarter.

Questions and comments included:

Mr. Mazzetti emphasized that this new tribal transportation program is a major change in the transportation law and that tribes need to take advantage of it and apply for the funding. Even though these new funds are available, tribes can still apply for the rural funds (5311).

Agenda Item #11: Distribution of the 2007 Regional Transportation Plan Tribal Transportation Issue Paper

Ms. Clough-Riquelme distributed the Tribal Transportation Issue Paper based on issues raised through the 2005 Tribal Transportation Needs Survey, the follow-up Technical Workshop, and the 2006 Tribal Summit. The paper was distributed to tribal governments for 45 day review/comment period at this meeting and will also be distributed by mail. SANDAG would like responses/comments to be submitted by December 11, 2006. This paper will be folded into the 2007 RTP.

There were no questions or comments.

Agenda Item #12: Discussion on Future Topics/Items/Issues

Working group members discussed possible agenda items for future meetings and made additional comments.

Mr. Mazzetti suggested discussing under the SAFETEA-LU that tribes can place a city, county, or state route on their tribal roads system. These roads are then forwarded to the BIA, where they can be considered an un-met need. The cost to improve the road also becomes an un-met need. In November a consultant from Caltrans will be working with the Reservation Transportation Authority and the tribes to do the Tribal Road Inventory Needs Assessment. Mr. Mazzetti stated that inclusion of a road segment does not change the ownership of the road, nor the responsibility for its maintenance – it simple means that the tribe needs that road segment for its own

functioning (egress/ingress). The placement of the road on the list will possibly provide an additional amount of funding to the tribe or regional agency. He encouraged tribes to work together with neighboring tribes to include all of the relevant segments.

Another possible agenda item to include for discussion at the next meeting would be the the issue of right-of-way. Mr. Mazzetti suggested that the public agencies read and understand the Intercourse Act which provides the basis for alienation of city roads. This will become an issue throughout the state. Caltrans and the Native American Advisory Committee to Caltrans have been discussing this issue and it is a matter of serious contention.

Collin Hampson (member of the public) announced a conference on Saturday, October 28, 2006, hosted by the California Indian Law Association being held at Stanford University. The conference will be discussing tribal transportation issues.

Ms. Clough-Riquelme stated that November 13-16, 2006 is the National Tribal Transportation Conference. The conference will be held at the Morongo Hotel and Casino. Anyone interested can contact Ms. Clough-Riquelme for more information. She will distribute an electronic flyer that she received, to the working group.

Rachel Kennedy, SANDAG staff, provided the group with the Regional Arterial System (RAS) update as part of the 2007 RTP update. A letter was mailed out to various groups discussing the RAS process and a list of roads on the RAS. Ms. Kennedy suggested if tribal governments think other or additional regional arterial roads should be considered on the list to please work with the local land use authority or jurisdiction that has control over the road. In most cases, this would be the County of San Diego.

Bo Mazzetti, suggested discussing the role of the Bureau of Indian Affairs (BIA) when obtaining the right of way on trust lands. The BIA is the ultimate authority for obtaining a doctrine for the easement of the right of way.

Dave Toler, San Pasqual, stated that through Caltrans and the tribal liaison, San Pasqual has obtained grant money to update their needs assessment, which includes updating their road inventory. He added that by adding the roads onto their list will help bring money into the region.

Agenda Item #13: Adjournment and Next Meeting

Ms. Eidam asked the group for a decision on when the next meeting should occur and whether the meetings should be held quarterly.

Mr. Mazzetti stated that by the end of November the tribes should have read and provided any comments necessary to the draft Charter.

Mr. Toler stated that the third Thursday may have conflict with tribes, due to prior obligations.

The group decided the third Wednesday of the month from 1 to 3 p.m. would be an acceptable time to meet.

It was suggested that the next meeting will be held on Wednesday, January 17, 2006. Time and location will be determined as soon as possible. SANDAG staff will keep the group updated.

San Diego Association of Governments
INTERAGENCY TECHNICAL WORKING GROUP
ON TRIBAL TRANSPORTATION ISSUES

February 6, 2007

AGENDA ITEM NO.: **4**

Action Requested: APPROVE

CHARTER FOR INTERAGENCY TECHNICAL WORKING GROUP
ON TRIBAL TRANSPORTATION ISSUES

File Number 7000600

Introduction

On August 4, 2006, the SANDAG Board of Directors approved a set of recommended next steps as outcomes from the 2006 San Diego Regional Tribal Summit. One of those next steps was the formation of an ongoing Interagency Technical Working Group on Tribal Transportation Issues (Working Group).

The purpose of this Working Group is to serve as a forum for tribal governments in the region to discuss and coordinate transportation issues of mutual concern with the various public planning agencies in the region, including SANDAG, Caltrans, the County of San Diego, and the transit providers. The Borders Committee approved the attached draft charter for this Working Group at its September 8, 2006 meeting. The Board of Directors of the Southern California Tribal Chairmen's Association reviewed and approved the draft Charter at its September 17, 2006 meeting. At its October 26, 2006 meeting the Working Group members requested the opportunity to take the Charter back to their tribes for discussion and approval. They also requested that tribes specifically indicate their interest in participating in the Working Group to establish the group membership. The Working Group is now asked to review and approve the attached draft Charter.

Recommendation

The Working Group is asked to approve the attached draft Charter for a new Interagency Technical Working Group on Tribal Transportation Issues.

Discussion

It is through the Borders Committee that SANDAG has been pursuing government-to-government relations with tribal governments in the region. As part of its strategic objectives for FY 2005, the Borders Committee intensified its efforts to engage tribal governments through various activities. Through partnerships with the Reservation Transportation Authority (RTA) and the Southern California Tribal Chairmen's Association (SCTCA), a mechanism for government-to-government relations is being developed to engage tribes in the regional transportation planning process. The SCTCA, an intertribal council of governments, is now a member of the Borders Committee, joining the Western Riverside Council of Governments (WRCOG), the Imperial Valley Association of Governments (IVAG), the Orange County Council of Governments (OCCG), and the Republic of Mexico in that same capacity.

During FY 2006, the Borders Committee worked diligently on strengthening communication and coordination on regional and transportation planning issues with tribal nations in the region. Together with Caltrans, the County of San Diego, the RTA, and the SCTCA, SANDAG developed an integrated work plan for the inclusion of tribal issues in the 2007 Regional Transportation Plan through a series of studies, planning activities, and the convening of a Tribal Summit.

As part of this interagency effort, in February of 2006 Caltrans convened a technical workshop between tribal transportation managers and planning staff from the public agencies in the region to develop strategies for improving tribal transportation programs. The strategies that were collectively developed were brought forward to the elected officials at the 2006 San Diego Regional Tribal Summit held in March 2006.

The success of that workshop highlighted the importance of having a regular venue in which tribal and public agency staff can communicate and exchange information on transportation-related issues. One of the recommendations of the Tribal Summit was to form an ongoing working group. Thus the SANDAG Board approved the formation of an Interagency Technical Working Group on Tribal Transportation Issues at its August 4, 2006, meeting.

The Working Group responsibilities will include reviewing current activities and plans being implemented by SANDAG and tribal governments in an effort to coordinate programs, address issues of mutual concern, and ensure that the results of those discussions are being incorporated into the transportation planning process at the regional level. The Working Group will provide feedback and comments on current and planned activities and will provide input on the implementation of these activities. The Working Group will also assist with the associated outreach to the tribal community on transportation issues of regional significance.

Attachment: 1. Draft Charter for Interagency Technical Working Group on Tribal Transportation Issues

Staff Contact: Jane Clough-Riquelme, (619) 699-1909, jcl@sandag.org

CHARTER

Interagency Technical Working Group on Tribal Transportation Issues

PURPOSE

The purpose of the Interagency Technical Working Group on Tribal Transportation Issues (Working Group) is to serve as a forum for tribal governments in the region to discuss and coordinate transportation issues of mutual concern with the various public planning agencies in the region, including SANDAG, Caltrans, the County of San Diego, and the transit operators. In partnership with the Reservation Transportation Authority (RTA), the Working Group will monitor and provide input on the implementation of the strategies and planning activities related to transportation mutually developed through the San Diego Regional Tribal Summit. There is currently no other working group that can serve this function.

LINE OF REPORTING

The Working Group reports to the Borders Committee, which reports to the Board of Directors on tribal-related transportation activities.

RESPONSIBILITIES

The Working Group responsibilities include reviewing current activities and plans being implemented by SANDAG and the tribal governments in an effort to coordinate programs, address issues of concern, and ensure that the needs and issues of tribal governments are being incorporated into the transportation planning process at the regional level. The Working Group will provide feedback and comments on current and planned activities and provide technical advice on the implementation of these activities. The Working Group also assists with the associated outreach to the tribal community on transportation issues of regional significance.

MEMBERSHIP

The voting membership of the Working Group shall be comprised of one representative from each of the federally recognized tribal governments and California tribes in San Diego County (see attached list). These voting members shall be appointed by the leadership of their respective tribes for a term of one calendar year. Caltrans, the County of San Diego, the Reservation Transportation Authority, Metropolitan Transit System and North County Transit District shall each be entitled to appoint one advisory member of the working group. Each entity represented in the working group, whether voting or advisory, may additionally appoint an alternate representative to serve in the primary member's absence. Any member who misses two meetings in a row or three meetings in a calendar year shall be removed and replaced by that member's alternate, if any. Should a vacancy occur in the position of a primary or alternate member, a represented entity shall be entitled to appoint a replacement representative.

MEETING TIME AND LOCATION

The Working Group will meet quarterly as determined by the group. The location will rotate among tribal reservations, and, when deemed appropriate, at the SANDAG offices.

SELECTION OF THE CHAIR

The Working Group shall have a Chair and Vice-Chair, who will be chosen by a vote of the voting members of the group on an annual basis.

DURATION OF EXISTENCE

The Working Group will continue as long as the tribal governments and participating agencies determine that it serves as an effective means of communication and coordination, subject to annual review.

San Diego Association of Governments
INTERAGENCY TECHNICAL WORKING GROUP
ON TRIBAL TRANSPORTATION ISSUES

February 6, 2007

AGENDA ITEM NO.: **6**

Action Requested: INFORMATION

UPDATE ON THE DEVELOPMENT OF THE 2007
REGIONAL TRANSPORTATION PLAN (RTP)

File Number 3000400

Introduction

SANDAG is currently updating the Regional Transportation Plan (RTP). MOBILITY 2030, SANDAG's last full update of the RTP, was completed in March 2003. A RTP technical update was completed in February 2006 in order to meet federal air quality conformity requirements and serves as the foundation for the 2007 RTP. This comprehensive update will incorporate a new regional growth forecast, updated transit and highway networks, information from several white papers on topics not previously covered in the RTP, and a strengthened land use and transportation planning connection.

Staff will provide information on the RTP schedule as well as elements of the RTP currently under development including: the update of the Regional Arterial System (RAS) and the creation of the unconstrained highway and transit networks.

Discussion

Regional Arterial System

SANDAG is in the process of updating the RAS for the 2007 RTP. With every update of the RTP, cities and the County have the opportunity to suggest changes to the RAS. A call for modifications was issued and proposed changes were submitted to SANDAG in mid-December 2006. Jurisdictions were also required to provide a city council/Board of Supervisors resolution confirming the request. Information regarding the screening criteria and upcoming call for projects were shared with the Tribal Transportation Working Group at the October 2006 meeting. Information, including a request for modifications and approved screening criteria, were sent to SANDAG Board members, City managers, and Cities/County Transportation Advisory Committee (CTAC) members. Staff is currently evaluating the submitted modifications for conformity with the evaluation criteria. The revised RAS is anticipated to go to the Transportation Committee in April 2007.

2007 Regional Transportation Plan Unconstrained Highway and Transit Networks

In developing the 2007 Regional Transportation Plan (RTP), the Unconstrained Network represents the region's vision for reasonable transit, highway and arterial improvements and operations to

meet travel demand in 2030. SANDAG staff has worked with Caltrans, transit operators, and local agencies to update the unconstrained network that was adopted in MOBILITY 2030 four years ago. The Unconstrained Network is not limited to available revenues, and the cost estimate for the updated draft Unconstrained Network is \$80 billion in 2006 dollars. That total reflects a project list that has not changed dramatically since the last RTP but reflects significant cost increases along with inflation since the \$67 billion for the Unconstrained Network in MOBILITY 2030. An information item on the Unconstrained Network was presented at the January 19, 2007 Transportation Committee. A copy of the report has been included for your information.

2007 Regional Transportation Plan Schedule

The draft RTP is anticipated to be released for public comment in May/June 2007 with adoption of the final plan in November 2007. A copy of the 2007 RTP schedule has been attached for your information.

