Moving Ahead for Progress in the 21st Century (MAP-21):

Congress Overhauls the IRR Program and the Tribal Transportation Funding Formula

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PART 1

TRIBAL TRANSPORTATION PROGRAM HIGHLIGHTS

Progress in Tribal Transportation Funding

EA:

RR Program authorized funding:	**$191 million**

A-21:

RR Program authorized funding:	**$275 million ($13 million for IRR Bridge Program)**

FETEA-LU:

RR program authorized funding:	**$300 - $450 million (less $30 million obligation limitation)**
RR Bridge Program:	**$14 million**
Tribal Transit Grant Program:	**$8 - $15 million**
DOI Tribal highway safety grants:	**2% set aside ($4.7 million)**

ogress in Tribal Transportation Funding (cont.)

P-21:

ribal Transportation Program	**$450 million**

ngressional staff advised Tribes that no "obligation itation" deduction would apply to these funds, but the ual MAP-21 language did not properly exempt the TTP gram from this $30+ million funding deduction.)

ribal Transit Grant Program	**$30 million**
DOI Tribal Highway Safety Grants	**2% set-aside ($4.7 million)**

Major Changes to the IRR Program

The IRR Program is now called the **Tribal Transportation Program (TTP)**.

Congress overhauled the IRR Program funding formula.

Congress added **2%** takedowns to the TTP for highway safety, transportation planning and bridge projects (for FY 2013, each is funded at $9.0 million). IRR Bridge Program funding is cut $5 million from $14 million in FY 2012;

Congress eliminated the **IRR HPP** as a takedown from the TTP and established a separate **Tribal HPP** program authorized at $30 million per year; and

During development of MAP-21, Congressional staff claimed that MAP-21 would exempt the TTP from the obligation limitation deduction allowing the TTP to retain more than $30 million, <u>but the</u>

New MAP-21 Definitions

Tribal Transportation Facility is defined as:

public highway, road, bridge, trail, or transit system that is
ocated on or provides access to tribal land and appears on the
ational tribal transportation facility inventory.

IAP-21 deletes the term **"Indian Reservation Road"** but
etains -- as eligible for inclusion in the Tribal road inventory --
ublic roads located within or providing access to Indian
eservations, Indian trust lands, restricted Indian lands not
ubject to fee title alienation, which is essentially identical to
he old IRR definition.

Other Major Tribal Program Changes

1. Road Maintenance.- Increases use of TTP funds for road maintenance needs. Authorizes the Secretary of Transportation to use **$500,000 or 25%** of Tribal TTP shares, whichever is greater, for Road Maintenance needs. BIA retains "primary responsibility" for funding the BIA Road Maintenance Program;

2. BIA/FHWA Administrative costs.- Authorizes the BIA and FHWA to use up to **6%** of TTP funds for program management and project related administration expenses ($27 million per year);

3. TTAP Funding.- Authorizes the BIA to fund Tribal Technical Assistance Centers at 100% from its 6% administrative funds;

Other Major Tribal Program Changes (cont.)

National Bridge and Tunnel Inventory.- Requires USDOT, in consultation with the States and Federal agencies, to inventory all highway bridges on public roads, on and off Federal-aid highways, including tribally owned bridges and establish a National Bridge and Tunnel Inventory;

. Agency Data Collection consistent with P.L. 93-638.- Interior and FHWA must collect and report data necessary to implement the TTP, in accordance with reporting requirements under the Indian Self-Determination Act, P.L. 93-638. The BIA may be entitled to additional FHWA-Federal Lands Highway funds to perform this task.

ENVIRONMENTAL STREAMLINING PROVISIONS

rects the Secretary of Transportation to create, by
gulation, new classes of **categorical exclusions**
der NEPA to expedite projects, including projects
thin operational rights-of-way and any project that
eives **less than $5 million** in Federal assistance.

ost tribal transportation projects will benefit
om this change.

MAP-21 Retains SAFETEA-LU Tribal Provisions

ibal PS&E Approval.- Continues to authorize Tribes to approve own road and bridge designs (PS&E packages) with a health fication from a state-licensed engineer;

se of Indian Labor.- Indian labor may be employed to carry out y construction or other activity in accordance with Interior epartment regulations;

ooperation of State, county or other local subdivisions.- Funds ceived from a State, county, or local subdivision in support of a ibal TTP project are to be credited to appropriations for the ibal Transportation Program;

AP-21 Retains SAFETEA-LU Provisions (cont.)

dian Preference.- Indian preference in hiring and contracting plies to all funds administered by the Secretary of the Interior propriated for the construction and improvement of Tribal ansportation Facilities.

