



# DOTs and Tribal Governments: Examples of Collaboration and Innovation

WEBINAR SERIES: INNOVATION IN PRACTICE | WEBINAR 10

October 17, 2018

# Webinar Logistics



## PowerPoint Presentation available on BATIC Website

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# Webinar Overview

**Overview of  
Federal Funding  
Opportunities**

## **State DOT and Tribal Communities**

- Alaska Department of Transportation & Public Facilities
- Association of Village Council Presidents

**Questions Submitted  
by Webinar  
Participants**

# Overview of Federal Funding Opportunities

Brian Allen, PE, PMP

Program Delivery Manager  
FHWA, Office of Tribal Transportation

# Federal Funding Opportunities for Tribes

- What federal programs are available to fund tribal transportation projects and how are they administered?
- What new mechanism is available to better enable funding partnerships for tribal transportation projects?
- What are the challenges/hurdles to greater cooperation and innovation in tribal transportation and how are we addressing them?

What federal programs are available to fund tribal transportation projects and how are they administered?

# Tribal Transportation Program (TPP)

- \$495 million – FY19
- Serves 573 Federally recognized Tribes
- Jointly administered with BIA
- Regulations: 25 CFR Section 170 (2004)
  - Updated Dec 7, 2016





## TPP Program Purpose (25 CFR 170)

- Provide safe and adequate transportation and public road access to and within reservations, Indian lands and communities.....
- Contribute to economic development, self-determination and employment of Indians and Alaska Natives.....

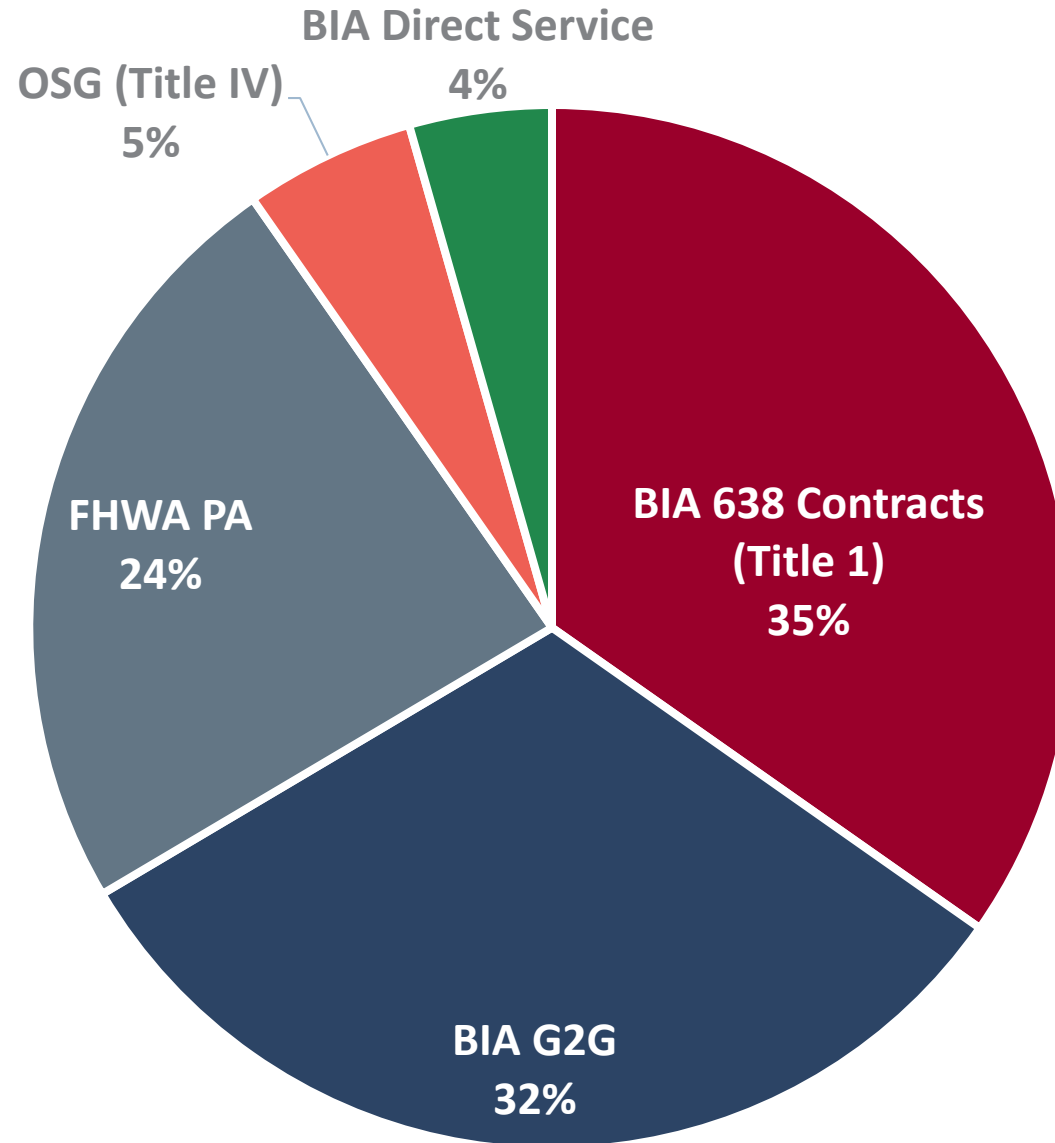
# TPP Program Guiding Principles (25 CFR 170)

- Promote the rights of tribal governments to govern their own affairs.....
- Ensure implementation is consistent with tribal sovereignty and the government-to-government relationship.....
- Encourage flexibility and innovation in program implementation.....
- Regulations will be liberally construed for the benefit of Tribes.....