Attachments

Attachment 1: 2007 Regional Transportation Plan Network Development: Unconstrained Highway and Transit Networks

Attachment 2: 2007 Regional Transportation Plan Schedule

Key Staff Contact: Rachel Kennedy, 619-699-1929 rke@sandag.org

San Diego Association of Governments

TRANSPORTATION COMMITTEE

January 19, 2007

AGENDA ITEM NO.: **19****Action Requested: INFORMATION**

2007 REGIONAL TRANSPORTATION PLAN NETWORK DEVELOPMENT:
UNCONSTRAINED HIGHWAY AND TRANSIT NETWORKS

File Number 3000400

Introduction

In developing the 2007 Regional Transportation Plan (RTP), the Unconstrained Network represents the region's vision for reasonable transit, highway and arterial improvements and operations to meet travel demand in 2030. The Unconstrained Network is not limited to available revenues, and the cost estimate for the updated draft Unconstrained Network is \$80 billion in 2006 dollars. That total reflects a project list that has not changed dramatically since the last RTP but reflects significant cost increases along with inflation since the \$67 billion for the Unconstrained Network in MOBILITY 2030.

Defining the Unconstrained Network is an important step in developing an updated RTP, because it establishes the baseline for identifying two funding scenarios that will build and operate as much of the network as possible, given revenue availability, flexibility, and project commitments. The two scenarios are Revenue Constrained, limited to traditional funding sources, and Reasonably Expected, a more aggressive scenario that includes new potential funding sources. Staff will present draft funding scenarios to the Transportation Committee in February 2007.

SANDAG staff has worked with Caltrans, transit operators, and local agencies to update the unconstrained network that was adopted in MOBILITY 2030 four years ago. Several changes in the transit network are directly related to discussion at the December 8, 2006, Transportation Committee meeting, where an evaluation of different approaches to transit service in major corridors was presented. Staff will continue to coordinate with other transportation agencies for any further refinements to the networks for the draft RTP.

Discussion

Updates and changes to the unconstrained highway and transit networks were coordinated with Caltrans, the Metropolitan Transit System (MTS) and the North County Transit District (NCTD). A major focus for the 2007 RTP was a thorough review of the long-range transit plan, related to the findings in the Independent Transit Peer Review (ITPR) and the recent Comprehensive Operational Analysis by MTS. Below is a detailed discussion of the updated transit networks, followed by the highway network summary, the general cost changes compared to the previous RTP, and the next steps in developing the 2007 RTP.

Unconstrained Transit Network

The regional transit system is an integral part of MOBILITY 2030, providing additional capacity to key transportation corridors and focusing investments where they are most effective. These investments will benefit transit riders and drivers alike.

The Unconstrained Transit Network in MOBILITY 2030 was based on the Regional Transit Vision in MOBILITY 2030 (the 2003 RTP), where transit is designed to operate as a network of regional and corridor premium Bus Rapid Transit (BRT) services, interacting with the existing rail network and connected to neighborhoods and employment areas by local bus and shuttle systems. The vision was to make transit the first choice for many of our trips.

For the 2007 RTP, this vision continues. Based on findings from the ITPR, work with MTS and NCTD staff, and previous direction from the Transportation Committee, the following refinements have been made to the unconstrained transit network:

- A greater emphasis on serving the region's urban core areas. In many cases, these include potential smart growth areas identified by the jurisdictions that were not available with the 2003 plan.
- A shift from an emphasis on BRT services on major arterials to a focus on "arterial rapid bus" services along these corridors. The term BRT is reserved for services that would have dedicated facilities (e.g. transit guideways, freeway Managed Lanes, or arterial transit-only lanes) to enable high-speed operations needed for long distance tripmaking in key regional travel corridors. Arterial rapid services, by contrast, would use a variety of arterial transit priority treatments (e.g. signal priority, queue jumps) that improve transit speeds within a mixed-flow travel environment (i.e. without the need for dedicated transit lanes). The lower capital costs for these priority measures offer a more cost-effective solution to improving transit in arterial corridors than the higher cost dedicated facilities for BRT service.
- A focus on maximizing the transit mode share in key activity areas (e.g. downtown San Diego, Kearny Mesa, downtown Escondido, downtown Chula Vista, Sorrento Mesa) during the peak commute period rather than a double-digit mode share for transit regionwide during the peak period.
- Refinements to the Sorrento Mesa transit guideway which was included in the 2003 RTP, including alignment changes and updated capital costs, as well as the addition of a major new transit guideway from downtown San Diego to Kearny Mesa.
- Greater emphasis on the development of a high-frequency local bus network in the urban core areas.

Several elements of the MOBILITY 2030 remain key components of the 2007 update:

- An investment in transit priority capital improvements and station design needed to provide high-speed, reliable transit services. This includes arterial capital improvements such as signal priority and queue jumper lanes for transit at congested intersections.
- Continuation of the multimodal Managed Lanes strategy for freeway BRT services including in-line BRT stations.
- Continued investment in our rail network both in terms of rehabilitation and expansion, including major capital and operations investments in our light rail and commuter rail services.

- Continuation of strategic investments outlined in the Regional Comprehensive Plan (e.g., smart growth development, urban design, parking management strategies) that are integral components for the success of the RTP transit plan.

Attachments 1 and 2 show the changes between the 2003 and 2007 unconstrained transit network. This network is forecast to nearly double the daily ridership in the region to 590,000 boardings.

The Transportation Committee approved this overall approach at its December 8, 2006, meeting. At that meeting, staff mentioned that further analysis would be conducted on the potential for a transit guideway along the I-805 corridor, as requested by MTS staff. Upon completing this further analysis, staff does not recommend pursuing this strategy based on the low ridership gains over what is currently planned for this corridor.

Since the December meeting, staff has met with NCTD and MTS planning staff and made several refinements to the unconstrained network based on these discussions. The revised unconstrained transit network presented here incorporates a number of additional high-frequency local bus corridors, neighborhood and employment area shuttle circulators, and arterial rapid services in both the MTS and NCTD service areas. The cost of this unconstrained network is estimated to be \$23 billion in capital and operations and maintenance costs.

Unconstrained Highway Network

The Unconstrained Highway Network for the 2007 RTP is shown in Attachment 3. All of Caltrans' suggested changes/upgrades since the last RTP were first tested in the 2030 transportation model to verify that they would relieve projected congestion. For example, the suggestion of six lanes on Interstate 8 (I-8) to the Imperial County line was not warranted east of Alpine Boulevard. Following is a list of the major highway improvements or deletions that were included in the 2007 RTP:

- I-5: Expand to ten lanes + four Managed Lanes from Palomar Airport Road to SR 78
- I-8: Expand to six lanes east to Alpine Boulevard
- I-15: Expand Managed Lanes from two to four lanes from SR 78 to Riverside County Line
- I-805: Reduce the planned general purpose lanes from ten to eight in three sections:
 - SR 905 to H Street
 - I-8 to SR 52
 - La Jolla Village Drive to I-5
- SR 54: Delete planned route between SR 94 and I-8
- SR 76: Expand to six lanes east of I-15 to Pala Mission Road, then four lanes to La Jolla Indian Reservation

The goal of the unconstrained network was to eliminate stop-and-go traffic where reasonable on freeways and highways, providing a volume to capacity ratio that does not exceed 1.0 (Level of Service F). This means that congestion or slower than free-flow speeds may still occur during the commute period (Levels of Service D and E) but the expanded High Occupancy Vehicle and Managed Lanes system would contribute toward a better level of service on the general purpose lanes and would provide competitive travel times for transit, carpools, and FasTrak™ users.

Attachment 4 highlights the corridors in the Unconstrained Network that still indicate major congestion problems. For some of these locations the region has made a conscious decision not to improve them (e.g., SR 163 through Balboa Park). Other areas are constrained and/or require new corridor studies to evaluate options for improvements. More detailed performance information will be developed and documented for the draft 2007 RTP.

Funding Overview

As stated earlier, the projects and transit service in the 2007 Unconstrained Network are estimated at \$80 billion, an increase of \$13 billion over the previous \$67 billion for the unconstrained network in MOBILITY 2030. While the list of projects does include a new transit guideway from downtown San Diego to Kearny Mesa, the major cost increase is a result of rising cost estimates for construction and right-of-way. When combined with the lower than expected revenues over the last four years, the cost increase indicates the difficult decisions to come in addressing project priorities and additional funding sources in the 2007 RTP.

Without modifying the previous Revenue Constrained scenario, future revenues appear to be \$2 billion short to complete the remaining projects. As a result, the 2007 RTP Revenue Constrained scenario may need to address a reduced project list. And to achieve the more robust Reasonably Expected scenario, aggressively pursuing new funding sources will be necessary. In February 2007, these discussions will be brought to the Transportation Committee and Board of Directors as staff completes project rankings and cost and revenue estimates.

Next Steps

Staff will prioritize all of the future projects in the Unconstrained Network, using the transportation project evaluation criteria approved by the SANDAG Board of Directors in September. Review of the Revenue Constrained list of projects (last adopted in February 2006) can begin immediately, based on updated revenue forecasts, cost estimates, and project commitments.

Discussion regarding additional funding sources at the Board Retreat January 31-February 2 will firm up which sources will be assumed in the new Reasonably Expected scenario. Draft options for both the Revenue Constrained and Reasonably Expected Scenarios will be brought to the Transportation Committee in February. Board-approved scenarios in March would keep the RTP on schedule for a draft document in May 2007 and a final RTP in November 2007.

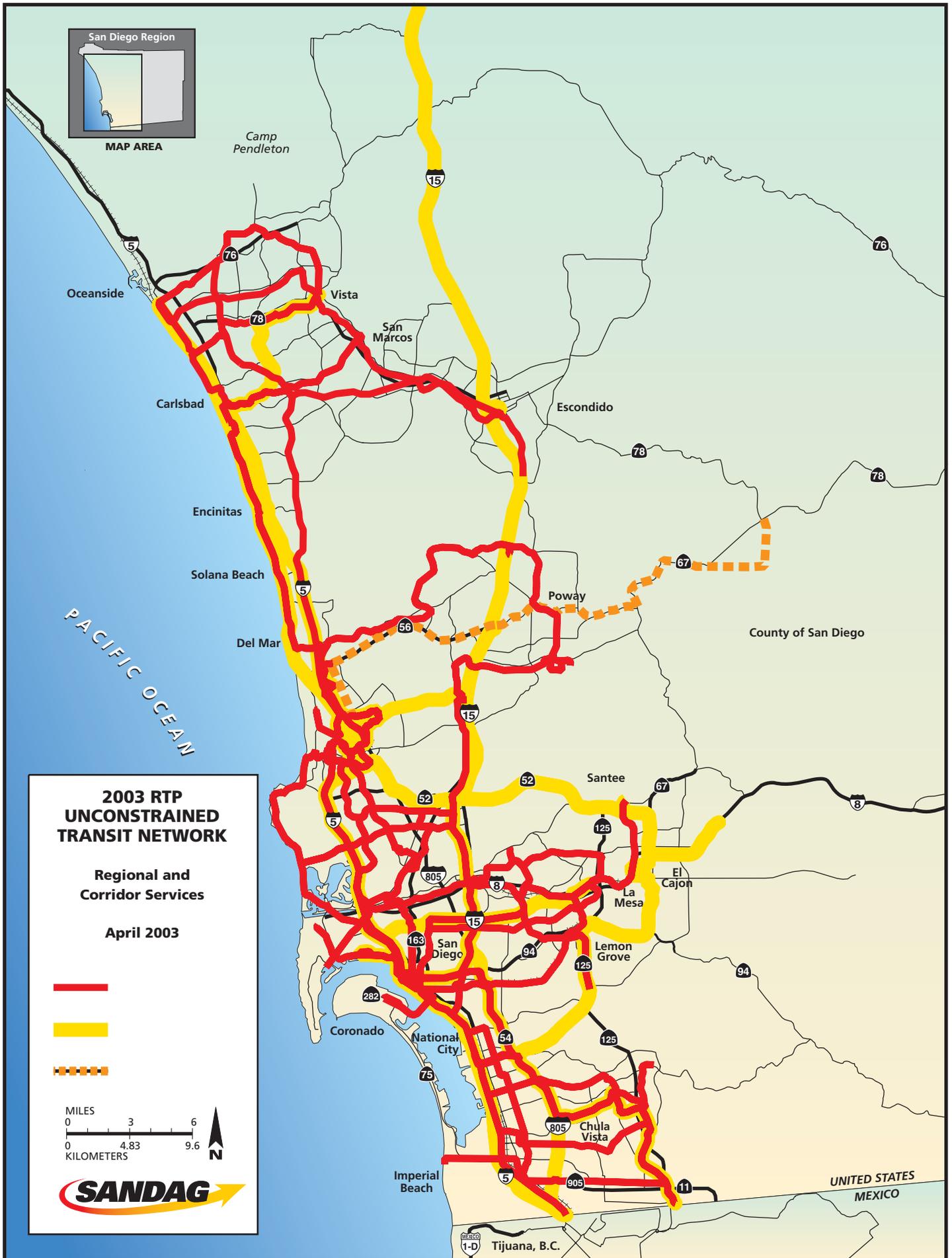
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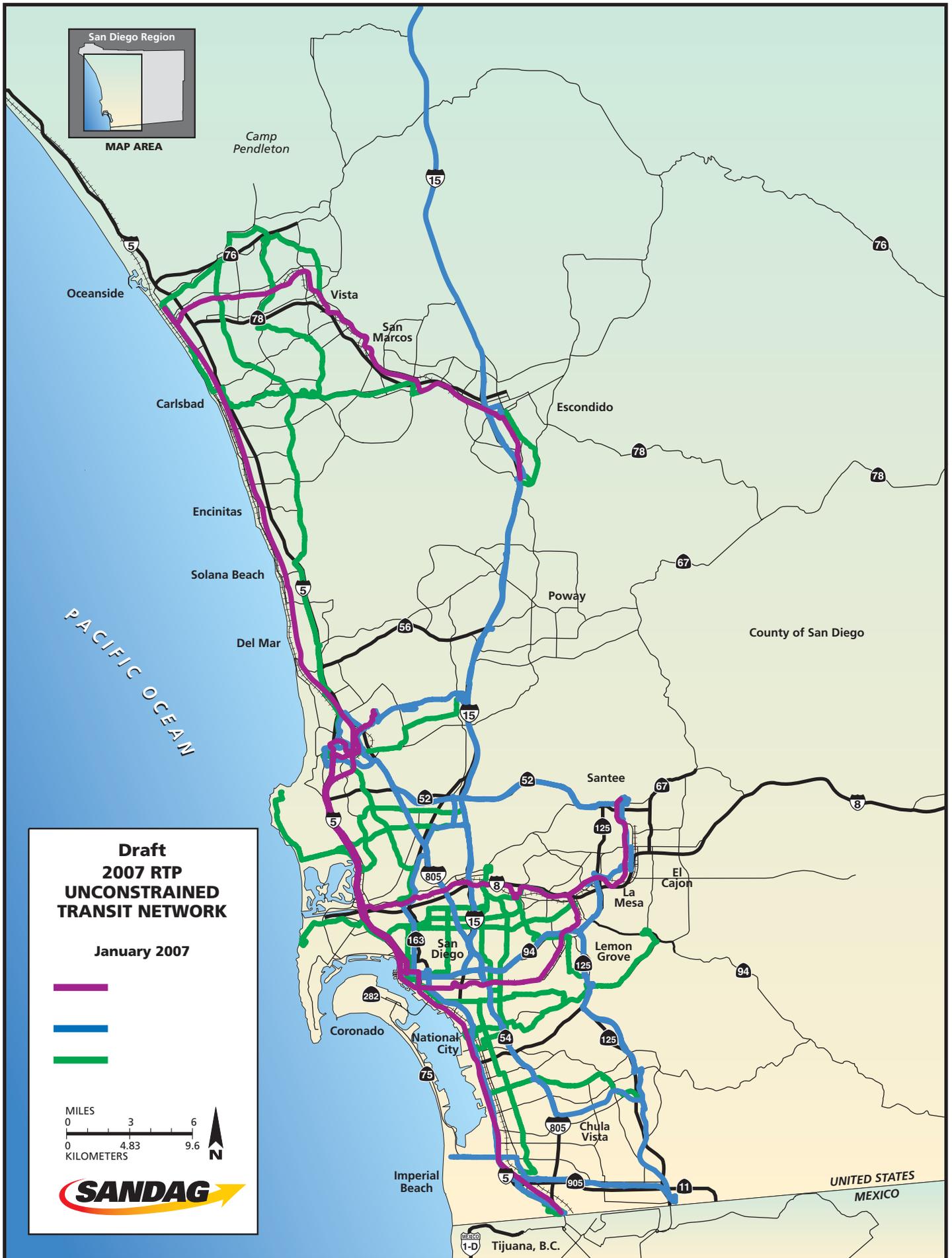
Department Director of Land Use and Transportation Planning