0-day transfer of TTP funds to Tribes.- Requires BIA to istribute TTP funds to Tribes no later than 30 days after the unds are made available to BIA;

ibe-State Maintenance Agreements.- No Interior Secretary pproval required for States and Tribes to enter into agreements.

irect FHWA TTP Funding Agreements.- Tribes may continue to eceive TTP funds directly from FHWA under new or current

MAP-21 CHANGES

OUT	IN
IRR Program	Tribal Transportation Program
ndian Reservation Roads as a defined term	Tribal Transportation Facility as a defined term
IRR Bridge Program nded separately from the TTP)	Tribal Bridge Program (as a takedown from within the TTP)
Regulatory IRR HPP as a takedown from within the IRR Program)	Statutory Tribal HPP (separately funded $30 million program <u>but</u> Congress must fund it each year)

PART 2

MAP-21's NEW TTP FUNDING FORMULA

MAP-21's New Funding Formula:

e **Tribal Transportation Program's** new funding formula laces the IRR Program's funding formula (TTAM) set out in Part 170 IRR Program regulations:

MAP-21 eliminates new calculations for **Relative Need stribution Factor (RNDF)** and its Cost-to-Construct **TC**), Vehicle Miles Traveled (**VMT**), and AI/AN Population eria;

Eliminates the **Population Adjustment Factor (PAF);**

Eliminates the **IRR High Priority Project Program**.*

MAP-21's new funding formula for the TTP:

w tribal shares under the TTP shall be determined using:

"the national tribal transportation facility inventory **as lculated for fiscal year 2012**," and

"the **most recent** data on American Indian and Alaska tive population within each Indian tribe's American lian/Alaska Native Reservation or Statistical Area, as mputed under the Native American Housing Assistance and f-Determination Act of 1996 [**NAHASDA**] (25 U.S.C. 4101 seq.)."

This means that new road mileage inventory data will not unt but new NAHASDA population data will count.

MAP-21's TTP Funding Formula Factors:

Percentage of FY 2011 RNDF + PAF funding ounts (80% declining to 20% in FY 2016 and reafter)

w MAP-21 Formula

Eligible Road Mileage (27%);

AI/AN NAHASDA Pop. Data (39%);

RNDF + PAF funds (the 7-yr. aver. of TTAM ds) **(34%)**.

Tribal Supplemental Funding Amount ($104 llion)

Tribal Transportation Inventory that continues to generate funding as "eligible road mileage"

Routes that were included in the BIA system inventory before October 1, 2004 (~ 64,000 miles of grandfathered routes (26,000 BIA System and 38,000 miles of State, county and local);

Routes owned by Indian tribes;*

) Routes owned by the BIA;*

nly these routes qualify as "eligible road mileage" to generate 27% funding der the new MAP-21 formula, but they must have been included in the ventory as of FY 2012. Other routes do not generate funding, but they y continue to be added to the Inventory in order to expend TTP funds.

l road mileage counts the same whether a narrow trail or ur-lane highway!

NAHASDA American Indian and Alaska Native (AI/NA) Population Data

After statutory takedowns, the calculation of the TTAM percentage and the Tribal Supplemental Fund Amount, **39%** of the remaining funds will be awarded based on the ratio that the total NAHASDA population of each tribe bears to the total NAHASDA population data for all American Indians and Alaska Natives

$1,100,000,000.00

ribal Transportation Program and the NAHASDA Indian Housing Block
t Program together distribute **$1.1 billion** annually to Tribal
nments. Tribal leaders must decide whether these programs are working
opriately and are serving the needs of their Tribal citizens.

issued a Notice in the Federal Register announcing its intent to form a
tiated Rulemaking Committee to re-examine the NAHASDA regulatory
ng formula. Tribes have until November to nominate members to serve
e Committee.