# TTP - 25 CFR 170

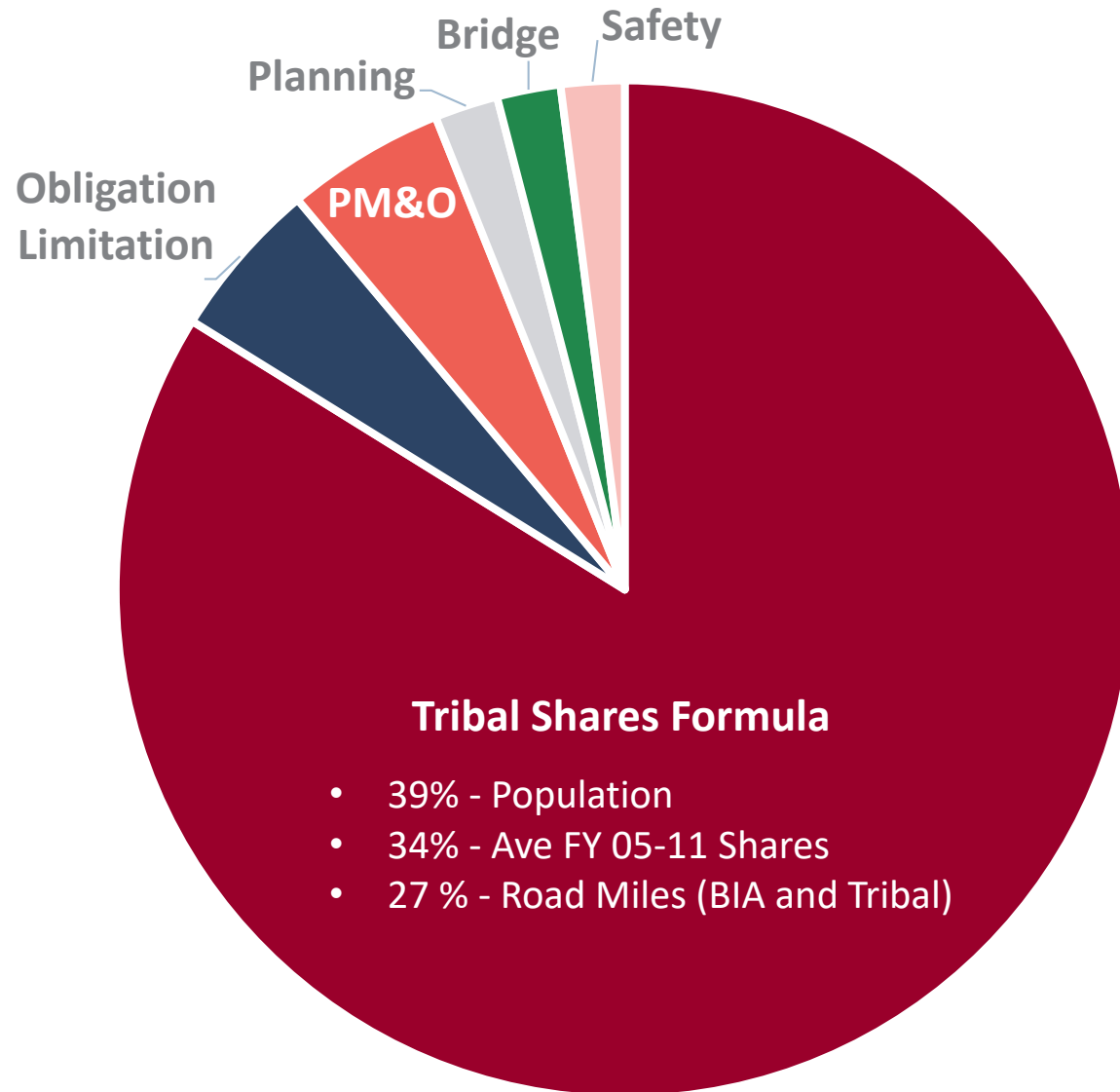
- Governing Policies (170.2)
- Eligible Uses of TTP Funds (170.111)
- Seasonal Transportation Routes (170.117)
- Airport Facilities (170.122 & 170.805)
- Non Federal Match (170.133)
- Coordinating Committee (170.135)
- TTIP (170.421)
- NTTFI (170.442)
- NEPA CE (170.453)
- PS&E Approval (170.461)
- Bridge Inspections (170.513)
- Legislation and Procurement (170.606)
- 202(a)(9) Transfers (170.627)
- Maintenance (170.800)