Attachments: 1. 2003 RTP Unconstrained Transit Network
2. Draft 2007 RTP Unconstrained Transit Network, January 2007
3. Draft 2007 RTP Unconstrained Highway Network, January 2007
4. Draft 2030 Unconstrained Network, Congested Corridors, January 2007

Key Staff Contact: Michael Hix (619) 699-1977, mhi@sandag.org

Funds are budgeted in Work Element #3000400



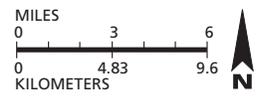




**Deletions from
2003 RTP Unconstrained
Highway Network**

**Draft
2007 RTP
UNCONSTRAINED
HIGHWAY NETWORK
January 2007**

- Additions to 2003 RTP Unconstrained Highway Network
- Managed/HOV Lanes
- General Purpose Lanes
- Freeway Connectors
- HOV Connectors
- Freeway & HOV Connectors
- C = Conventional Highway
- E = Expressway
- F = Freeway
- HOV = High Occupancy Vehicle
- MB = Movable Barrier
- ML = Managed Lanes
- T = Toll Road
- TU = Tunnel





Comprehensive 2007 Regional Transportation Plan Schedule

MAJOR TASKS	2005												2006												2007											
	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D						
Develop/Review White Papers	[Shaded]																																			
Public Outreach													[Shaded]												[Shaded]											
Update Land Use Forecasts	[Shaded]												[Shaded]																							
Transit Network Development													[Shaded]												[Shaded]											
Review Revenues and Costs													[Shaded]												[Shaded]											
Project Eval. Criteria/Perf. Measures													[Shaded]												[Shaded]											
Alternatives Analysis*																									[Shaded]											
Produce Draft RTP																									[Shaded]											
Produce Draft EIR																									[Shaded]											
Draft Final RTP																									[Shaded]											
Adopt Final RTP/EIR																									[Shaded]											

- ▲ Decision Point - Policy Committee or SANDAG Board
- Subregional Workshops

* The length of this task is dependent on the number of alternatives developed for the 2007 RTP

San Diego Association of Governments
INTERAGENCY TECHNICAL WORKING GROUP
ON TRIBAL TRANSPORTATION ISSUES

February 6, 2007

AGENDA ITEM NO.: **8**

Action Requested: INFORMATION

FEDERAL TRIBAL TRANSIT FUND PROGRAM

File Number 7000600

Introduction

In August of 2005 President Bush signed into law the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). This transportation reauthorization totaling \$244.1 billion contains some major innovations relevant to tribal governments. SAFETEA-LU introduced new requirements for a locally developed coordinated plan as well as a new tribal transit set aside. The tribal transit program provides grants directly to Indian tribes for public transportation services on Indian reservations. In the past, tribes received program funds as sub-recipients of States. SAFETEA-LU now defines tribes as eligible direct recipients under the Section 5311 program. SAFETEA-LU provides a set aside of \$8 - \$15 million dollars annually nationwide starting in FY 2006 for tribes, in addition to being eligible for general 5311 funds. Dan Levy, SANDAG Senior Transit Planner, will brief the Working Group on the new Coordinated Plan requirement and the tribal transit program guidelines and requirements. The grant deadline is mid-October of each year. There are three categories for funding, including planning.

Attachments

Attachment 1: Federal Register Vol. 71, No. 157

Key Staff Contact: Dan Levy, 619-699-6942; dle@sandag.org

and its grant program is available at www.bywaysonline.org.

Respondents: An estimated total of 60, to include 50 State Departments of Transportation, the District of Columbia and Puerto Rico, Federal Land Management Agencies, State and local governments, non-profit agencies and Tribal Governments. It is estimated that 400 applications will be received annually.

Frequency: Annual.

Estimated Average Burden per Response: 40 hours.

Estimated Total Annual Burden Hours: 16,000 hours.

Electronic Access: Internet users may access all comments received by the U.S. DOT Dockets, Room PL-401, by using the universal resource locator (URL): <http://dms.dot.gov>, 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: August 9, 2006.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. E6-13394 Filed 8-14-06; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA-2006-24143]

Public Transportation on Indian Reservations Program; Tribal Transit Program

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of funding availability; Solicitation of grant applications for FY 2006 tribal Transit Program Funds.

SUMMARY: This Notice accomplishes several purposes. First, the U.S. Department of Transportation, Federal Transit Administration (FTA) summarizes and responds to written comments FTA received in response to a March 22, 2006, **Federal Register** Notice regarding proposed grant program provisions for this new program and to oral comments FTA received during two announced public meetings on this program that were held on April 4, 2006, in Denver, Colorado, and on April 7, 2006, in Kansas City, Missouri. Second, this Notice announces the availability of funds in fiscal year (FY) 2006 for the Public Transportation on Indian Reservations

Program, a new program authorized by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. Finally, this Notice announces a national solicitation for applications, with grantees and projects to be selected on a competitive basis; the grant terms and conditions that will apply to this new program; and grant application procedures and selection criteria for FY 2006 projects.

ADDRESSES: This announcement is available on the FTA's Web site at: <http://www.fta.dot.gov>. FTA will announce final selections on the Web site and in the **Federal Register**. A synopsis of this announcement will be posted on the governmentwide electronic grants Web site at: <http://www.GRANTS.GOV>. Applications may be submitted in one of three ways: electronically through [GRANTS.GOV](http://www.GRANTS.GOV), in hard copy to Federal Transit Administration, 400 Seventh Street, SW., Room 9315, Washington, DC 20590, Attention: Lorna R. Wilson; or sending by e-mail to fta.tribalprogram@dot.gov.

DATES: Complete applications for Public Transportation on Indian Reservations Program grants must be submitted in hard copy to the FTA, via e-mail by October 16, 2006, or submitted electronically through the [GRANTS.GOV](http://www.GRANTS.GOV) Web site by October 16, 2006. Anyone intending to apply electronically should initiate the process of registering on the [GRANTS.GOV](http://www.GRANTS.GOV) site immediately to ensure completion of registration before the deadline for submission. FTA will announce grant selections in the **Federal Register** when the competitive selection process is complete.

Applicants should be aware that materials sent through the U.S. Postal Service are subject to significant delays in delivery due to the security screening process. Use of courier or express delivery services is recommended if unable to apply electronically.

FOR FURTHER INFORMATION CONTACT: Contact the appropriate FTA regional Tribal Liaison (Appendix A) for application-specific information and issues. For general program information, contact Lorna R. Wilson, Office of Transit Programs, (202) 366-2053, e-mail: Lorna.Wilson@dot.gov. A TDD is available at 1-800-877-8339 (TDD/FIRS).

SUPPLEMENTARY INFORMATION:

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I. Overview

Section 3013 of SAFETEA-LU amended 49 U.S.C. 5311(c) by establishing the Public Transportation on Indian Reservations Program (hereinafter referred to as the Tribal Transit Program). This new program authorizes direct grants "under such terms and conditions as may be established by the Secretary" to Indian tribes for any purpose eligible under FTA's Nonurbanized Area Formula Program, 49 U.S.C. 5311. The funding level authorized for this new program will increase from \$8 million in FY 2006 to \$15 million in FY 2009. The Conference Report to SAFETEA-LU indicated that the funds set aside for Indian tribes in the Tribal Transit Program are not meant to replace or reduce funds that Indian tribes receive from States through FTA's Nonurbanized Area Formula Program.

II. Background

FTA published a Notice in the **Federal Register** dated November 30, 2005 (70 FR 71950), "FTA Transit Program Changes, Authorized Funding Levels and Implementation of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users: Notice" which announced changes to current FTA programs and new programs, including the Tribal Transit Program. In the November 30, 2005, **Federal Register** Notice, FTA set forth and requested public comments on the proposed basis for formula apportionment for the Tribal Transit Program, eligible grant purposes, and proposed program requirements.

On March 22, 2006, FTA published a Notice in the **Federal Register** (71 FR 14618), "Public Transportation on Indian Reservations Program (49 U.S.C. 5311(c)(1): Notice of Public Meetings, Proposed Grant Program Provisions; Notice." FTA responded to comments that were received from the public in response to the November 30, 2005 **Federal Register** Notice, and requested additional comment on the following issues: the proposed basis for allocating funds; grantee eligibility; eligible purposes for grant funds; proposed terms and conditions for the grant program, and local share options. The Notice also announced two one-day outreach meetings on the Tribal Transit Program. The comment period on the March 22, 2006, **Federal Register** Notice ended on April 21, 2006, but comments submitted after that date were considered.

III. Comments and Responses

FTA received 28 written comments in response to the March 22, 2006, **Federal Register** Notice and additional oral comments were received from the Indian tribes and other organizations at the two public outreach meetings that were held in April 2006. A summary of the oral comments were placed in the docket for this Notice. All of the written and oral comments received by FTA during the comment period can be divided into the following categories: (a) The process and the criteria that should be established by FTA to allocate funding under the Tribal Transit Program; (b) the terms and conditions that should be applied to grants awarded under the Tribal Transit Program, which includes the proposed options for local match; and (c) other issues that were not specifically proposed or addressed in the March 22, 2006 **Federal Register** Notice. The comments received from the Indian tribes and others were generally very

favorable to the establishment and implementation of this new program and proposed program requirements. However, the Indian tribes and others strongly disagreed with some of FTA's proposals in the March 22, 2006, **Federal Register** Notice. The Indian tribes also offered recommendations and changes to FTA's proposals based on their unique perspective and experience in providing public transportation on Indian reservations.