***ribes may participate in shaping the NAHASDA
rogram and the Tribal Transportation Program by
etting involved in this negotiated rulemaking.***

Seven-Year TTAM Average

fter statutory and other takedowns, 34% of maining funds are divided equally among ch BIA region and distributed to each Tribe sed on the ratio that the Tribe's total TTAM nding share over a 7-year period (FY 2005 FY 2011) bears to the average total of all TAM shares over the same period in that A region. ***Therefore, most Tribes will not***

Tribal Supplemental Funding Amount

e TSFA is calculated as follows:

$82.5 million of the first $275.0 million appropriated for the P; and

2.5% of any amount appropriated in excess of $275 million.

FY 2013, an appropriation of $450 million for the TTP yields ibal Supplemental Funding Amount of $104.375 million.

$82.5 mil.) + 0.125x($175 mil.) = $82.5 mil. + $21.875 mil. = **$104.375 million**

The TSFA represents more than a quarter of all available TTP funds!

RIBAL SUPPLEMENTAL FUNDING AMOUNT

Transportation Secretary must distribute the TSFA to each Region to help Tribes that receive less funding under the MAP-21 formula get closer to the amount they received er the TTAM formula.

funds are distributed based on each Region's share of the MAP-21 funding formula **,** compared to the total ribution of those funds nationally. This is the first centage calculation FHWA makes to divide the $104.375 ion among the 12 BIA Regions. **(Supp. 1)**

SFA funds remain, the BIA will divide them among all the ion's Tribes using the new MAP-21 funding formula

Other Statutory Takedowns from the Tribal Transportation Program:

6% for BIA/FHWA Administrative Costs ($27 million)

2% Transportation Planning ($9 million)

2% Highway Safety ($9 million)

2% Bridge Program ($9 million)

TTP FOUR-YEAR IMPLEMENTATION PHASE:

P-21 provides a **4-year transition period** from the current TTAM's **DF + PAF** formula calculation to the new formula:

FY 2013 – Tribes will receive **80%** of their FY 2011 RNDF and PAF unt totals; with the remainder of FY 2013 TTP Tribal shares funded er the new formula criteria;

FY 2014 – Tribes will receive **60%** of their FY 2011 RNDF and PAF unt totals; with the remainder funded under the new formula criteria;

FY 2015 – Tribes will receive **40%** of their FY 2011 RNDF and PAF unt totals; with the remainder funded under the new formula criteria;

FY 2016 and thereafter – Tribes will receive **20%** of their FY 2011 DF and PAF amount totals; with the remainder funded under the new nula criteria.

ore FHWA calculates FY 2013 Tribal shares for **eligible road mileage, HASDA AI/AN population, and the 7-year average for RNDF AF**, it first reduces the **$450,000,000** for the Tribal Transportation gram (TTP) by the following amounts:

2013 appropriation**:**	**$450,000,000**
:	
Tribal Supplemental Funding:	-$104,375,000
Bridge Program (2%):	-$ 9,000,000
Transportation Planning (2%):	-$ 9,000,000
Highway Safety (2%):	-$ 9,000,000
BIA and FHWA 6%:	-$ 27,000,000
l Takedowns:	**-$158,375,000.00**
total:	**+$291,625,000.00**
(80% '11 RNDF + PAF):	-$277,358,062.40
ainder from $450 million	
27% miles, 39% Pop., 34%):	**$ 14,266,937.60**

MAP-21 Control Panel

13 Authorization Amount		**$450,000,000**		
Limit Deduction **(Still needs to be Included)**		0.00%		
M&O/PRAE		0.00%		
bal Transportation Planning		2.00%		
dge Program		2.00%		
fety Program		2.00%		
bal Supplemental Funding		$82,500,000 + 12.5% of $175,000,000		
	Funding Authorized	$450,000,000.00		
ss obligation limitation		$0.00		
	Funding Made Available	$450,000,000.00		total takedown
ss PM&O		($27,000,000.00)		**($158,375,000.00)**
	Subtotal	$423,000,000.00		
ss Transportation Planning		($9,000,000.00)		
	Subtotal	$414,000,000.00		
ss Bridge Program		($9,000,000.00)		
	Subtotal	$405,000,000.00		
ss Safety Program		($9,000,000.00)		FY11 Tribal Shares =
	Subtotal	$396,000,000.00		**$346,697,578.00**
ss Tribal Supplemental Funding		($104,375,000.00)		(FY 11 RNDF + PAF)
		$291,625,000.00		
ss 80% to go under FY11 Tribal Shares		($277,358,062.40)	(80% of $346.697 mil.)	
		$14,266,937.60	= remainder for distribution under new TTP funding criteria	
	Subtotal	**$14,266,937.60**		
		-		
ailable for 27% lane miles		**$3,852,073.15**		
ailable for 39% tribal population		**$5,564,105.66**		
				per region
ailable for 34% Regional Distribution		**$4,850,758.78**		**$404,229.90**