# TTP Delivery Mechanisms (573 Tribes)

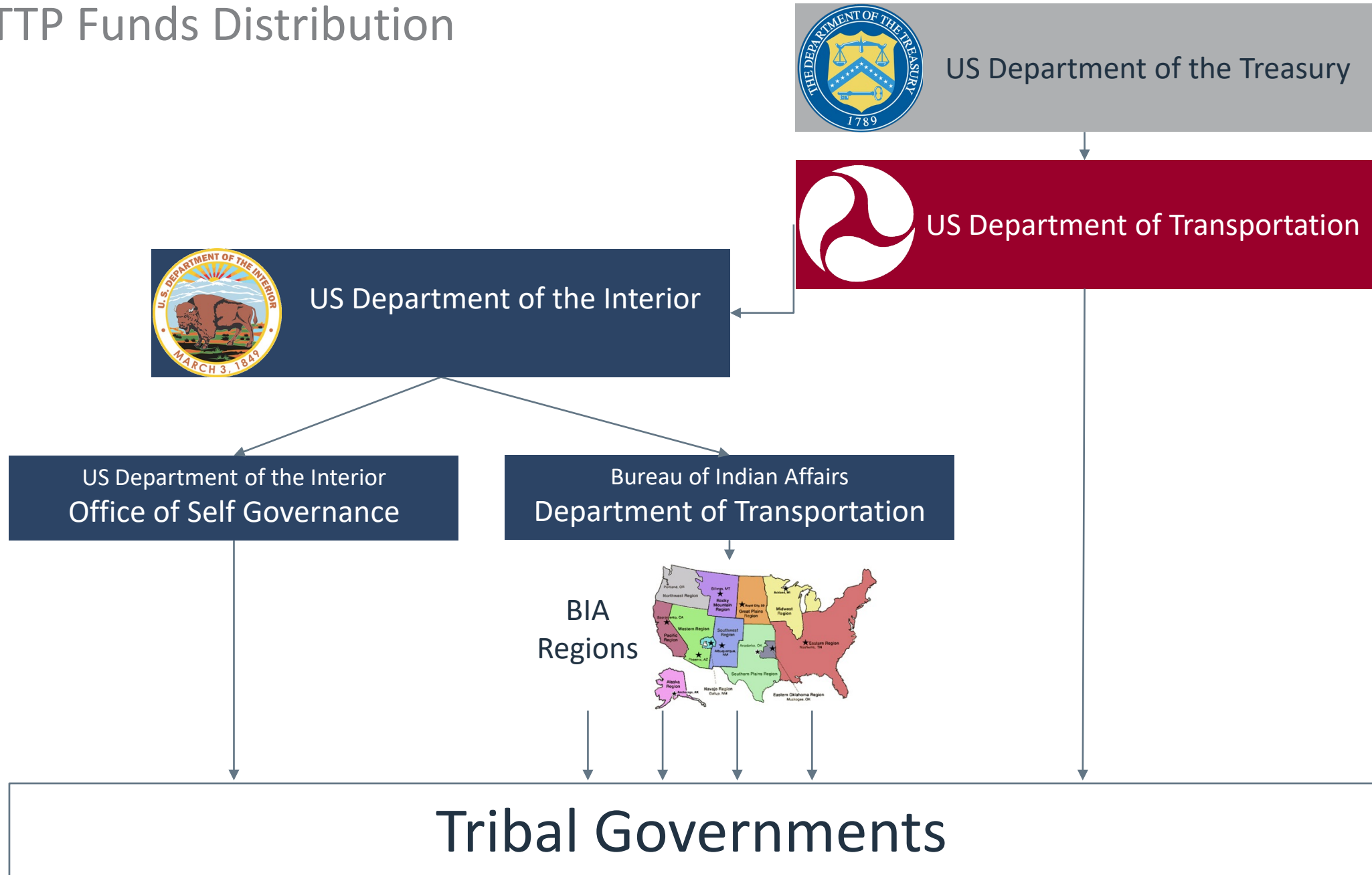


# Tribal Transportation Program Funds

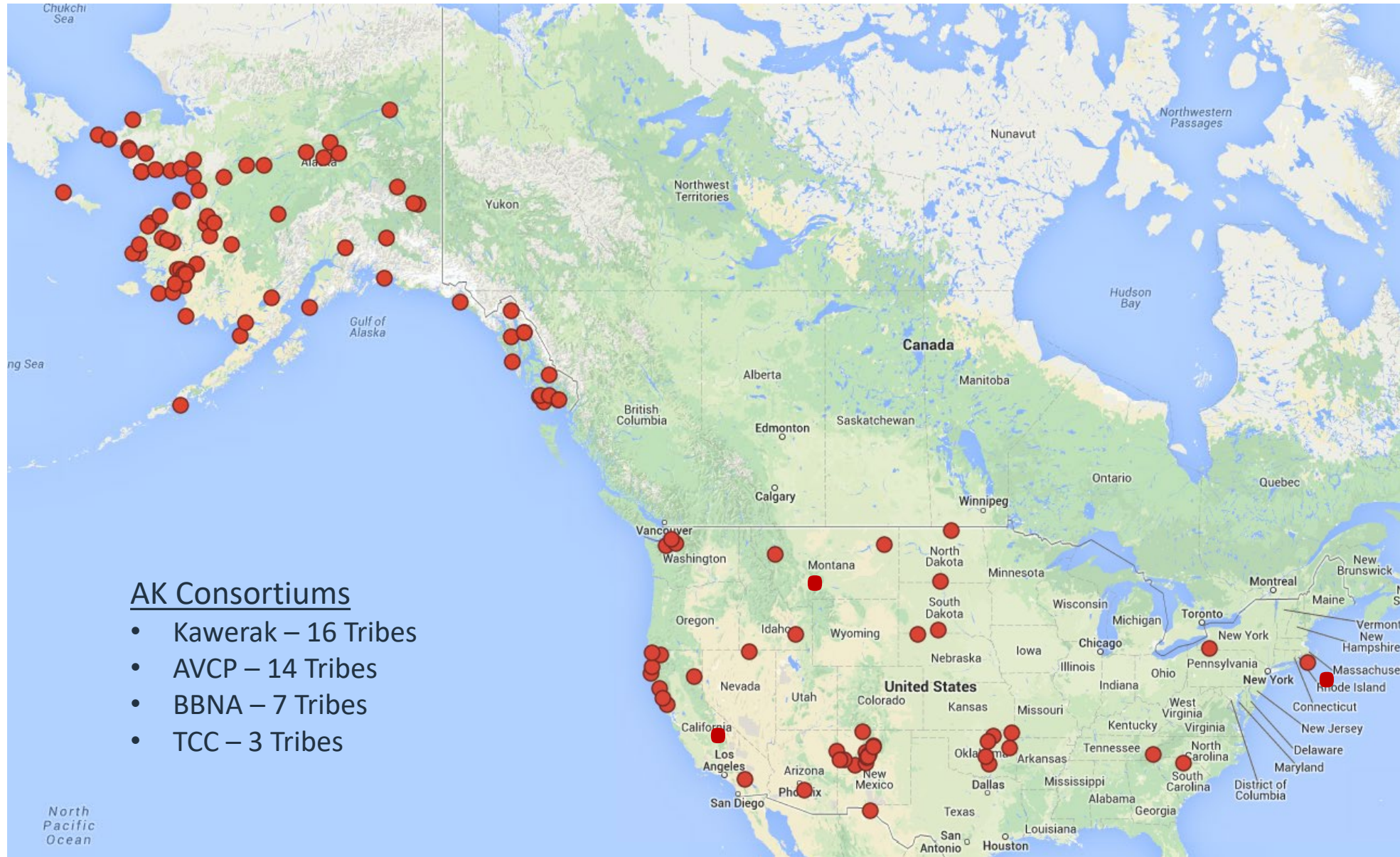
FY19: \$495,000,000



# TTP Funds Distribution



# 135 Tribal Governments working with FHWA



# TTP Projects





Oglala Sioux Tribe, Cheyenne River Bridge,  
Custer County, SD, SDDOT Partnership



Jamestown S’Klallam Tribe - WA

Old Blynn Highway reconstruction, pedestrian path and traffic calming project



# Lummi Tribe, Washington, Haxton Way roundabout



# FY16 Annual Report to Secretaries

- **98% of Tribes completed reporting**
- TTP Funds Received: \$367,951,705
- TTP Funds Expended: \$267,805,986
  - Almost \$35 million for maintenance
  - Jobs Retained: 1683
  - Jobs Created: 5702
  - 970 design/construction projects
  - Additional \$264 million in other funds expended on projects.

## TRIBAL TRANSPORTATION PROGRAM (TTP)



## FISCAL YEAR 2016 DATA REPORT TO THE SECRETARY OF TRANSPORTATION AND THE SECRETARY OF THE INTERIOR

# Nationally Significant Federal Lands and Tribal Projects (NSFLTP) Program

- \$300 million of available funding for construction, reconstruction or rehabilitation of transportation projects providing access to or located on federal or tribal lands
- Federal share of a project can be up to 90 percent
- Projects with estimated construction costs of \$50 million or more given priority consideration for selection
  - Program will accept projects with estimated construction costs of at least \$25 million
- Applications accepted on a rolling basis
- Federal lands management agencies and tribes can apply directly
  - States and local agencies may also apply, but only if sponsored by a federal land management agency or tribe.
- NOFO can be seen at <https://flh.fhwa.dot.gov/programs/nsfltp/>



U.S. Department of Transportation  
Office of Public Affairs  
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News

FHWA 22-18  
Wednesday, October 3, 2018  
Contact: Doug Hecox  
Tel.: (202) 366-0660

## U.S. Transportation Secretary Elaine L. Chao Announces \$300 Million for Federal Lands and Tribal Projects

WASHINGTON – The U.S. Department of Transportation's Federal Highway Administration (FHWA) today published a Notice of Funding Opportunity (NOFO) in the Federal Register making \$300 million available through its Nationally Significant Federal Lands and Tribal Projects (NSFLTP) Program. Funding under this program is available for the first time to build and repair roads and bridges that serve tribal or federal lands.

"This program will help underserved tribal areas fund large-scale infrastructure projects that will improve safety and mobility for their communities," said U.S. Transportation Secretary Elaine L. Chao.

The "Fixing America's Surface Transportation" (FAST) Act established the NSFLTP Program to provide federal financial assistance for the construction, reconstruction or rehabilitation of transportation projects providing access to or located on federal or tribal lands.

Under the NSFLTP, the federal share of a project can be up to 90 percent and can be used to improve the condition of a critical transportation facility. Large-scale projects with estimated construction costs of \$50 million or more are given priority consideration for selection, but the program will accept projects with estimated construction costs of at least \$25 million.

"The program prioritizes highways and bridges that access our national treasures and improve the quality of life throughout Indian country," said Deputy Federal Highway Administrator Brandye L. Hendrickson. "The funds will go a long way in making sure that needed improvements to infrastructure serving federal and tribal lands are addressed."

Applications are being accepted on a rolling basis. Federal lands management agencies and tribes can apply directly for grants under the program. States and local agencies may also apply, but only if sponsored by a federal land management agency or tribe. The NOFO can be seen at <https://flh.fhwa.dot.gov/programs/nsfltp/>.

What new mechanism is available to better enable funding partnerships for tribal transportation projects?