A. Process and Criteria

The March 22, 2006, **Federal Register** Notice proposed a single annual competitive selection process to fund both new and existing tribal transit systems and suggested not establishing minimum or maximum awards. In addition, the Notice proposed the following five criteria that would be evaluated and rated by FTA in making an award selection: Demonstration of need; benefits of the project; adequacy of project planning; financial commitment; and coordination. The Indian tribes were mostly in agreement on FTA's proposal to make single annual competitive selections for awards under the Tribal Transit Program. However, there were divergent comments received concerning the criteria proposed by FTA for project funding under this new program. We will address the comments that were submitted by the Indian tribes and others in the following section of this document.

Comment: There were multiple comments concerning FTA's proposal for allocating funds in this new program. Several comments from small Indian tribes observed that FTA's criteria appeared to be biased in favor of existing tribal transit systems. Comments from larger Indian tribes stated that the criteria should be based on established transit systems or for tribes that have identified their transit needs in the Tribal Transportation Improvement Program. Other comments suggested an additional criterion that would consider the reasonableness of the amount requested or that projects should be funded for multiple years to ensure successful implementation of transit projects.

Response: FTA will ensure that there will be an equitable distribution of funds in this new program for eligible transit projects that are planned, constructed, or operated by the Indian tribes. FTA has decided to include the following four criteria: project planning and coordination; demonstration of need; benefits of project; and financial commitment and operating capacity.

In addition, to further ensure an equitable distribution of funds in this new program, FTA will separately evaluate proposals under the following three categories: (1) Start-up operations; (2) enhancements or expansions of existing transit services; and (3) transit planning and/or operational planning grants. The application process will also allow a tribal government to apply for multiple years of funding, subject to the availability of appropriations.

B. Terms and Conditions

Comment: There was a clear consensus that strongly disagreed with FTA's interpretation of section 5311(c) prohibiting the use of funds in the Tribal Transit Program for planning purposes. Commenters argued that the statute permits funds in the Tribal Transit Program to be used for any purpose eligible under section 5311. The commenters stated that other subsections of section 5311 permit the use of section 5311 funds for planning. Therefore, planning should be an eligible purpose under section 5311(c).

Response: FTA's interpretation that planning was not an eligible use of Tribal Transit Program funds was based on the program's history. As originally enacted, Nonurbanized Area Formula Program funds could be used only for capital and operating purposes. Although planning was permitted under certain situations set forth in subsections (e) and (f) of section 5311, FTA viewed the limited eligibility of planning in these subsections as an exception to the general rule that planning was not an eligible purpose. It followed that "any purpose eligible under [section 5311]" meant that section 5311(c)(1) funds could only be used for capital and operating purposes.

Based on the comments submitted to the docket from the Indian tribes and other organizations, and comments heard at the two public outreach meetings held in April 2006 concerning the issue that planning should be eligible under this new program, FTA reviewed section 5311(c), as amended by SAFETEA-LU, to determine whether a more expansive interpretation of the statute might be justified. Under a general rule of statutory construction that gives weight to the plain meaning of a statute, we construe the word "any" in section 5311(c)(1) to be synonymous with "all" eligible purposes under section 5311. This rule of statutory construction is consistent with U.S. Supreme Court decisions which have long held that there is no more persuasive evidence of the purpose of a statute than the words by which the legislature undertook to give expression

to its wishes. *U.S. v. American Trucking Ass'ns.*, 310 U.S. 534, 543 (1940). By applying this rule of statutory construction, FTA has determined that a broader interpretation of this statute will more effectively carry out the purpose of this new program. FTA therefore interprets Section 5311(c) to allow funds apportioned to Indian tribes to be used for "any" purpose identified under section 5311, which includes planning activities.

FTA notes, however, that because section 5311(c)(1) also states that the Tribal Transit Program funds are to be apportioned under such terms and conditions established by FTA, FTA has the discretion to limit the amount of funds available for each eligible purpose under this program. Accordingly, FTA will limit the amount of funds that are available for planning in the Tribal Transit Program to 15 percent of the grant award. In addition, for grants that are exclusively for planning purposes, FTA will limit the amount of funds to \$25,000 per applicant.

Comment: Many of the Indian tribes, and several State Departments of Transportation, commented on FTA's proposal for planning requirements. They disagreed with FTA's proposal that Tribal Transportation Improvement Plans (TTIP) or Long Range Transportation Plans be attached or included in the Statewide Transportation Improvement Program (STIP). The State DOT's specifically contended that a TTIP which did not meet various legal requirements (e.g., public participation, fiscally constrained plans) could potentially disqualify the State's STIP process. Therefore, they suggested that this proposed planning requirement be omitted entirely or, alternatively, that the TTIP be attached to a STIP for informational purposes only and that the TTIP not be considered a formal part of the STIP.

Response: FTA agrees with this concern. FTA recognizes that Indian tribes are not subject to Federal planning requirements. To require the attachment of tribal transportation plans to a STIP could not only cause unnecessary delay to the grant making process but also potentially invalidate the State's STIP. Accordingly, FTA will not require Indian tribes to attach tribal transportation plans to a STIP. However, because it would assist both the Indian tribes and State Departments of Transportation to coordinate and assess their planned transportation projects, FTA encourages Indian tribes, for informational purposes only, to submit a copy of their tribal transportation

plans to State Departments of Transportation.

Comment: Many comments were received from the Indian tribes on FTA's two proposed options for local share. Most of the comments opposed both options and recommended that FTA eliminate the local share requirement. Others generally favored a 20 percent local match for both capital and operating expenses.

Response: FTA's first option proposed a Federal share of 80 percent and a local share of 20 percent for both capital and operating assistance projects. The second option proposed the highest Federal share allowed under the Title 23 Section sliding scale for States with large public lands. The second option would thus allow a Federal share of 95 percent for capital projects and a federal share of 60 percent for operating assistance projects. Under both of the two proposed options, FTA believes that a Tribal financial contribution was important to register commitment to projects. However, FTA recognizes that many Indian tribes have limited financial resources. In fact, because tribes often lack financial resources, other Federal assistance programs, such as the Federal Highway Administration Indian Reservations Road program, require no Tribal contribution. Since these concerns outweigh FTA's interest in a financial expression of a tribal commitment to the program, FTA will not require a non-Federal matching share for Tribal Transit Program grants. FTA believes that the intent of this new program will be more quickly achieved without a tribal share matching requirement.

Comment: Two commenters disagreed with FTA's proposal not to apply the labor protective provisions in 49 U.S.C. section 5333(b) to grants under this new program. It was argued that the Tribal Transit Program is a program under section 5311 (which is subject to statutory labor protections) and there is no indication that Congress specifically intended for section 5333(b) labor protections to not apply to this new program.

Response: FTA stated in the March 22, 2006 **Federal Register** Notice that direct grants from FTA to Indian tribes do not involve State-subrecipient relationships. Therefore, the administrative procedures the U.S. Department of Labor (DOL) uses to apply the section 5311 special warranty do not apply.

Accordingly, FTA proposed not to apply the labor protective provisions of 49 U.S.C. 5333(b) to this new program. However, FTA is aware that DOL is currently initiating a Notice of Proposed

Rulemaking to revise its labor protective arrangements for all FTA grants (including the special warranty that is applied in the section 5311 program). Also, although Congress chose not to apply section 5333(b) to several other new programs enacted in SAFETEA-LU, Congress amended section 5311(i) to apply section 5333(b) "if the Secretary of Labor utilizes a special warranty that provides a fair and equitable arrangement to protect the interests of employees." Congress did not exempt the Tribal Transit Program from this requirement. FTA therefore intends to apply the special warranty to the Tribal Transit Program in the future. However, FTA will postpone the application of the special warranty arrangement to the Tribal Transit Program until DOL adopts procedures for the new program.

Comment: Several comments questioned the applicability of Federal Disadvantaged Business Enterprise (DBE) regulations, 49 CFR part 26, to Indian tribes.

Response: The U.S. Department of Transportation's DBE regulation requires a grant recipient to implement a DBE program and to establish annual DBE goals for all contracting opportunities, except for vehicle procurements, where Federal financial assistance exceeds \$250,000. However, due to the relatively small size of the grants that will be awarded under this new program and to streamline program requirements for this new program to the benefit of Indian tribes, FTA has determined that the FTA DBE regulation, 49 CFR part 26, will not apply to the Tribal Transit Program.

Comment: A few comments were received from Indian tribes regarding FTA's interpretation and application of the Civil Rights Act of 1964 to tribal employment rights ordinances (TEROs), which provide for Indian preference in employment and contracting.

Response: FTA will not require Indian tribes under this new program to comply with FTA's program-specific guidance for Title VI and Title VII of the Civil Rights Act of 1964. Title VI of the Civil Rights Act prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving Federal financial assistance. Title VII of the Civil Rights Act prohibits discrimination in employment in any business on the basis of race, color, religion, sex, or national origin. Indian tribes are specifically excluded from the definition of an "employer" under the Act. Thus, to the extent that TEROs are consistent with federal statutes that authorize a general preference for Indians in employment or contracting

for Federally funded work on or around Indian reservations, FTA will of course comply with applicable law. However, although Indian tribes will not be subject to FTA's program-specific requirements under Title VI and Title VII of the Civil Rights Act, Indian tribes under the Tribal Transit Program will nonetheless still be subject to the provisions of Title VI and Title VII of the Civil Rights Act, unless they are specifically exempt from the Act.

C. Other

Comment: A number of the Indian tribes commented on the obligation of FTA to properly consult with the Indian tribes on a government-to-government basis for this new program in accordance with Presidential executive orders and U.S. Department of Transportation procedures.

Response: FTA recognizes that the Federal government has a unique legal relationship with Indian Indian tribes. When FTA implements a program that might have substantial direct effects on the Indian tribes or on the sovereignty of the Indian tribes, FTA must consult and coordinate using established principles. These principles are set forth in Presidential Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments," November 6, 2000, and U.S. Department of Transportation Order 5301.1, "Department of Transportation Programs, Policies, and Procedures affecting American Indians, Alaska Natives and tribes for programs affecting Indian tribal governments."

During the development of policies and procedures for the Tribal Transit Program, FTA consulted and coordinated with the Indian tribes consistent with these Executive Orders. Specifically, FTA announced and invited comments from the Indian tribes concerning the Tribal Transit Program in two separate **Federal Register** Notices. The first **Federal Register** Notice, (70 FR 71950), "FTA Transit Program Changes, Authorized Funding Levels and Implementation of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users: Notice," was published on November 30, 2005. This first Notice invited comment from the Indian tribes and others on the proposed basis for formula apportionment for the Tribal Transit Program, eligible grant purposes, and proposed program requirements. A second **Federal Register** Notice, published on March 22, 2006, responded to comments received from the Indian tribes on the November 30, 2005 Notice. The second Notice further solicited comments from the Indian tribes and others on FTA's proposed

basis and criteria to allocate funding under this new program, proposed eligible activities, and proposed grant requirements. The second Notice also announced two one-day public outreach meetings on the Tribal Transit Program. In the two public meetings held in Denver, Colorado, and Kansas City, Missouri, FTA presented its proposals as set forth in the March 22, 2006 Notice and received further comments from the Indian tribes in attendance. In addition, prior to the March 22, 2006, Notice, FTA conducted several national teleconferences with the Indian tribes to obtain their input and views on issues concerning the development and implementation of the Tribal Transit Program.

Comment: Although FTA did not solicit comments, or propose guidance, on the following issue, several Indian tribes suggested that FTA should administer grants under this program in a manner that is either the same or similar to contracts and agreements under the Indian Self-Determination and Education Assistance Act (ISDEAA).

Response: FTA recognizes Indian tribes as sovereign governments that can independently administer certain Federal government programs as authorized by the ISDEAA. Although the statutory authority to enter into contracts with Indian tribes under ISDEAA does not include the FTA, FTA is nonetheless implementing this new program in a manner consistent with the principles of self-determination that are embodied in ISDEAA. To do so, FTA is streamlining and omitting many of the U.S. Department of Transportation and FTA regulatory requirements that apply to other FTA programs as authorized in SAFETEA-LU. FTA will make grants directly to Indian Indian tribes. The Tribal Transit grants will not be administered by the Bureau of Indian Affairs or any other Federal agency.

Comment: A few commenters indicated that Indian tribes should not be required to comply with the intercity bus service provisions in section 5311(f).

Response: FTA agrees with these comments. We do not intend to require tribes to spend 15 percent of funds received under the Tribal Transit Program for intercity bus service. This section 5311(f) requirement only applies to section 5311 funds that are apportioned to the States, and not to section 5311 funds disbursed directly to tribes under the Tribal Transit Program. Therefore, Indian tribes that are recipients of funds under the Tribal Transit Program are not required to expend any part of those funds for

intercity bus service. However, Indian tribes may use Tribal Transit program funds for purposes eligible under section 5311(f).

Comment: One commenter inquired whether a regional transit district, which is a political body within a State, would be able to apply for grants under the Tribal Transit Program on behalf of several Indian tribes.