MAP-21 TTP Formula Changes

OUT	IN
New calculations for Cost to Construct (CTC) and Vehicle Miles Traveled (VMT)	➢ Eligible Road Mileage ➢ AI/AN NAHASDA Pop. #s ➢ FY 2011 RNDF & PAF amounts ➢ Average of RNDF & PAF funding over 7 years (FY 2005 - 2011)
50% + 30% + 20%	27% + 39% + 34%
IRR HPP (sort of)	General Fund Tribal HPP (sort of)
Lake Tahoe Deduction	Tribal Supplemental Funding Amount (TSFA)
opulation Adjustment Factor (PAF) (sort of)	2% Tribal Highway Safety Grants 2% Tribal Bridge Grant Program 2% Transportation Planning Fund

PART 3

OTHER MAP-21 TRIBAL PROVISIONS

MAP-21's New Tribal High Priority Program

P-21 discontinues the IRR High Priority Project Program instead authorizes a new **Tribal High Priority Program.** s new program is not a takedown from the TTP but requires a arate appropriation from Congress to fund it. MAP-21 horizes up to $30 million out of the general fund to carry out new Tribal High Priority Program.

bal "high priority projects" may receive $1 million per project, ept for disaster or emergency projects, which may receive the mated cost of repairing the damaged tribal transportation lity. The Tribal High Priority Program uses the same project ring matrix established in the IRR Program regulation for the mer IRRHPP to rank applications received under the new gram.

MAP-21's New Tribal High Priority Program

FHWA to award HPPs in FY 2013, Congress must
ropriate $30 million in the FY 2013 budget for the new Tribal
h Priority Program. Congress has now passed a six-month
to cover appropriations for FY 2013 through March 27, 2013
ch does not include this extra funding.

a result, funding for the new Tribal High Priority Program is
assured for FY 2013.

bes should contact their House and Senate delegations to
uest that funding for MAP-21's new Tribal High Priority
gram (Sec. 1123 of MAP-21) be included in FY 2013
ropriations for the U.S. Department of Transportation.

Major Changes to the Tribal Transit Program

Tribal Transit Grant (5311)(c)) Program.-

Authorization doubles program funding from **$15 million** to **$30 million** annually;

FTA will distribute **$5 million** to Tribes as competitive transit grants;

$25 million will be apportioned to Tribes under a new transit formula grant for existing transit programs.

MAP-21's Tribal Transit Grants (5311(c))

the **$25 million** set aside each year for Public
ansportation on Indian Reservations under MAP-21:

$12.5 million (50%) will be provided to Tribes providing
blic transportation services based on the Tribe's ratio of
hicle revenue miles compared to the total number of vehicle
venue miles provided by all Tribes;

$6.25 million (1st 25%) is shared equally among Tribes
oviding at least 200,000 vehicle revenue miles of public
nsportation service annually, as reported to the Secretary of
ansportation; and

MAP-21's Tribal Transit Grants (5311(c))

6.25 million (2nd 25%) is to be provided to Tribes providing
lic transportation on tribal lands (as defined by the Bureau of
Census) where more than 1,000 low-income individuals
de (as determined by the Bureau of the Census).

The 2nd $6.25 million distribution is capped at $300,000 per
be per year, with any remaining funds re-distributed among
bes receiving less than $300,000 per year.

Tribe may also finance public transportation services
vided by a "non-Tribal transit provider" that connects residents
ribal lands with surrounding communities, improves access to
ployment or healthcare, or "otherwise addresses the mobility
ds of tribal members."

AP-21 contains many additional grant programs at Indian tribes may qualify for as a direct nding recipient or as a sub-recipient through eir State Transportation Departments.

ibes may consolidate USDOT grants and finance gible projects independently or in conjunction th other transportation stakeholders.

IAP-21 imposes numerous "tribal consultation" quirements on States and other transportation blic authorities to work closely with Tribal

Questions?

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