# Section 202 (a)(9) Transfers

- **MAP-21 Unambiguously Authorized Cooperation of States and Local Governments**

- New section at 23 U.S.C. § 202 (a)(9)(A):

*“The cooperation of States, counties, or other local subdivisions may be accepted in construction and improvement.”*

- **Also Authorized BIA and FHWA to Transfer and Oversee Funds Received From States or Their Political Subdivisions**

- 23 U.S.C. § 202 (a)(9)(B) provides that:

*“any funds received from a State, county, or other local subdivisions shall be credited to appropriations available for the tribal transportation program.”*

# Funding Sources That May Be Eligible for a 202 (a)(9) Agreement

- **Overall - Federal-aid and other Funds**
  - Transportation Enhancement
  - Surface Transportation Program
  - Strategic Highway Research Program
  - Other discretionary funds from programs authorized under Title 23, or any other funds from a state, county, or other local subdivisions.
- **Otherwise consistent with the mission of BIA and FHWA.**



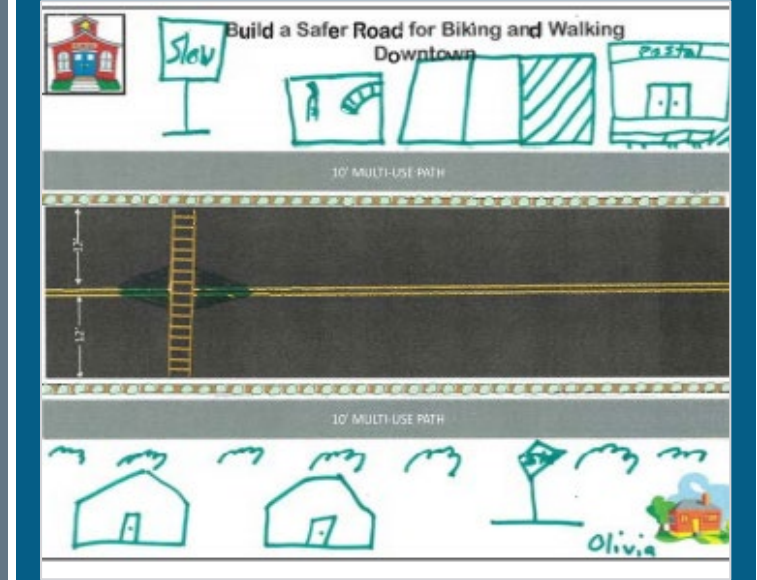
# Projects Using 202(a)(9) Transfers



Cyclists use Olympic Discovery Trail through the Jamestown S’Klallam tribal government campus



Community outreach efforts to general public and schools conducted as part of the Karuk Tribe’s Orleans Community Center Connectivity Plan



# Projects Using 202(a)(9) Transfers

Tribe	State	Project Name	Project Description	Transfer Amount	BIA/ FHWA	Executed Date
Native Village of Tanana	AK	Tanana Dust Control Mitigation	Dust Control on Village streets	\$79,226	FHWA	4/17/2017
Craig Tribal Association	AK	Sidewalks in the City of Craig	Sidewalks for pedestrian safety	\$464,144	FHWA	7/24/2017
Native Village of Barrow	AK	Barrow Arctic Research Center Road	Construct 0.75 mile segment	\$2,482,868	BIA	6/9/2017
Village of Crooked Creek	AK	Connector Road to Donlin Mine Road	New road to connect Crooked Creek to gravel source and future Donlin Mine Rd.	\$2,002,950	BIA	5/21/2018
Native Village of Eyak	AK	Shepard Point Oil Response Facility	Water dock for oil spill response and new 4.5 mile access road	\$12,031,653	FHWA	4/24/2018
Karuk Tribe	CA	Orleans Community Center Connectivity Plan	Create walkable town core for Orleans residents and guests	\$183,080	FHWA	3/15/2016
La Jolla Band of Luiseno Indians	CA	Multi-use Trails and Sidewalks	Complete a PS&E for 10 miles of multi-use trails and sidewalks	\$4,855,000	BIA	6/10/2016

## Projects Using 202(a)(9) Transfers (cont'd.)

Tribe	State	Project Name	Project Description	Transfer Amount	BIA/ FHWA	Executed Date
Cher-Ae Heights Indian Community of the Trinidad Rancheria	CA	Transportation Planning for Tribes Statewide	Identify opportunities for Tribes statewide to develop non-motorized transportation facilities	\$318,595	FHWA	8/20/2018
Paskenta Band of Nomlaki Indians of California	CA	Transportation Planning for Climate Change Impacts	Identify transportation resources at risk from climate change, and identify resiliency strategies	\$106,690	BIA	Pending
Leech Lake Band of Ojibwe	MN	Bena Trail - Phase 2	Pedestrian and bicycle trail as safe alternative to US Hwy. 2	\$674,800	BIA	6/23/2016
Red Lake Band of Chippewa Indians	MN	Trunk Hwy. 1 Improvements, incl. Bridge Replacement	Replace bridge on Trunk Highway 1, and improve bridge approaches	\$2,292,244	BIA	7/1/2016
Grand Portage Band of Chippewa	MN	Grand Portage Pier	Design and construction of pier for ferry boat use	\$1,297,549	BIA	8/10/2018

## Projects Using 202(a)(9) Transfer (cont'd.)

Tribe	State	Project Name	Project Description	Transfer Amount	BIA/ FHWA	Executed Date
Seneca Nation	NY	Pedestrian/Bicycle Trail	Pedestrian and snowmobile trail	\$486,206	FHWA	4/19/2017
Oglala Sioux Tribe	SD	Kyle Shared Use Pathway	Pathway connects housing area with services and transit	\$400,000	FHWA	7/30/2018
Cheyenne River Sioux	SD	Shared Use Path in Eagle Butte, SD	New shared use path alongside roads for pedestrians & bicycles	\$395,671	BIA	5/9/2016
Jamestown S'Klallam Tribe of Indians	WA	Olympic Discovery Trail – Diamond Point Road West Segment	Pedestrian and bicycle paved trail as safe alternative to US 101	\$153,528	FHWA	8/25/2015
Jamestown S'Klallam Tribe of Indians	WA	Olympic Discovery Trail – Michigan School Road Segment	Pedestrian and bicycle paved trail as safe alternative to US 101	\$182,308	FHWA	6/13/2018
Quinault Indian Nation	WA	Restoration of Salmon Habitat on Upper Quinault River	Mitigate impacts to habitat from emergency road repairs	\$430,000	FHWA	5/21/2018

# 202(a)(9) Transfers

Summary by State		
State	Number of 202(a)(9) Projects	Funds Transferred to Tribes via 202(a)(9)
Alaska	5	\$ 17,060,841
California	4	\$ 5,463,365
Minnesota	3	\$ 4,264,593
New York	1	\$ 486,206
South Dakota	2	\$ 795,671
Washington	3	\$ 765,836
<b>TOTAL</b>	<b>18</b>	<b>\$ 28,836,512</b>

## BIA & FHWA Outreach

- Educating states and FHWA Division offices about the new law.
- Encouraging Tribes to identify opportunities and initiate conversations.
- 25 CFR § 170.627 requires an agreement among Tribe, State and BIA/FHWA describing source and use of funds. (An agreement template is available)
- Legal and technical assistance is available from FHWA.

What are the challenges/hurdles to greater cooperation and innovation in tribal transportation and how are we addressing them?

# Challenges For Tribes, States & Local Governments

- Politics of tribal-state relationships sometimes interfere with finding effective solutions benefitting tribes, states, counties, other governments and the traveling public.
- Waiver of Sovereign Immunity
- States & local governments (including Tribes) are not familiar with mechanisms like 202(a)(9) transfer agreements.
- FHWA is learning too.