Response: As defined in section 5311(a), as amended by SAFETEA-LU, a recipient means a "State or Indian tribe that receives a Federal transit program grant directly from the Federal Government." Indian tribes, in accordance with this definition, are thus eligible direct recipients of funds under this new program. Under this statutory definition, however, a local government, such as a regional transit district, would not be eligible to be a direct recipient and therefore a regional transit district or any other local government could not directly apply for grants on behalf of Indian tribes under the Tribal Transit Program. Although local governments will not be eligible direct recipients under this new program, Indian tribes may enter into intergovernmental agreements with local governments for the purpose of assisting Indian tribes in grant-related administrative requirements, such as grant preparation, grant reporting, etc.

Comment: Some commenters strongly encouraged FTA to provide funding for technical and planning assistance to tribal transit programs through the seven (7) Tribal Technical Assistance Programs (TTAP) because SAFETEA-LU authorized an increased funding level for FTA's Rural Technical Assistance Program.

Response: FTA's Rural Transit Assistance Program (RTAP) provides funding to assist in training and technical assistance projects and other support services for transit operators in nonurbanized areas. The RTAP program provides an annual allocation to each State in conjunction with the State's administration of the section 5311 formula assistance program. Because TTAPs are experienced in technical assistance to the tribes, FTA will encourage States to work with TTAP centers to provide technical assistance to tribes. FTA is currently creating a partnership between the TTAPs and the National RTAP.

Comment: Commenters requested FTA to either exclude or limit the eligibility of indirect costs for funds received under the Tribal Transit Program. They maintained that high indirect cost rates of many tribes would dampen the program's benefits.

Response: FTA agrees with this comment. FTA has determined that the eligible indirect costs will be limited to 10 percent of each Tribal Transit grant award.

Comment: One commenter inquired whether an Indian tribe that is within an urbanized area would be eligible to receive funds under the Tribal Transit Program.

Response: The Tribal Transit Program is a program established under the section 5311 program. The purpose of the section 5311 program is to carry out transit projects in rural areas. The general authority for the section 5311 program is set forth in subsection (b) which provides that FTA may award grants to recipients located in areas other than urbanized areas (*i.e.*, areas with a population less than 50,000). Therefore, because the set aside of section 5311 funds for the Tribal Transit Program is authorized by statute only for areas other than urbanized areas (*i.e.*, rural areas), an Indian tribe that is located within an urbanized area would not be eligible to receive funds under the Tribal Transit Program.

IV. Funding Opportunity Description

A. Authorized Funding for FY 2006

The Tribal Transit Program was established by section 3013 of SAFETEA-LU. This section authorized \$45 million from the Nonurbanized Area Formula Grants Program (49 U.S.C. 5311) for FY 2006–FY 2009 to be apportioned for grants directly to Indian tribes. The actual amount each year is subject to the availability of appropriations. Under the Tribal Transit Program, Indian tribes are eligible direct recipients. The funds are to be apportioned for grants to Indian tribes for any purpose eligible under the Nonurbanized Area Formula Program (section 5311). In FY 2006, \$7.92 million is available for allocation to projects selected through the process announced in this Notice.

B. Background

Prior to SAFETEA-LU, the section 5311 program did not include a separate public transit program for tribes. Instead, tribes were eligible under the section 5311 program as subrecipients. SAFETEA-LU has now authorized a Tribal Transit Program and has authorized eligible tribes to be direct recipients of section 5311 Program funds. As expressed in the Conference Report for SAFETEA-LU, it is the intent of Congress that funds for the Tribal Transit Program not replace or reduce funds tribes receive from States under the section 5311 program.

V. Award Information

The number and amount of awards will be determined by a competitive process. However, funding is available for start up services, enhancements or expansion of existing transit services, and for planning studies and operational planning. Approximately 25% of the funding is set aside for start up grants. Planning grants will be limited to \$25,000 per applicant. Multiple year projects will be considered for funding, subject to the availability of annual appropriations.

VI. Eligibility Information

A. Eligible Applicants

Eligible direct recipients include federally-recognized Indian tribes or Alaska Native villages, groups, or communities as identified by the Bureau of Indian Affairs (BIA) in the U.S. Department of the Interior. To be eligible recipients, tribes must have the requisite legal, financial and technical capabilities to receive and administer Federal funds under this program.

B. Eligible Projects

Tribal Transit Program funds may be used for any purpose authorized under section 5311. This means that grants can be awarded to recipients located in rural and small urban areas with populations under 50,000 not identified as an urbanized area by the Bureau of the Census for public transportation capital projects, operating costs of equipment and facilities for use in public transportation, planning, and the acquisition of public transportation services, including service agreements with private providers of public transportation services. Service funded under this program must be designed to be accessible to members of the general public who have disabilities. Coordinated human service transportation that primarily serves elderly persons and persons with disabilities, but which is not restricted from carrying other members of the public, is considered available to the general public if it is marketed as public transportation.

VII. Cost Sharing or Matching

No cost sharing is required for this program; the Federal grant may fund up to 100 percent of eligible project costs. However, FTA encourages tribes to leverage the program funds and demonstrate commitment to the project through in-kind contributions and use of other funding sources that are available to support public transportation service.

VIII. Terms and Conditions

Section 3013 of SAFETEA-LU amended 49 U.S.C. 5311(c) by authorizing funds for the Tribal Transit Program “under such terms and conditions as may be established by the Secretary.” Pursuant to this discretionary statutory authority in SAFETEA-LU, FTA published a Notice dated March 22, 2006, in the **Federal Register** (71 FR 14618), “Public Transportation on Indian Reservations Program (49 U.S.C. 5311(c)(1): Notice of Public Meetings, Proposed Grant Program Provisions,” and proposed certain statutory and regulatory terms and conditions that should apply to grants awarded under this new program. The statutory and regulatory terms and conditions that were proposed by FTA for the Tribal Transit Program pertained only to U.S. Department of Transportation and FTA requirements. As we indicated in the March 22, 2006, **Federal Register** Notice, FTA does not possess the authority to waive cross-cutting or government-wide statutory and regulatory requirements (*e.g.*, National Environmental Policy Act). However, to the extent permitted by law and in recognition of the unique status and autonomy of Indian Indian tribes, FTA has made every effort in establishing the terms and conditions to balance the objective of this new program, which will directly benefit transit projects for Indian tribes, with other national objectives (*e.g.*, safety) that are important not only to Indian tribes but also to the general public.

FTA received a substantial number of comments from Indian tribes and other groups concerning certain proposed terms and conditions for the Tribal Transit Program and FTA’s responses to these comments were specifically addressed earlier in this Notice. However, except for a few proposed terms and conditions, such as FTA’s proposal that Tribal transportation plans be attached or included on a STIP, the comments for the most part reflected a consensus that was in agreement with FTA’s proposed terms and conditions for this new program. Therefore, after careful review and consideration of the comments received from Indian tribes and others, FTA has established appropriate grant requirements for the Tribal Transit Program. These specific terms and conditions are set forth in a new FTA Master Agreement for the Tribal Transit Program. This Master Agreement is available on FTA’s Web site at http://www.fta.dot.gov/17861_18441_ENG_HTML.htm.

The following terms and conditions, which were initially proposed in the

March 22, 2006, **Federal Register** Notice, apply to the Tribal Transit Program:

1. Common Grant Rule (49 CFR Part 18), "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." This is a government-wide regulation that applies to all Federal assistance programs.

2. Civil Rights Act of 1964. Unless Indian tribes are specifically exempted from civil rights statutes, compliance with civil rights statutes will be required, including compliance with equity in service. However, Indian tribes will not be required to comply with FTA program-specific guidance for Title VI and Title VII.

3. Section 504 and ADA requirements in 49 CFR parts 27, 37, and 38. These are government-wide requirements that apply to all Federal programs.

4. Drug and Alcohol Testing requirements (49 CFR part 655). FTA will apply this requirement because it addresses a national safety issue for operators of public transportation.

5. National Environmental Policy Act. This is a government-wide requirement that applies to all Federal programs.

6. Charter Service and School Bus transportation requirements in 49 CFR parts 604 and 605. The definition of "public transportation" in 49 U.S.C. 5302 specifically excludes school bus and charter service.

7. National Transit Database (NTD) Reporting requirement. 49 U.S.C. 5335 requires NTD reporting for all direct recipients of section 5311 funds. The Tribal Transit Program is a section 5311 program that will provide funds directly to Indian tribes and this reporting requirement will therefore apply.

8. Bus Testing (49 CFR 665) requirement. To ensure that vehicles acquired under this program will meet adequate safety and operational standards, this requirement will apply.

A comprehensive list and description for all of the statutory and regulatory terms and conditions that will apply to the Tribal Transit Program are set forth in FTA's Master Agreement for the Tribal Transit Program available on FTA's Web site at: http://www.fta.dot.gov/17861_18441_ENG_HTML.htm. In addition, as part of their application for grant award, tribes that are selected for award will be required to sign the Certifications and Assurances for the fiscal year in which they apply for a grant. The Certifications and Assurances are set forth for informational purposes in Appendix B of this Notice. Notably, FTA has required each applicant to submit certifications and assurances for

each fiscal year in which the applicant seeks funding and an award is made. But because less than two months remain before the end of fiscal year 2006, FTA will treat certifications and assurances submitted by an Indian tribe in either fiscal year 2006 or 2007 as having fulfilled Federal certification and assurance requirements for Tribal Transit Program applications submitted and awards made in both fiscal years 2006 and 2007.

IX. Application and Submission Information

This announcement includes all of the information that a tribal government will need to apply for competitive selection. It is available on the FTA Web site at <http://www.fta.dot.gov>. FTA will announce final selections on the Web site and in the **Federal Register**. A synopsis of this announcement will be posted on the government-wide electronic grants Web site at <http://www.GRANTS.GOV>.

X. Guidelines for Preparing Grant Application

FTA is conducting a national solicitation for applications under the Tribal Transit Program. Project selection will be made on a competitive basis. FTA will divide the applications into three categories for the purpose of reviewing and selecting projects to be funded:

- A. Start ups—applications for funding of new transit service;
- B. Existing transit services—applications for funding of enhancements or expansion of existing transit services; and
- C. Planning—applications for funding of planning studies and operational planning

The application should provide information on all items for which Indian tribes are requesting funding in FY 2006, and indicate the specific category in which the tribe is applying.

XI. Application Content

A. Applicant Information

1. Name of federally-recognized tribe and, if appropriate, the specific tribal agency submitting the application.

2. Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number if available. (Note: if selected, applicant will be required to provide DUNS number prior to grant award and DUNS number is required for submitting through *GRANTS.GOV*).

3. Contact information for notification of project selection: Contact name, address, and fax and phone number.

4. Description of public transportation services currently provided by tribe, if any, including areas served.

5. Name of person (s) authorized to apply on behalf of tribe (signed transmittal letter should accompany application if submitted in hard copy or e-mail).

B. Technical, Legal, and Financial Capacity To Implement the Proposed Project

Indian tribes that cannot demonstrate adequate capacity in technical, legal and financial areas will not be considered for funding. Every application must describe the tribe's technical, legal, and financial capacity to implement the proposed project (see attached Appendix B, Section B).

1. *Legal Capacity*: Provide documentation or other evidence to show that the applicant is a Federally Recognized tribe. Also, who is the authorized representative to execute legal agreements with FTA on behalf of the Indian tribes? If currently operating transit service, does the Indian tribes have appropriate Federal or State operating authority?

2. *Technical Capacity*: Give examples of the tribe's management of other Federal projects. What resources does the tribal government have to implement a transit project?

3. *Financial Capacity*: Does the Indian tribes have adequate financial systems in place to receive and manage a Federal grant? Describe the tribal government's financial systems and controls.

C. Project Information

1. *Budget*: Provide the Federal amount requested for each purpose for which funds are sought and any funding from other sources that will be provided. If applying for a multi year project (not to exceed 4 years), show annual request for each year by budget line item.

2. *Project Description*: Indicate the category for which funding is requested *i.e.*, start-ups, enhancements or replacements of existing transit services or planning studies or operational planning grants to address project development *i.e.* development of vehicle and equipment specifications and provide a summary description of the proposed project and how it will be implemented (*e.g.* number and type of vehicles, service area, schedules, type of services, fixed route or demand responsive, route miles (if fixed route) and size of service area, major origins and destinations, population served, and whether the tribe provide the service directly or contract for services? How will vehicles be maintained?

3. *Project Timeline*: Include significant milestones such as date of contract for purchase of vehicle(s), actual or expected delivery date of vehicles, and service start up dates.

D. Application Evaluation Criteria

Applications for funding of transit services should address the application criteria based on project to be funded (for more detail see section XII)

1. *Criterion 1*: Project Planning and Coordination.
2. *Criterion 2*: Demonstration of Need.
3. *Criterion 3*: Benefits of Project.
4. *Criterion 4*: Financial Commitment and Operating Capacity.

Applications for planning grants should address the criteria in section XII, C of this Notice.

