

Tribal Transportation Self-Governance Program: Negotiated Rulemaking Update (TTSGP)



September 2016

*Presented By: Mary Beth Frank Clark
Nez Perce Tribe Transportation Planner*

“Fixing America’s Surface Transportation Act” of FAST Act was passed in December 2015.

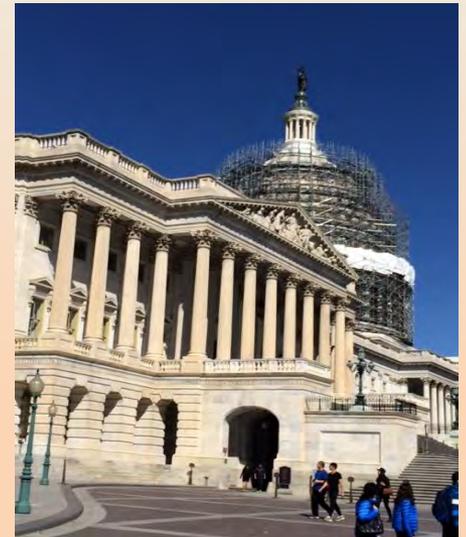
Highlights

- Increase Authorization Ceilings above Map 21
- Increases in Tribal Transit Program
- Increased Reporting
- Decreased of 1% in Federal Administration Costs
- \$800 M. program for new grant program for Nationally Significant Freight and Hwy Projects
- \$100 M. in grant for Nationally Significant Federal Lands and Tribal Project Program. (not funded)
- Self-Governance Program. New section 207 to title 23 of the U.S. Code.



Tribal Self-Governance Program

- The FAST Act adds new section 207 to title 23 which requires that the Secretary of Transportation ***“shall establish and carry out a program to be known as the tribal transportation self-governance program.”***
- The new self-governance program at USDOT *will be separate* from the self-governance programs within the Department of Interior (title IV) and DHHS (title V) and *will operate with its own regulations.*



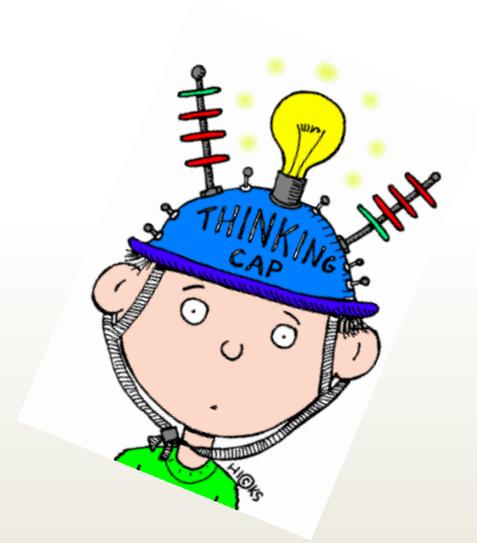
Tribal Self-**Governance Program...continued**

- The new law directs the Secretary of Transportation to draft regulations to implement the self-governance program through use of a Negotiated Rulemaking committee. The Committee is to be comprised of representatives of Indian tribes and the Federal Government.
- This Self-Governance effort with USDOT is a *sixth* alternative for tribes to Contract.



Self-Determination & Self-Governance

Are they the same?



- **Self Determination** is a ‘cookie cutter’ approach on contract design
- Self-Governance is open to negotiations for each individual tribe.
- **Advisory Committee’s for Self-Determination and Self-Governance**



Formation of the Committee....

- Federal Register notice April 25, 2016
 - Intent
 - Nominations
 - Comments
- Federal Register notice July 27, 2016
 - Committee Selection
 - First meeting August 16-18 located in Sterling, Virginia
 - All committee members attend meeting



Meeting Activity....

- Meeting in August and September
- New Federal Register should be out shortly
- Established Protocols where drafted and approved
 - Co-Chairs: Joe Garcia, New Mexico; Kay Rhoads, Oklahoma
 - Preamble to the Committee:

“The Tribal Transportation Self-Governance Program (TTSGP) Negotiated Rulemaking Committee has been established pursuant to the **Fixing America’s Surface Transportation (FAST)** Act, P.L. 114-94. The Committee is charged with the responsibilities set forth in Section 1121 of that Act and the Negotiated Rulemaking Act, which include developing the Notice of Proposed Rulemaking (NPRM), receiving and reviewing public and government comments, and finalizing a recommended final rule that contains the **regulations required to carry out the TTSGP.**”





- Split into 2 working groups: Administrative & Operations
- USDOT Programs have been providing presentations to full Committee.
 - Federal Motor Carrier Safety Administration-Robert Miller
 - Maritime Administration-Alyson Azzara
 - Federal Aviation Administration (FAA) (Airport)-Katherine Audrus
 - FHWA Highway Financing Trust Fund-Todd Kohl
 - FHWA Tribal Transportation Program(TTP)-Robert Sparrow
 - Federal Transit Administration (FTA)-Elan Flippin
 - OST Programs-**Ada Valaitis Congressional and Tribal Gov't Affairs Specialist**



Administrative Working Group

- Selected Workgroup Lead: Jody Clark
- Discussion how to get to 1st Draft
- Will work on sections, review, discuss, move forward

Administrative Sub-Committee

Summary of 23 U.S.C. §207 (§1121(a) of Pub. L. 114-94 (FAST Act))

Tribal Transportation Self-Governance Program Statutory Provisions

(to assist in determining the appropriate Negotiated Rulemaking Subcommittee/Workgroup for the topic)

23 USC §207 Subsection	Description
§1121(a)	Tribal Transportation Self-Governance Program
207(a)	Establishment
207(b)	Eligibility
207(c)	Compacts
207(d)	Annual Funding Agreements
207(e)	General Provisions
207(f)	Provisions relating to Secretary
207(g)	Cost Principles
207(h)	Transfer of Funds
207(i)	Construction Programs
207(j)	Facilitation
207(k)	Disclaimers
207(l)	Applicability of Indian Self-Determination and Education Assistance Act
207(m)	Definitions
207(n)	Regulations
§1121(b)	Clerical Amendment: (analysis for chapter 2 of title 23, USC, is amended to insert after section 206 the following: "207. Tribal transportation self-governance program.")



Operations Working Group

- Selected Workgroup Lead: Denise Michaels
- Review Title 5 and Grants
- Presentations from DOT programs
- Working on 3 Priorities:
 - Tribal Lands/ROW/Acquisition
 - Construction Design/A&E/Safety/Operations
 - NEPA
- Group will have weekly meetings and have extensive report in October Meeting



How does TTSGP relate to States?

- Tribes will have the opportunity to place USDOT funding in this SG Contract
- Grants, etc that Tribes receive from State through USDOT funding.
 - States need to prepare & keep abreast of Self-Governance
 - FHWA should be able to assist in keeping programs and states informed.
- Will not affect State/Tribes 23 USC § 202



Other Questions that were asked...

- Committee Disbanded after Draft per Federal Register? (no)
- Federal Agencies designated Alternates?





- Tentative Scheduled Meeting Dates:
 - October 18-20, 2016 Shawnee, Oklahoma
 - November 15-17, 2016 Albuquerque, New Mexico
 - December 6-8, 2016 Southern California
 - January 10-12, 2106 Poarch Creek, Alabama
 - February 7-9, 2016 Phoenix, Arizona
- <https://flh.fhwa.dot.gov/programs/ttp/ttsgp/>



Thank You!

Any Questions