# Moving Forward

- FHWA's fiscal office, working in cooperation with its Office of Chief Counsel, has issued internal guidance for how to “move” funds under agreements using 23 USC 202(a)(9) to expedite the process for moving funds back to FHWA and on to tribes.
- **U.S. DOT Tribal Consultation Plan**
  - Develop, improve and maintain partnerships with Indian Tribes
  - Support the principles of self-government, self-determination and tribal sovereignty
  - Foster meaningful Government to Government relations
  - Improve existing programs
  - Provide timely technical assistance
  - Build transportation program administration capacity

# State Department of Transportation Perspective

Marc Luiken

Alaska Department of Transportation & Public Facilities  
Commissioner

# Alaska DOT&PF Tribal Government Partnership Initiatives

Partnership-  
Building  
Institutions

23 U.S.C.  
202(a)(9)  
Funds  
Transfer  
Procedures

Airport M&O  
Contracts  
and Training

Post-Award  
Conferences

# Partnership-Building Institutions

## ▪ Governor's Tribal Advisory Council (GTAC)

- Improve the relationship between the state and the 229 federally recognized tribes in Alaska. Ensure the state's highest office has direct communication with tribes to meet the unique needs of Alaska's first people.
- GTAC is comprised of 11 council representatives, who represent Alaska's federally recognized tribes' interests in important issues including a transportation representative.



## ▪ Alaska DOT&PF Tribal Liaison

- Coordinates between Governor's Office and the executive branch at Alaska DOT&PF;
- Looks for opportunities to partner with Tribes regarding Alaska DOT&PF owned facilities, as well as improve transportation overall in rural Alaska;
- Works with Federal Transportation Partners on implementing national programs in Alaska;
- The liaison is a point of contact for Tribes, Native Corporations, and Tribal Organizations as well as Alaska DOT&PF staff.

GTAC Meeting  
December 2016  
(Governor and Lt.  
Governor at fore)

# Partnership-Building Institutions

## Benefits to Alaska DOT&PF and Tribal Communities

- Promote effective communication
- Help institutionalize and disseminate successful practices
- Facilitate more efficient delivery of projects
- Promote local engagement and economic development

## 23 U.S.C. 202(a)(9) Funds Transfer Procedures

- MAP-21 set forth a new chapter for cooperation between Tribes and other government agencies regarding highway program delivery. Section 202(a)(9) of title 23, United States Code encourages cooperation between States and Tribes by allowing any funds received from a State, county, or local government to be credited to appropriations available for the Tribal Transportation Program (TTP). A Tribe would receive the transferred funds in the same manner that it receives its TTP funds and administer the project with oversight by either BIA or FHWA.

### Benefits to Alaska DOT&PF

- Improved or accelerated project delivery when a tribe delivers a federal project in their community (not on State ROW) that they are better positioned to administer, particularly in remote locations.

### Benefits to Tribal Communities

- Doesn't require a waiver of sovereign immunity.
- Facilitates pursuit of local priority projects (safety, economic development, etc.).

# 23 U.S.C. 202(a)(9) Funds Transfer Eligibility

- Community Transportation Program Grants
- Transportation Alternatives Program Grants
- Legislative appropriates special projects added to STIP
  
- Not eligible
  - Existing Infrastructure Transfers
  - State Planning and Research Funds
  - State match funding due to state constitution

# Pilot Point Runway Extension

- Pilot Point Tribal Council is building a new seafood processing plant in Pilot Point and wants the runway at the DOT&PF owned airport extended from 3,820' to 5,000' to accommodate fresh salmon shipping by air cargo with Herc L-100 aircraft.
- The Tribal Council proposes to use Community Development Quota (CDQ) funds to pay for the runway extension.
- DOT&PF engineers will develop an engineering cost estimate, Pilot Point Tribal Council will provide funding, and DOT&PF will deliver the project. Construction is scheduled to begin next summer.



Existing Pilot Point runway  
Photo credit: Alaska DOT&PF



# PUBLIC AIRPORTS IN ALASKA

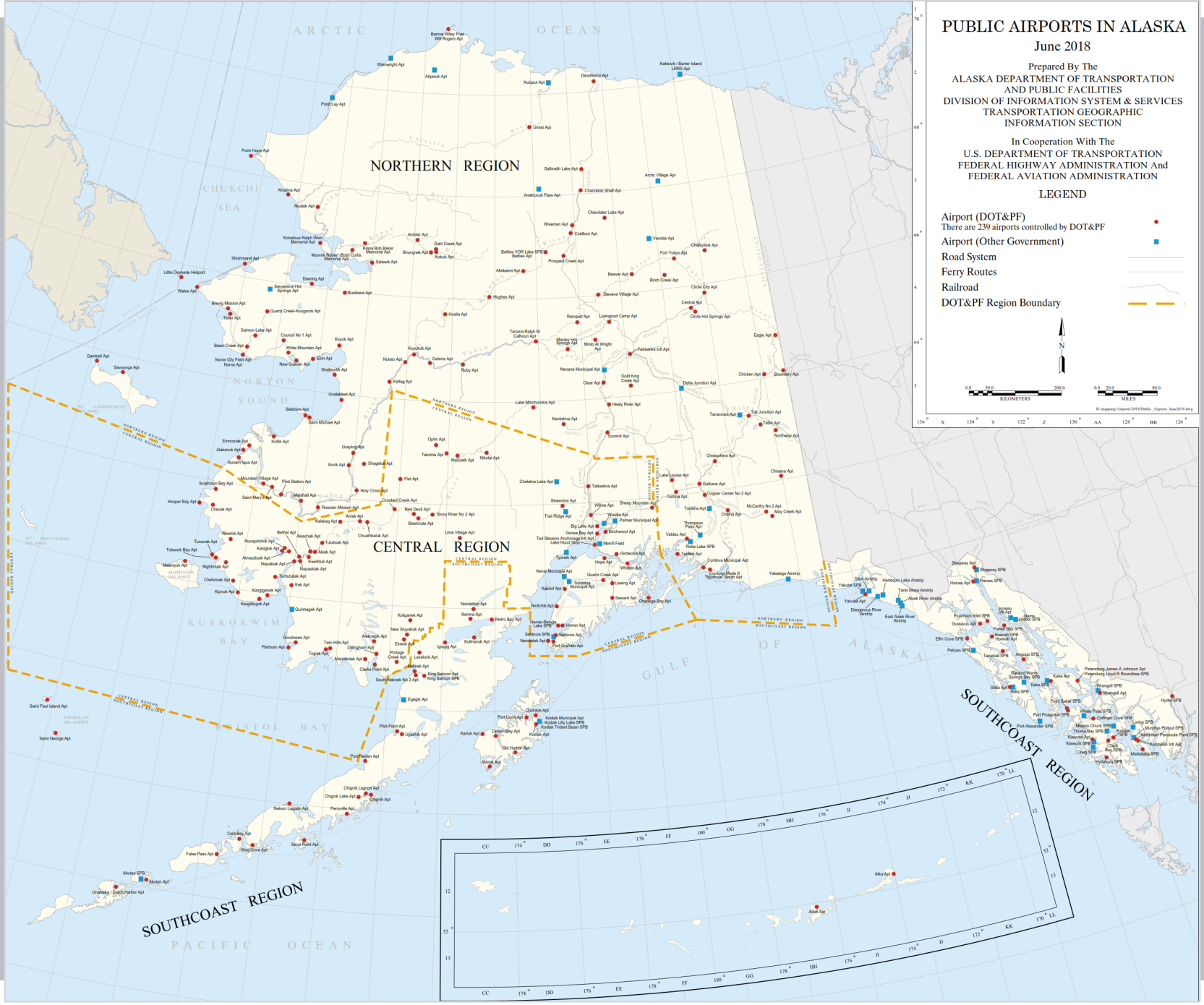
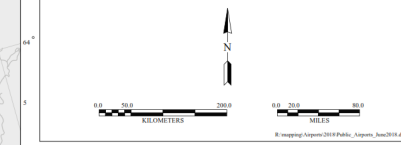
June 2018