E. Submission Dates and Times

Complete applications for Tribal Transit Program must be submitted in one of the three ways: electronically through *GRANTS.GOV*, in hard copy to Federal Transit Administration, 400 Seventh Street, SW., Room 9311, Washington, DC 20590, Attention: Lorna R. Wilson; or sending by e-mail to *fta.tribalprogram@dot.gov*, by October 16, 2006 or submitted electronically through the *GRANTS.GOV* Web site by the same date. FTA will announce grant selections when the competitive selection process is complete.

F. Intergovernmental Review

This program is not subject to Executive Order (EO) 12372, "Intergovernmental Review of Federal Programs."

G. Funding Restrictions

Only applications from eligible recipients for eligible activities will be considered for funding (see section VI). Due to funding limitations, applicants that are selected for funding may receive less than the amount requested. The application process will allow a tribal government to apply for multiple years of funding not to exceed four years, subject to the availability of annual appropriations. Up to \$2 million will be made available for start up or new systems, no more than \$25,000 will be awarded per planning grant. The remaining funds will be made available for applications for funding of enhancements or expansion of existing transit service.

H. Other Submission Requirements

Applicants submitting hard copies should submit 3 copies of their project proposal application to the Federal Transit Administration, 400 Seventh Street, SW., Room 9311, Washington,

DC 20059, Attention Lorna Wilson, or apply electronically through the government wide electronic grant application portal at *www.GRANTS.GOV*. Alternatively applications may be submitted as an attachment to mailbox: *fta.tribalprogram@dot.gov*. If applying by e-mail, fax signature documents to 202-366-7951, Attention: Lorna Wilson.

XII. Application Review Process

A. Competitive Selection Process

FTA will divide applications into three categories. The three evaluation categories are as follows:

- Start-ups—applications for funding of new transit service.
- Existing transit services—applications for funding of enhancements or expansion of existing transit services.
- Planning—applications for funding of transit planning studies and/or operational planning.

Applications will be grouped into their respective category for review and scoring purposes. Applications for planning will be evaluated using a pass/fail system, whereas start-up and existing transit services applications will be scored based on the evaluation criteria to determine rank for funding award determination purposes. An applicant can receive up to 25 points for each evaluation criteria.

FTA intends to award the full amount of funding available in FY 2006 for the Tribal Transit Program. FTA encourages applicants to review the evaluation criteria and all other related application information prior to preparation of application. Applicants may receive technical assistance for application development by contacting their FTA regional Tribal liaison, TTAP center, or the National RTAP office. Contact information for technical assistance can be found in Appendix C.

B. Evaluation Criteria for Start-up and Existing Transit Service Proposals

The use of quantitative data and estimates, whenever possible, improves the proposal's clarity in comparison to all the evaluation criteria.

1. Criterion 1: Project Planning and Coordination (25 points)

In this section, the applicant should describe how the proposed project was developed and demonstrate that there is a sound basis for the project and that it is ready to implement if funded. Information may vary depending on whether the tribe has a formal plan that includes transit.

- a. Applicants without a formal plan that includes transit are advised to

consider and address the following areas:

- i. Provide a detailed project description including the proposed service, vehicle and facility needs and other pertinent characteristics of the proposed service implementation.
- ii. Identify existing transportation services available to the tribe and discuss whether the proposed project will provide opportunities to coordinate service with existing transit services including human service agencies, intercity bus services, or other public transit providers.
- iii. Discuss the level of support either by the community and/or tribal government for the proposed project.
- iv. Describe the implementation schedule for the proposed project including time frame, staffing, procurement, etc.

b. Applicants with a formal transit plan are advised to consider and address the following areas:

- i. Describe the planning document and/or the planning process conducted to identify the proposed project.
- ii. Describe how the mobility and client access needs of tribal human service agencies were considered in the planning.
- iii. Describe what opportunities for public participation were provided in the planning process and how the proposed transit service or existing service has been coordinated with transportation provided for the clients of human service agencies, with intercity bus transportation in the area, or with any other rural public transit providers.
- iv. Describe how the proposed service complements rather than duplicates any currently available services.
- v. Describe the implementation schedule for the proposed project, including time frame, staffing, procurements, etc.
- vi. Describe any other planning or coordination efforts that were not mentioned above.

Based on the information provided as discussed in the above section, proposals will be rated on the following:

- i. How sound is the basis for the proposed project?
- ii. Is the project ready to implement?

2. Criterion 2: Demonstration of Need (25 points)

In this section, the application should demonstrate the transit needs of the tribe and discuss how the proposed transit improvements will address the identified transit needs of the tribe. Applications may include information such as destinations and services not currently accessible by transit, need for

access to jobs or health care, special needs of the elderly and individuals with disabilities, income-based community needs, or other mobility needs.

Based on the information provided the proposals will be rated on the following:

- a. What is the demonstrated need for the project?
- b. How well does the project reduce the need?

3. Criterion 3: Benefits of Project (25 points)

In this section applications should identify expected project benefits. Possible examples include increased ridership and daily trips, improved service, improved operations and coordination, and economic benefits to the community.

Benefits can be demonstrated by identifying the population of tribal members and non-tribal members in the proposed project service area and estimating the number of daily, one-way trips the transit service will provide and the number of individual riders. There may be many other, less quantifiable, benefits to the tribe and surrounding community from this project. Please document, explain or show the benefits in whatever format is reasonable to present them.

Proposals will be rated on the basis of:

- a. Improved transit efficiency or increased ridership;
- b. Improved mobility for the tribe;
- c. Improved access to important destinations
- d. Expected average cost per trip on the proposed service.
- e. Other qualitative benefits.

4. Criterion 4: Financial Commitment and Operating Capacity (25 points)

In this section, the application should identify any other funding sources used by the tribe to support existing or proposed transit services, including human service transportation funding, Indian Reservation Roads, or other FTA programs such as Job Access and Reverse Commute (JARC), New Freedom, section 5311, section 5310, or section 5309 bus and bus facilities funding.

For existing services, the application should show how Tribal Transit Program funding will supplement (not duplicate or replace) current funding sources. If the transit system was previously funded under section 5311 through the State's apportionment, describe how requested Tribal Transit Program funding will expand available services.

Describe any other resources the tribe will contribute to the project, including in-kind contributions, commitments of support from local businesses, donations of land or equipment, and human resources. To what extent does the new project or funding for existing service leverage other funding?

The tribe should show its ability to manage programs by demonstrating the existing programs it administers, in any area of expertise such as human services.

Points will be awarded based on the degree to which:

- a. The project deploys new services or complements existing services.
- b. Tribal Transit Program funding does not replace existing funding.
- c. Tribe has or will provide non-financial support to project.
- d. Tribe has demonstrated the ability to provide other services or manage other programs.
- e. Project funds are used in coordination with other services for efficient utilization of funds.

C. Evaluation Criteria for Planning Grants Proposals

Criterion: Need for Study

For planning grants the applications should describe in no more than three pages the need for and a general scope of the proposed study.

Based on the information provided, proposals will be rated pass/fail based on the following:

- a. Is the tribe committed to planning for transit?
- b. Is the scope of the proposed study for tribal transit?

D. Review and Selection Process

Each application will be screened by a panel of members including FTA headquarters regional staff, and representatives of the Indian Reservations Roads Program. Incomplete or non-responsive applications will be disqualified. FTA will make an effort to award a grant to every qualified applicant.

XIII. Award Administration Information

FTA will award grants directly to Federally recognized Indian tribes for the projects selected through this competition. Following publication of the selected recipients, projects, and amounts, FTA regional staff will assist the successful applicants to prepare an electronic application for grant award. At that time, the tribe will be required to sign the Certification and Assurances contained in Appendix B. The Master Agreement is available on FTA's Web

site at http://www.fta.dot.gov/17861_18441_ENG_HTML.htm.

Applicants that are selected for grant awards under the Tribal Transit Program will be required to formally designate, by resolution or other formal tribal action, an authorized representative who will have the authority to execute grant agreements on behalf of the Indian tribes with FTA and who will also have the authority on behalf of the Indian tribes to execute FTA's Annual List of Certifications and Assurances.

FTA will notify all applicants, both those selected for funding and those not selected, when the competitive selection process is complete. Projects selected for funding will be published in a **Federal Register** Notice.

XIV. Other

A. Technical Assistance

Technical assistance regarding these requirements is available from each FTA regional office. The regional offices will contact those applicants selected for funding regarding procedures for making the required certifications and assurances to FTA before grants are made and will provide assistance in preparing the documentation necessary for grant award.

B. Certifications and Assurances

Applicants that are selected and formally notified of FTA's intention to award a grant under the Tribal Transit Program will be required to complete and execute FTA's Annual List of Certification and Assurances in accordance with the procedures described in this Notice of Funding Availability. The Annual List of Certifications and Assurances is attached in Appendix B for informational purposes only.

C. Reporting

49 U.S.C. 5335 National Transit Database requires NTD reporting for all direct recipients of section 5311 funds including tribes. Specific procedures and data requirements for tribes have not yet been developed and will be provided to grantees at a later date. Annual progress reports and financial status reports will be required of all grantees.

D. Agency Contact(s)

Contact the appropriate FTA regional Tribal Liaison (Appendix A) for application-specific information and issues for general program information, contact Lorna R. Wilson, Office of Transit Programs, (202) 366-2053, e-mail: Lorna.Wilson@dot.gov. A TDD is

available at 1-800-877-8339 (TDD/FIRS).

Issued in Washington, DC, this 8th day of August 2006.

Sandra K. Bushue,

Deputy Administrator.

Appendix A—FTA Regional Offices and Tribal Transit Liaisons

Region I—Massachusetts, Rhode Island, Connecticut, New Hampshire, Vermont and Maine, Richard H. Doyle, FTA Regional Administrator, Volpe National Transportation Systems Center, Kendall Square, 55 Broadway, Suite 920, Cambridge, MA 02142-1093, *Phone:* (617) 494-2055, *Fax:* (617) 494-2865, *Regional Tribal Liaison:* Judi Molloy.

Region II—New York, New Jersey, Virgin Islands, Letitia Thompson, FTA Regional Administrator, One Bowling Green, Room 429, New York, NY 10004-1415, *Phone:* (212) 668-2170, *Fax:* (212) 668-2136, *Regional Tribal Liaison:* Rebecca Reyes-Alicea.

Region III—Pennsylvania, Maryland, Virginia, West Virginia, Delaware, Washington, DC, Susan Borinsky, FTA Regional Administrator, 1760 Market Street, Suite 500, Philadelphia, PA 19103-4124, *Phone:* (215) 656-7100, *Fax:* (215) 656-7260.

Region IV—Georgia, North Carolina, South Carolina, Florida, Mississippi, Tennessee, Kentucky, Alabama, Puerto Rico, Yvette G. Taylor, FTA Regional Administrator, 61 Forsyth Street, S.W., Suite 17T50, Atlanta, GA 30303, *Phone:* (404) 562-3500, *Fax:* (404) 562-3505, *Regional Tribal Liaisons:* Jamie Pfister and James Garland.

Region V—Illinois, Indiana, Ohio, Wisconsin, Minnesota, Michigan, Marisol R. Simon, FTA Regional Administrator, 200 West Adams Street, Suite 320, Chicago, IL 60606-5232, *Phone:* (312) 353-2789, *Fax:* (312) 886-0351, *Regional Tribal Liaisons:* Victor Austin and William Wheeler.

Region VI—Texas, New Mexico, Louisiana, Arkansas, Oklahoma, Robert Patrick, FTA Regional Administrator, 819 Taylor Street, Room 8A36, Ft. Worth, TX 76102, *Phone:* (817) 978-0550, *Fax:* (817) 978-0575, *Regional Tribal Liaison:* Lynn Hayes.

Region VII—Iowa, Nebraska, Kansas, Missouri, Mokhtee Ahmad, FTA Regional Administrator, 901 Locust Street, Suite 404, Kansas City, MO 64106, *Phone:* (816) 329-3920, *Fax:* (816) 329-3921, *Regional Tribal Liaisons:* Joni Roeseler and Cathy Monroe.

Region VIII—Colorado, North Dakota, South Dakota, Montana, Wyoming, Utah, Lee Waddleton, FTA Regional

Administrator, 12300 West Dakota Avenue, Suite 310, Lakewood, CO 80228-2583, *Phone:* (720) 963-3300, *Fax:* (720) 963-3333, *Regional Tribal Liaisons:* Jennifer Stewart and David Beckhouse.

Region IX—California, Arizona, Nevada, Hawaii, American Samoa, Guam, Leslie Rogers, FTA Regional Administrator, 201 Mission Street, Suite 1650, San Francisco, CA 94105-1831, *Phone:* (415) 744-3133, *Fax:* (415) 744-2726, *Regional Tribal Liaison:* Donna Turchie.

Region X—Washington, Oregon, Idaho, Alaska, Richard Krochalis, FTA Regional Administrator, Jackson Federal Building, 915 Second Avenue, Suite 3142, Seattle, WA 98174-1002, *Phone:* (206) 220-7954, *Fax:* (206) 220-7959, *Regional Tribal Liaisons:* Bill Ramos and Annette Clothier.