Prepared By The  
ALASKA DEPARTMENT OF TRANSPORTATION  
AND PUBLIC FACILITIES  
DIVISION OF INFORMATION SYSTEM & SERVICES  
TRANSPORTATION GEOGRAPHIC  
INFORMATION SECTION

In Cooperation With The  
U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION AND  
FEDERAL AVIATION ADMINISTRATION

## LEGEND

- Airport (DOT&PF) ●
- Airport (Other Government) ■
- Road System —
- Ferry Routes - - -
- Railroad —
- DOT&PF Region Boundary - - -



# Flying into Kiana



# Airport Maintenance and Operations Contracts and Training

- Tribes can enter into maintenance and operations contracts with DOT&PF for local rural airports
  - Contracts are 1 year and can be renewed (timeline is contract specific)
- Duties include:
  - Snow plowing
  - Runway inspection
  - Equipment checks prior to each use
- DOT&PF provides business assistance for completing Invitation for Quotes

# Airport Partnerships



Flying into Kiana.



Bethel Training February 2017

## Benefits to Alaska DOT&PF

- Quality maintenance and operations of state airports in rural locations lacking Alaska DOT&PF staff.

## Benefits to Tribal Communities

- Jobs and training for rural communities.

# Alaska DOT&PF Faces Unique Challenges



# Examples of Airport Partnerships

- ★ Old Harbor
- ★ Port Lions
- ★ Klawock

## PUBLIC AIRPORTS IN ALASKA

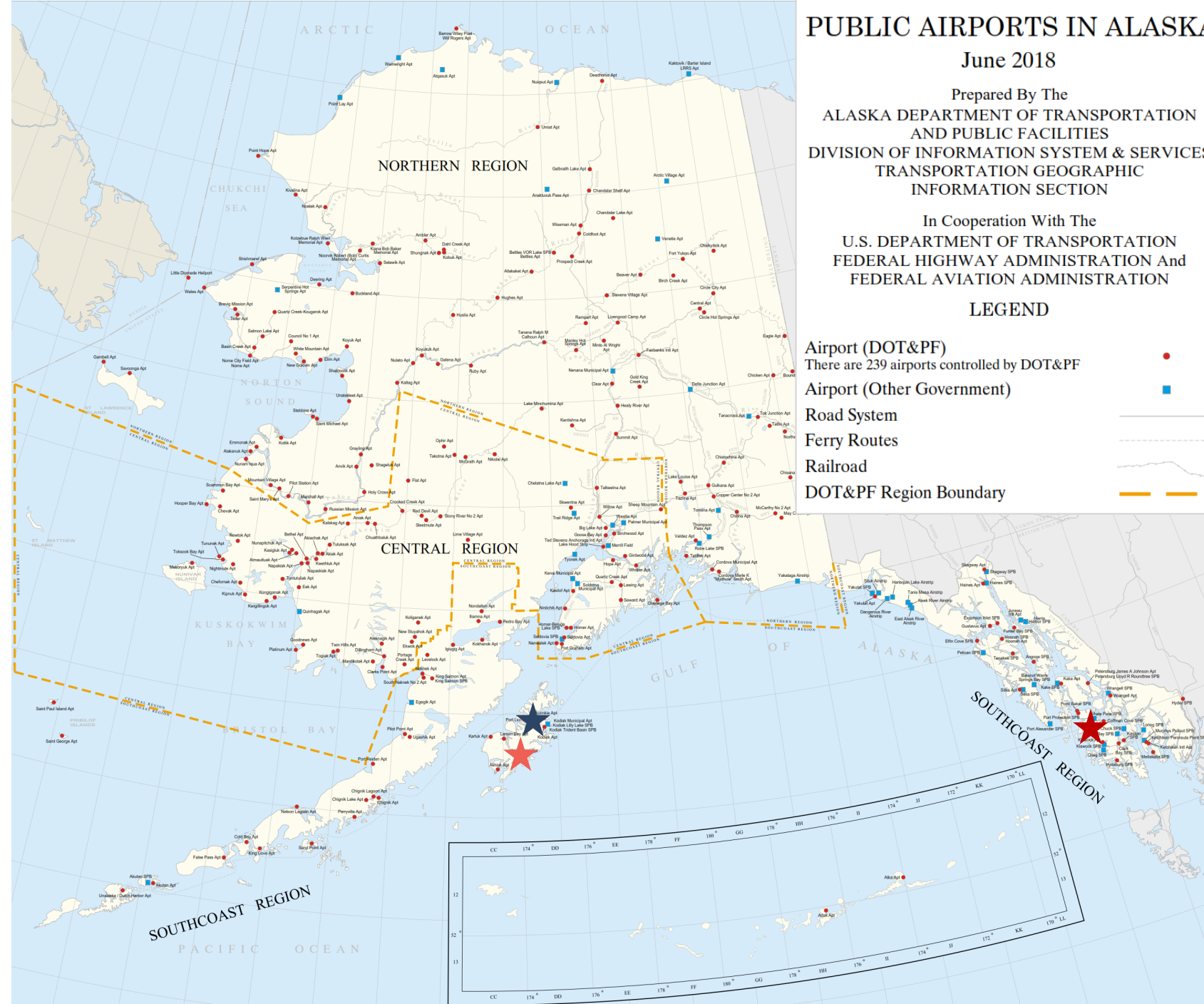
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FEDERAL AVIATION ADMINISTRATION

### LEGEND

- Airport (DOT&PF) ●
- There are 239 airports controlled by DOT&PF
- Airport (Other Government) ■
- Road System
- Ferry Routes
- Railroad
- DOT&PF Region Boundary



# Post-Award Conferences

- Goal: to increase rural employment and economic opportunities on airport and highway projects
- Successful contractor holds conference in the community where the construction project (airport or highway) will take place to inform local workers what jobs and business opportunities will be available and allow them to connect with staff regarding training and requirements
- Post-Award Conferences are required for all projects greater than \$5M in rural communities



## Benefits to Alaska DOT&PF

- Helps generate local trust and support by communicating the timeline for construction, impacts, and potential jobs available during the construction season(s) with the contractor.

## Benefits to Tribal Communities

- Connects local residents to potential employment, training, and business opportunities.

# Tribal Communities Perspective

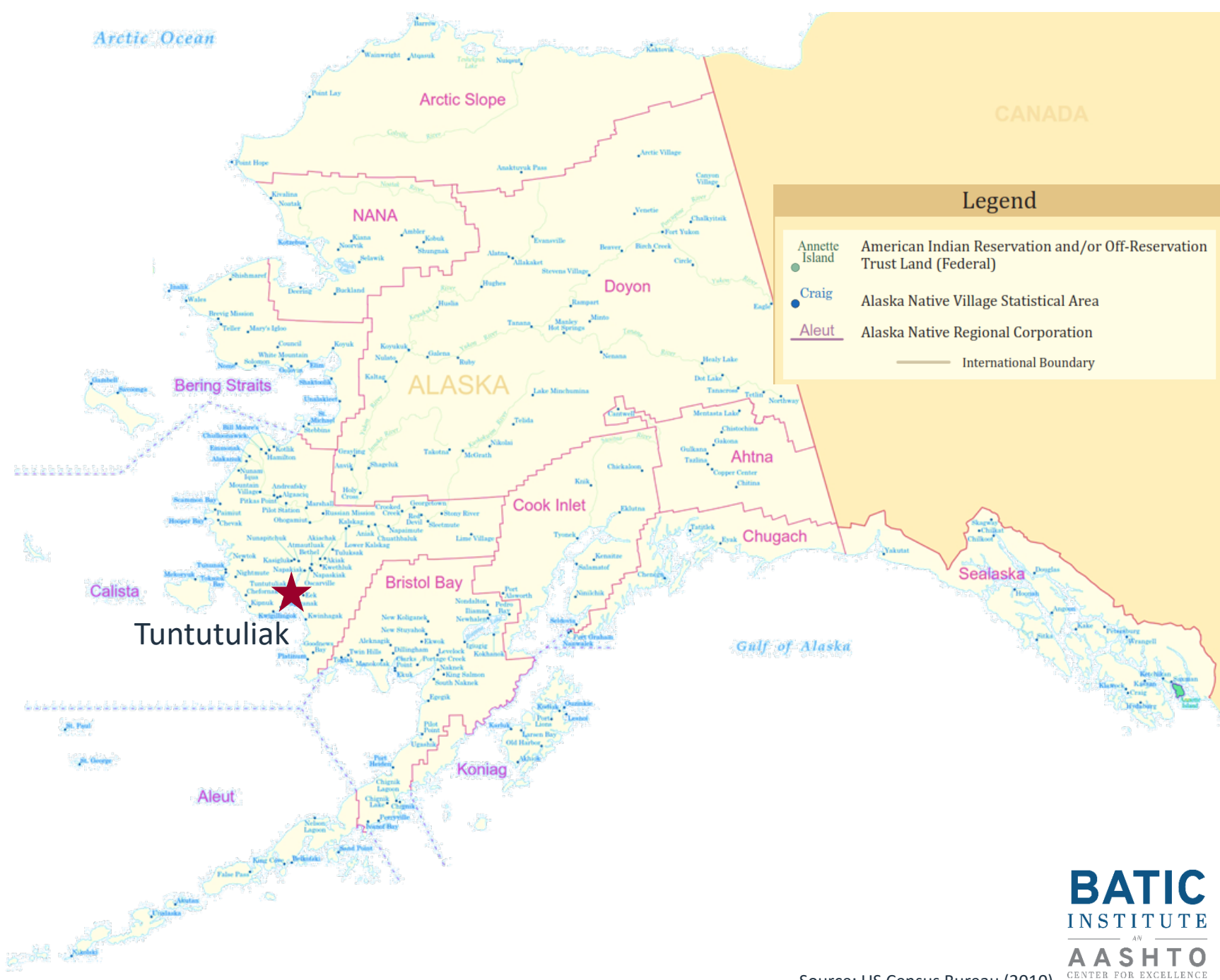
Clarence Daniel

Transportation Director  
Association of Village Council Presidents



# Tribes in Alaska

- Alaska is home to 229 federally recognized tribes

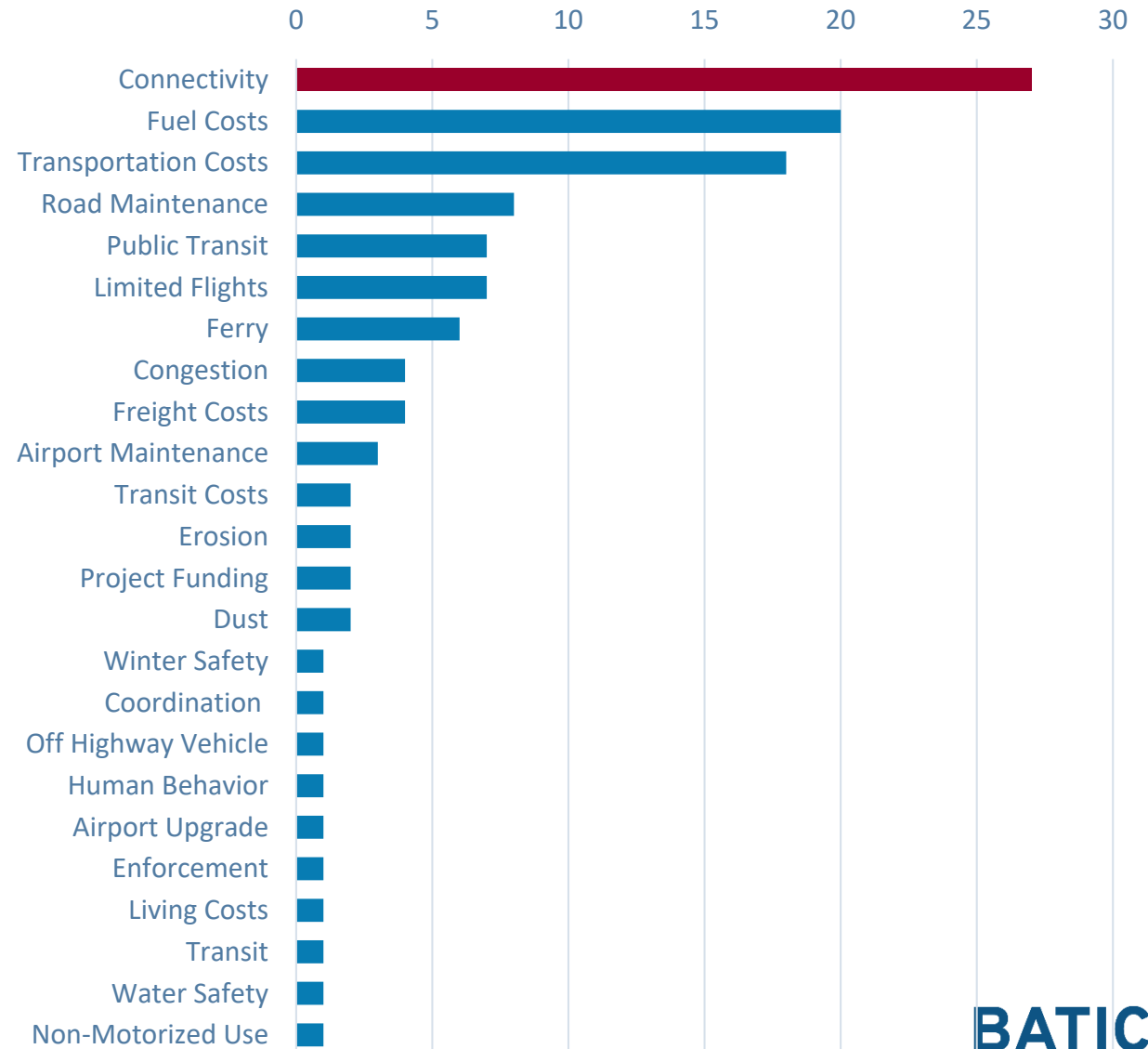


- Survey conducted at the Alaska Federation of Natives in 2017:

## *What is the #1 Transportation Issue Facing Your Village/ Region?*



Kongiganak Village Boardwalk. Transportation in Bush Alaska can be very challenging, no matter the vehicle type accommodated.