Appendix B—Federal Fiscal Years 2006 and 2007 Certifications and Assurances for the Federal Transit Administration Tribal Transit Program

In accordance with 49 U.S.C. 5323(n), the following certifications and assurances have been compiled for the Federal Transit Administration (FTA) Public Transportation on Indian Reservation Program (Tribal Transit Program) authorized by 49 U.S.C. 5311(c)(1). It is customary for FTA to require each applicant to submit certifications and assurances for each fiscal year in which the applicant seeks funding. But because less than two months remain before the end of Federal Fiscal Year 2006, FTA will treat certifications and assurances submitted by an Indian tribe in either Federal Fiscal Year 2006 or 2007 applicable to applications for Tribal Transit Program assistance submitted and awards made in Federal Fiscal Years 2006 and 2007.

The Indian tribe, as an eligible applicant for Tribal Transit Program assistance, understands and agrees that these certifications and assurances are pre-award requirements and do not encompass all statutory and regulatory requirements that may apply to the Indian tribe or its Project. A comprehensive list of those requirements will be contained in the Grant Agreement including the Master Agreement accompanying an award under the Tribal Transit Program.

FTA and the Indian tribe also understand and agree that not every certification and assurance will apply to every Project for which FTA provides Federal financial assistance through the Tribal Transit Program. The type of Project will determine which requirements apply. For example FTA believes that the following requirements

within the listed certifications and assurances will have limited, if any, impact:

1. Many provisions required by the Office of Management and Budget (OMB) set forth in Certification F involve requirements that in most cases will not be invoked, such as:

a. Title III of the Uniform Relocation and Real Property Acquisition Policies Act, as amended, and implementing U.S. DOT regulations will apply only when the Indian tribe acquires real property with FTA assistance.

b. Title II of the Uniform Relocation and Real Property Acquisition Policies Act, as amended, and implementing U.S. DOT regulations will apply only when the Indian tribe's project requires relocation of a person or business; and the Lead-Based Paint Poisoning Prevention Act is invoked only in connection with residential construction, not likely to take place under the Tribal Transit Program

c. The Flood Disaster Protection Act applies to projects in flood hazard areas.

d. Only for construction projects will the Davis-Bacon Act, Seismic Safety regulations, and OMB engineering supervision requirements apply.

e. Many environmental protection requirements are limited to the specific problem addressed by the statute. If, for example, the project will not affect endangered species, the requirements of the Endangered Species Act will not be invoked.

2. With respect to Certification H, "Bus Testing," only if the Indian tribe acquires the first bus of a new bus model or the first bus of a new major configuration of a new bus will FTA's Bus Testing requirements be invoked.

Except to the extent that FTA determines otherwise in writing, each Indian tribe that applies for Tribal Transit Program assistance, however, must provide all certifications and assurance set forth below. FTA may not award any Federal assistance under the Tribal Transit Program until the Indian tribe provides these certifications and assurances.

A. Assurance of Authority of the Indian Tribe and Its Representative

The authorized representative of the Indian tribe and the attorney who sign these certifications, assurances, and agreements affirm that both the Indian tribe and its authorized representative have adequate authority under Federal and Indian tribal law, regulations, or by-laws to:

(1) Execute and file the application for Federal assistance on behalf of the Indian tribe;

(2) Execute and file the required certifications, assurances, and agreements on behalf of the Indian tribe binding the Indian tribe; and

(3) Execute grant agreements with FTA on behalf of the Indian tribe.

B. Standard Assurances

The Indian tribe assures that it will comply with all applicable Federal laws and regulations in carrying out any project supported by an FTA grant. The Indian tribe agrees that it is under a continuing obligation to comply with the terms and conditions of the Grant Agreement issued for its project with FTA. The Indian tribe recognizes that Federal laws and regulations may be modified from time to time and those modifications may affect project implementation. The Indian tribe understands that Presidential executive orders and Federal directives, including Federal policies and program guidance may be issued concerning matters affecting the Indian tribe or its project. The Indian tribe agrees that the most recent Federal laws, regulations, and directives will apply to the project, unless FTA issues a written determination otherwise.

C. The Indian Tribe's Capacity To Comply With Relevant Section 5311 Requirements

The Indian tribe assures that:

(1) It has or will have the necessary legal, financial, and managerial capability to apply for, receive, and disburse Federal assistance authorized for 49 U.S.C. 5311; and to carry out each project, including the safety and security aspects of that project;

(2) It has or will have satisfactory continuing control over the use of project equipment and facilities;

(3) The project equipment and facilities will be adequately maintained; and

(4) Its project will achieve maximum feasible coordination with transportation service assisted by other Federal sources.

D. Nondiscrimination Assurance

As required by Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and by U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, the Indian tribe assures that it will comply with all requirements imposed by or issued pursuant to 42 U.S.C. 2000d, and 49 CFR part 21, so that no person in the United States, on the basis of race, color, or national origin, will be excluded from

participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Indian tribe receives Federal assistance awarded by the U.S. DOT or FTA.

Specifically, during the period in which Federal assistance is extended to the project, or project property is used for a purpose for which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits, or as long as the Indian tribe retains ownership or possession of the project property, whichever is longer, the Indian tribe assures that:

(1) Each project will be conducted, property acquisitions will be undertaken, and project facilities will be operated in accordance with all applicable requirements imposed by or issued pursuant to 42 U.S.C. 2000d, and 49 CFR part 21, and understands that this assurance extends to its entire facility and to facilities operated in connection with the project.

(2) It will promptly take the necessary actions to effectuate this assurance, including notifying the public that complaints of discrimination in the provision of transportation-related services or benefits may be filed with U.S. DOT or FTA. Upon request by U.S. DOT or FTA, the Indian tribe assures that it will submit the required information pertaining to its compliance with these provisions.

(3) It will include in each subagreement, property transfer agreement, third party contract, third party subcontract, or participation agreement adequate provisions to extend the requirements imposed by or issued pursuant to 42 U.S.C. 2000d and 49 CFR part 21 to other parties involved therein including any subrecipient, transferee, third party contractor, third party subcontractor at any level, successor in interest, or any other participant in the project.

(4) Should it transfer real property, structures, or improvements financed with Federal assistance provided by FTA to another party, any deeds and instruments recording the transfer of that property shall contain a covenant running with the land assuring nondiscrimination for the period during which the property is used for a purpose for which the Federal assistance is extended or for another purpose involving the provision of similar services or benefits.

(5) The United States has a right to seek judicial enforcement with regard to

any matter arising under the Act, regulations, and this assurance.

(6) It will make any changes in its Title VI implementing procedures as U.S. DOT or FTA may request to achieve compliance with the requirements imposed by or issued pursuant to 42 U.S.C. 2000d and 49 CFR part 21.

E. Assurance of Nondiscrimination on the Basis of Disability

As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," at 49 CFR 27.9, the Indian tribe assures that, as a condition to the approval or extension of any Federal assistance awarded by FTA to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance administered by the FTA or any entity within U.S. DOT. The Indian tribe assures that project implementation and operations so assisted will comply with all applicable requirements of U.S. DOT regulations implementing the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, *et seq.*, and the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101 *et seq.*, and implementing U.S. DOT regulations at 49 CFR parts 27, 37, and 38, and any other applicable Federal laws that may be enacted or Federal regulations that may be promulgated.

F. U.S. Office of Management and Budget (OMB) Assurances

Consistent with OMB assurances set forth in SF-424B and SF-424D, the Indian tribe assures that, with respect to itself and its project, the Indian tribe:

(1) Has the legal authority to apply for Federal assistance and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project described in its application;

(2) Will give FTA, the Comptroller General of the United States, and, if appropriate, the state, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with

generally accepted accounting standards or agency directives;

(3) Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest or personal gain;

(4) Will initiate and complete the work within the applicable project time periods following receipt of FTA approval;

(5) Will comply with all applicable Federal statutes relating to nondiscrimination including, but not limited to:

(a) Title VI of the Civil Rights Act, 42 U.S.C. 2000d, which prohibits discrimination on the basis of race, color, or national origin;

(b) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681 through 1683, and 1685 through 1687, and U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 CFR part 25, which prohibit discrimination on the basis of sex;

(c) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of disability;

(d) The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 through 6107, which prohibits discrimination on the basis of age;

(e) The Drug Abuse Office and Treatment Act of 1972, Pub. L. 92-255, March 21, 1972, and amendments thereto, 21 U.S.C. 1174 *et seq.* relating to nondiscrimination on the basis of drug abuse;

(f) The Comprehensive Alcohol Abuse and Alcoholism Prevention Act of 1970, Pub. L. 91-616, Dec. 31, 1970, and amendments thereto, 42 U.S.C. 4581 *et seq.* relating to nondiscrimination on the basis of alcohol abuse or alcoholism;

(g) The Public Health Service Act of 1912, as amended, 42 U.S.C. 290dd-3 and 290ee-3, related to confidentiality of alcohol and drug abuse patient records;

(h) Title VIII of the Civil Rights Act, 42 U.S.C. 3601 *et seq.*, relating to nondiscrimination in the sale, rental, or financing of housing; and

(i) Any other nondiscrimination statute(s) that may apply to the project;

(6) To the extent applicable, will comply with, or has complied with, the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (Uniform Relocation Act) 42 U.S.C. 4601 *et seq.*, which, among other things, provide for fair and equitable treatment of persons displaced

or persons whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes and displacement caused by the project regardless of Federal participation in any purchase. As required by sections 210 and 305 of the Uniform Relocation Act, 42 U.S.C. 4630 and 4655, and by U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR 24.4, the Indian tribe assures that it has the requisite authority under its applicable tribal government law to comply with the requirements of the Uniform Relocation Act, 42 U.S.C. 4601 *et seq.*, and U.S. DOT regulations, "Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs," 49 CFR part 24, and will comply with that Act or has complied with that Act and those implementing regulations, including but not limited to the following:

(a) The Indian tribe will adequately inform each affected person of the benefits, policies, and procedures provided for in 49 CFR part 24;

(b) The Indian tribe will provide fair and reasonable relocation payments and assistance as required by 42 U.S.C. 4622, 4623, and 4624; 49 CFR part 24; and any applicable FTA procedures, to or for families, individuals, partnerships, corporations, or associations displaced as a result of any project financed with FTA assistance;

(c) The Indian tribe will provide relocation assistance programs offering the services described in 42 U.S.C. 4625 to such displaced families, individuals, partnerships, corporations, or associations in the manner provided in 49 CFR part 24;

(d) Within a reasonable time before displacement, the Indian tribe will make available comparable replacement dwellings to displaced families and individuals as required by 42 U.S.C. 4625(c)(3);

(e) The Indian tribe will carry out the relocation process in such manner as to provide displaced persons with uniform and consistent services, and will make available replacement housing in the same range of choices with respect to such housing to all displaced persons regardless of race, color, religion, or national origin;

(f) In acquiring real property, the Indian tribe will be guided to the greatest extent practicable under state law, by the real property acquisition policies of 42 U.S.C. 4651 and 4652;

(g) The Indian tribe will pay or reimburse property owners for

necessary expenses as specified in 42 U.S.C. 4653 and 4654, with the understanding that FTA will provide Federal financial assistance for the Indian tribe's eligible costs of providing payments for those expenses, as required by 42 U.S.C. 4631;

(h) The Indian tribe will execute such amendments to third party contracts and subagreements financed with FTA assistance and execute, furnish, and be bound by such additional documents as FTA may determine necessary to effectuate or implement the assurances provided herein; and

(i) The Indian tribe agrees to make these assurances part of or incorporate them by reference into any third party contract or subagreement, or any amendments thereto, relating to any project financed by FTA involving relocation or land acquisition and provide in any affected document that these relocation and land acquisition provisions shall supersede any conflicting provisions;

(7) To the extent applicable, will comply with the Davis-Bacon Act, as amended, 40 U.S.C. 3141 *et seq.*, the Copeland "Anti-Kickback" Act, as amended, 18 U.S.C. 874, and the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. 3701 *et seq.*, regarding labor standards for federally assisted projects;

(8) To the extent applicable, will comply with the flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012a(a), requiring the Indian tribe and its subrecipients in a special flood hazard area to participate in the program and purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more;

(9) To the extent applicable, will comply with the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4831(b), which prohibits the use of lead-based paint in the construction or rehabilitation of residence structures;

(10) To the extent applicable, will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities on which a construction project supported with FTA assistance takes place without permission and instructions from FTA;

(11) To the extent required by FTA, will record the Federal interest in the title of real property, and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure nondiscrimination during the useful life of the project;

(12) To the extent applicable, will comply with FTA provisions concerning

the drafting, review, and approval of construction plans and specifications of any construction project supported with FTA assistance. As required by U.S. DOT regulations, "Seismic Safety," 49 CFR 41.117(d), before accepting delivery of any building financed with FTA assistance, it will obtain a certificate of compliance with the seismic design and construction requirements of 49 CFR part 41;

(13) To the extent applicable, will provide and maintain competent and adequate engineering supervision at the construction site of any project supported with FTA assistance to ensure that the complete work conforms with the approved plans and specifications, and will furnish progress reports and such other information as may be required by FTA or the state;

(14) To the extent applicable, will comply with any applicable environmental standards that may be prescribed to implement the following Federal laws and executive orders:

(a) Institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 through 4335 and Executive Order No. 11514, as amended, 42 U.S.C. 4321 note;

(b) Notification of violating facilities pursuant to Executive Order No. 11738, 42 U.S.C. 7606 note;

(c) Protection of wetlands pursuant to Executive Order No. 11990, 42 U.S.C. 4321 note;

(d) Evaluation of flood hazards in floodplains in accordance with Executive Order No. 11988, 42 U.S.C. 4321 note;

(e) Assurance of project consistency with the approved state management program developed pursuant to the requirements of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 through 1465;

(f) Conformity of Federal actions to State (Clean Air) Implementation Plans under section 176(c) of the Clean Air Act of 1955, as amended, 42 U.S.C. 7401 through 7671q;

(g) Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f through 300j-6;

(h) Protection of endangered species under the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 through 1544; and

(i) Environmental protections for Federal transportation programs, including, but not limited to, protections for parks, recreation areas, or wildlife or waterfowl refuges of national, state, local, or tribal government significance or any land

from a historic site of national, state, local, or tribal government significance to be used in a transportation project as required by 49 U.S.C. 303(b) and 303(c);

(j) Protection of the components of the national wild and scenic rivers systems, as required under the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. 1271 through 1287; and

(k) Provision of assistance to FTA in complying with section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470f; with the Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. 469 through 469c; and with Executive Order No. 11593 (identification and protection of historic properties), 16 U.S.C. 470 note;

(15) Because a tribal government is not covered by the Hatch Act, the Indian tribe is not required to comply with the requirements of the Hatch Act, 5 U.S.C. 1501 through 1508 and 7324 through 7326, which limit the political activities of state and local agencies and their officers and employees whose primary employment activities are financed in whole or part with Federal funds including a Federal grant agreement except, in accordance with 49 U.S.C. 5307(k)(2) and 23 U.S.C. 142(g), the Hatch Act does not apply to a nonsupervisory employee of a public transportation system (or of any other agency or entity performing related functions) receiving FTA assistance to whom that Act does not otherwise apply;

(16) To the extent applicable, will comply with the National Research Act, Pub. L. 93-348, July 12, 1974, as amended, 42 U.S.C. 289 *et seq.*, and U.S. DOT regulations, "Protection of Human Subjects," 49 CFR part 11, regarding the protection of human subjects involved in research, development, and related activities supported by Federal assistance;

(17) To the extent applicable, will comply with the Laboratory Animal Welfare Act of 1966, as amended, 7 U.S.C. 2131 *et seq.*, and U.S. Department of Agriculture regulations, "Animal Welfare," 9 CFR subchapter A, parts 1, 2, 3, and 4, regarding the care, handling, and treatment of warm blooded animals held or used for research, teaching, or other activities supported by Federal assistance;

(18) Will have performed the financial and compliance audits as required by the Single Audit Act Amendments of 1996, 31 U.S.C. 7501 *et seq.*, OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," Revised, and the most recent applicable OMB A-133

Compliance Supplement provisions for the U.S. DOT; and

(19) To the extent applicable, will comply with all applicable provisions of all other Federal laws, regulations, and directives governing the project, except to the extent that FTA has expressly approved otherwise in writing.

G. Procurement Compliance

In accordance with 49 CFR 18.36(g)(3)(ii), the Indian tribe certifies that its procurement system will comply with the requirements of 49 CFR 18.36, or will inform FTA promptly that its procurement system does not comply with 49 CFR 18.36.

H. Bus Testing

As required by 49 U.S.C. 5318 and FTA regulations, "Bus Testing," at 49 CFR 665.7, the Indian tribe certifies that, before expending any Federal assistance to acquire the first bus of any new bus model or any bus model with a new major change in configuration or components, or before authorizing final acceptance of that bus (as described in 49 CFR part 665), the bus model:

A. Will have been tested at FTA's bus testing facility; and

B. Will have received a copy of the test report prepared on the bus model.

I. Charter Service Agreement

(1) As required by 49 U.S.C. 5323(d) and (g) and FTA regulations, "Charter Service," at 49 CFR 604.7, the Indian tribe agrees that it and each subrecipient and third party contractor at any tier will:

(a) Provide charter service that uses equipment or facilities acquired with Federal assistance authorized under 49 U.S.C. chapter 53 (except 49 U.S.C. 5310 or 5317), or under 23 U.S.C. 133 or 142 for transportation projects, only to the extent that there are no private charter service operators willing and able to provide the charter service that it or its subrecipients or third party contractors at any tier desire to provide, unless one or more of the exceptions in 49 CFR 604.9 applies; and

(b) Comply with the requirements of 49 CFR part 604 before providing any charter service using equipment or facilities acquired with Federal assistance authorized under 49 U.S.C. chapter 53 (except 49 U.S.C. 5310 or 5317), or under 23 U.S.C. 133 or 142 for transportation projects.

(2) The Indian tribe understands that:

(a) The requirements of 49 CFR part 604 will apply to any charter service it or its subrecipients or third party contractors provide,

(b) The definitions of 49 CFR part 604 will apply to this Charter Service Agreement, and

(c) A violation of this Charter Service Agreement may require corrective measures and imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

J. School Transportation Agreement

(1) As required by 49 U.S.C. 5323(f) and (g) and FTA regulations at 49 CFR 605.14, the Indian tribe agrees that it and each subrecipient or third party contractor at any tier will:

(a) Engage in school transportation operations in competition with private school transportation operators only to the extent permitted by 49 U.S.C. 5323(f) and (g), and Federal regulations; and

(b) Comply with the requirements of 49 CFR part 605 before providing any school transportation using equipment or facilities acquired with Federal assistance authorized under 49 U.S.C. chapter 53 or under 23 U.S.C. 133 or 142 for transportation projects.

(2) The Indian tribe understands that:

(a) The requirements of 49 CFR part 605 will apply to any school transportation service it or its subrecipients or third party contractors provide,

(b) The definitions of 49 CFR part 605 will apply to this School Transportation Agreement, and

(c) A violation of this School Transportation Agreement may require corrective measures and imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

K. Demand Responsive Service

As required by U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," at 49 CFR 37.77(d), the Indian tribe certifies that its demand responsive service offered to individuals with disabilities, including individuals who use wheelchairs, is equivalent to the level and quality of service offered to individuals without disabilities. When the Indian tribe's service is viewed in its entirety, the Indian tribe's service for individuals with disabilities is provided in the most integrated setting feasible and is equivalent with respect to: (1) Response time, (2) fares, (3) geographic service area, (4) hours and days of service, (5) restrictions on trip purpose, (6) availability of information and reservation capability, and (7) constraints on capacity or service availability.

L. Alcohol Misuse and Prohibited Drug Use

As required by FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," at 49 CFR part 655, subpart I, the Indian tribe certifies that it has established and implemented an alcohol misuse and anti-drug program, and has complied with or will comply with all applicable requirements of FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR part 655.

M. National Intelligent Transportation Systems Architecture and Standards

If the Indian tribe's project involves the acquisition of an Intelligent Transportation System (ITS), defined as technology or system of technologies that provides or significantly contribute to the provision of one or more ITS user services as defined in the National ITS Architecture, the Indian tribe will use its best efforts to ensure that any Intelligent Transportation System solutions used in its Project do not preclude interface with other Intelligent Transportation Systems in the Region. (See FTA Notice, "FTA National ITS Architecture Policy on Transit Projects" 66 FR 1455 *et seq.* January 8, 2001 and other FTA Program Guidance that may be issued.)

BILLING CODE 4910-57-C

FEDERAL FISCAL YEARS 2006 AND 2007 CERTIFICATIONS AND ASSURANCES FOR THE TRIBAL TRANSIT PROGRAM

SIGNATURE PAGES

(Required of all Indian tribes that apply for FTA's Tribal Transit Program assistance)

AFFIRMATION OF INDIAN TRIBE

Name of the Indian Tribe:

Name and Relationship of Authorized Representative:

BY SIGNING BELOW, on behalf of the Indian tribe, I declare that the Indian tribe has duly authorized me to make these certifications and assurances and bind the Indian tribe's compliance. Thus, the Indian tribe agrees to comply with all Federal statutes, regulations, executive orders, and Federal requirements applicable to each application for Tribal Transit Program assistance authorized by 49 U.S.C. 5311(c)(1) it makes to the Federal Transit Administration (FTA) in Federal Fiscal Years 2006 and 2007.

The Indian tribe affirms the truthfulness and accuracy of the certifications and assurances it has made in the statements submitted herein with this document and any other submission made to FTA, and acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801 *et seq.*, as implemented by U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31 apply to any certification, assurance or submission made to FTA. The criminal fraud provisions of 18 U.S.C. 1001 apply to any certification, assurance, or submission made in connection with the Tribal Transit Program and may apply to any other certification, assurance, or submission made in connection with any other program administered by FTA.

In signing this document, I declare under penalties of perjury that the foregoing certifications and assurances, and any other statements made by me on behalf of the Indian tribe are true and correct.

Signature _____

Date: _____

Name _____

Authorized Representative of the Indian Tribe

AFFIRMATION OF THE INDIAN TRIBE'S ATTORNEY

For (Name of the Indian Tribe):

As the undersigned Attorney for the above named Indian tribe, I hereby affirm to the Indian tribe that it has authority under its tribal government law and Federal law to make and comply with the certifications and assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the certifications and assurances have been legally made and constitute legal and binding obligations on the Indian tribe.

I further affirm to the Indian tribe that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these certifications and assurances, or of the performance of the project.

Signature _____

Date: _____

Name _____

Attorney for the Indian tribe

[Each Indian tribe that applies for FTA Tribal Transit Program assistance must provide an Affirmation of the Indian tribe's attorney pertaining to the Indian tribe's legal capacity. The Indian tribe may enter its signature in lieu of the attorney's signature, provided the Indian tribe has on file this Affirmation, signed by the attorney and dated this Federal fiscal year, and the attorney's affirmation has been entered into FTA's TEAM-Web system as an attachment.]

Appendix C—Technical Assistance Contacts

Tribal Technical Assistance Program (TTAP) Centers

TTAP-Alaska

Alaska Tribal Technical Assistance Program, NW & AK TTAP, 329 Harbor Dr. #208, Sitka, AK 99835, Contact: Dan Moreno, Telephone: (800) 399-6376, Fax: (907) 747-5032, E-mail: dmoreno@mail.ewu.edu, Web: www.ewu.edu/TTAP.

TTAP-California

TTAP-California-Nevada, The National Center for American Indian Enterprise Development, 11138 Valley Mall, Suite 200, El Monte, CA 91731, Contact: Lee Bigwater, Telephone: (626) 350-4446, Fax: (626) 442-7115.

TTAP-Colorado

Tribal Technical Assistance Program at Colorado State University, Rockwell Hall, Rm. 321, Colorado State University, Fort Collins, CO 80523-1276, Contact: Ronald Hall, Telephone: (800) 262-7623, Fax: (970) 491-3502, E-mail: ronald.hall@colostate.edu, Web: <http://ttap.colostate.edu/>.

TTAP-Michigan

Tribal Technical Assistance Program, 301-E Dillman Hall, Michigan Technological University, 1400 Townsend Dr., Houghton, MI 49931-1295, Contact: Bernard D. Alkire, Telephone: (888) 230-0688, Fax: (906) 487-1834, E-mail: balkire@mtu.edu, Web: <http://www.ttap.mtu.edu>.

TTAP-North Dakota

Northern Plains Tribal Technical Assistance Program, United Tribes Technical College, 3315 University Drive, Bismarck, ND 58504, Contact: Dennis Trusty, Telephone: (701) 255-3285 ext. 1262, Fax: (701) 530-0635, E-mail: nddennis@hotmail.com or dtrusty@uttc.edu, Web: <http://www.uttc.edu/organizations/ttap/ttap.asp>.

TTAP-NW

Northwest Tribal Technical Assistance Program, Eastern Washington University Department of Urban Planning, Public & Health Administration, 216 Isle Hall, Cheney, WA 99004, Contact: David Frey, Telephone: (800) 583-3187, Fax: (509) 359-7485, E-mail: rrolland@ewu.edu, Web: www.ewu.edu/TTAP.

TTAP-Oklahoma

Tribal Technical Assistance Program at Oklahoma State University, Oklahoma State University, 5202 N. Richmond Hills Road, Stillwater, OK 74078-0001, Contact: James Self, Telephone: (405) 744-6049, Fax: (405) 744-7268, E-mail: jim.self@okstate.edu, Web: <http://ttap.okstate.edu>.

National RTAP (National Rural Transit Assistance Program), E-mail: nationalrtap@apwa.net, <http://www.nationalrtap.org/>, Dave Barr 202-218-6722, Community Transportation Association of America, The Resource Center—1800-891-0590, <http://www.ctaa.org/>.

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