# Road to Tanana

- Opened in 2016, it is the first road to connect a community to the state system in more than 20 years.
- **Community partnership**
  - City and tribe passed resolutions in support of the road after two years of community discussion
  - Alaska DOT&PF designers came to the village several times to meet the community
  - Community picked the route
- **Benefits to community**
  - Improved personal mobility
  - Lowers cost of freight/ cost of living
  - Opportunities for economic growth

Construction ongoing in August 2015



Completed bridge over Boulder Creek

# Relationship between Tribes and State DOT

## ■ In the past...

- Limited tribal input on State plans
- Few working relationships with DOT executive staff
- Outreach and tribal involvement limited to what was required for NEPA process
- No collaboration



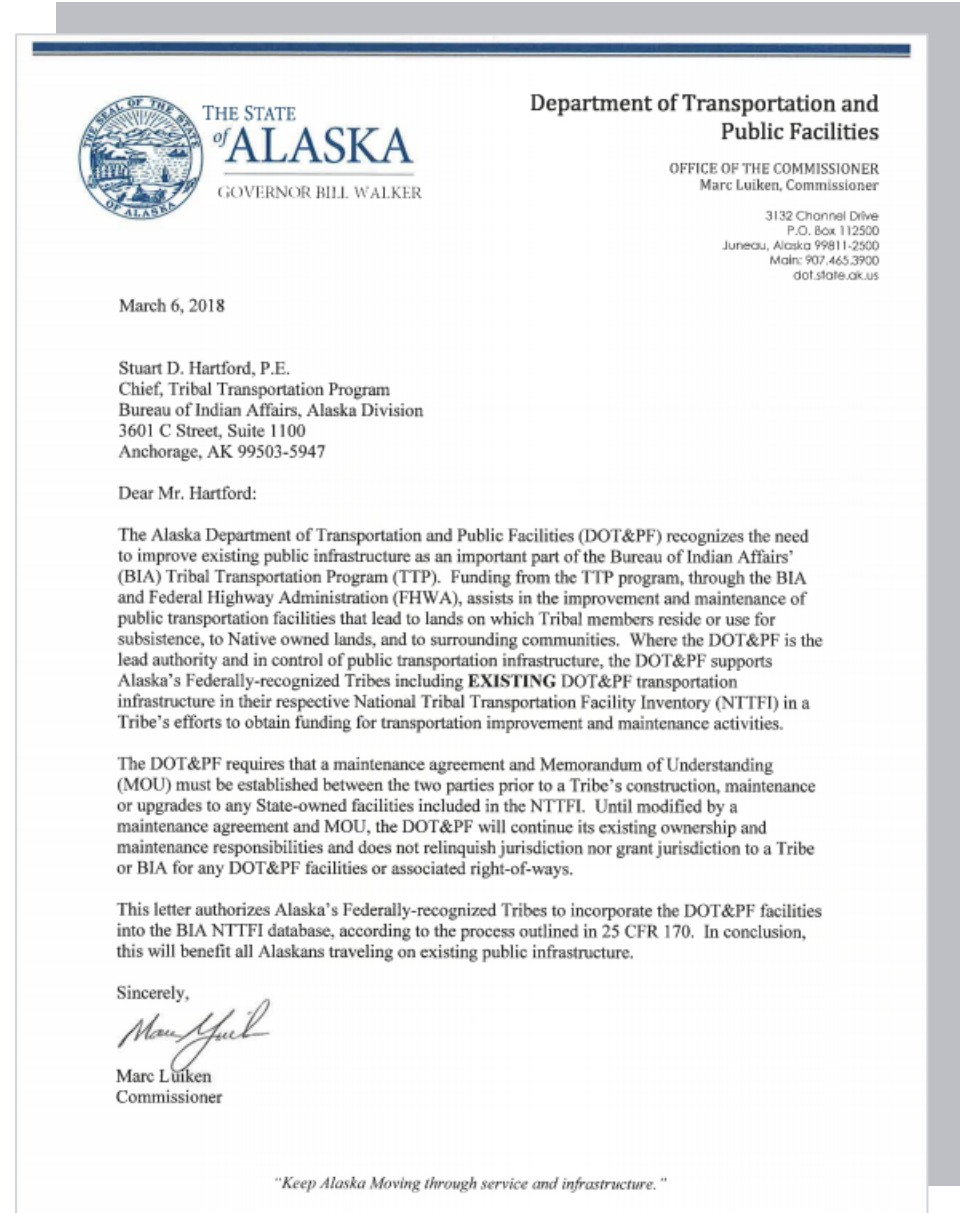
Muskox on the Council Road in Nome.  
Photo credit: Dennis Bishop, Alaska DOT&PF

## ■ Impact of partnership initiatives...

- Execution of 202(a)(9) funding transfers to Tribes
- Authorization for Tribes to add DOT&PF facilities into National Tribal Transportation Facility Inventory (NTTFI) database
- Alaska DOT&PF met with FHWA, BIA and Federal Land Highways on 25CFR170 proposed road regulations
- Increased outreach on transportation plan updates
- More Post-Award Conferences
- DBE training and outreach through the Civil Rights Office offers apprenticeship, resources, in-person training, and reimbursement programs for individuals and companies

# Adding Infrastructure to National Tribal Transportation Facility Inventory (NTTFI)

- Alaska DOT&PF authorized Tribes to add DOT&PF facilities into NTTFI database
  - Impacts Tribal transportation funding allocations
  - Facilitates future partnering on projects that benefit rural communities



# Airports

- Airport maintenance and operations contracts and training
- GTAC recently assisted with outreach regarding rural airport safety
  - Raising awareness of vandalism that is impacting emergency services in remote communities
  - Working with air taxis and other aviation stakeholder groups to develop materials on flight and runway safety issues
  - Developing an updated version to an FAA coloring book to help young children understand the importance of their village airport and learn safe practices



Alaska DOT&PF Educational Poster



# Questions and Answers

Anna Bosin

BATIC Institute: An AASHTO Center for Excellence

# Discussion



**Brian Allen**  
Program Delivery Manager, Federal Lands  
Highway Office of Tribal Transportation



**Marc Luiken**  
Commissioner,  
Alaska Department of Transportation & Public  
Facilities



**Clarence Daniel**  
Transportation Director, Association of Village  
Council Presidents



# Other Resources

- AASHTO TV - The Road to Tanana, Alaska: Proving that Rural Connections Improve Lives
  - <https://www.youtube.com/watch?v=CBRBtH1iMaM>
- Tribal Transportation Program Delivery Guide - 2018
  - <https://flh.fhwa.dot.gov/programs/ttp/guide/documents/full-guide.pdf>
- Tribal Shares and Planning Funds under the FAST Act
  - <https://flh.fhwa.dot.gov/programs/ttp/shares.htm>
- Tribal Planning Resources
  - [https://www.planning.dot.gov/focus\\_tribal.asp](https://www.planning.dot.gov/focus_tribal.asp)
- Introduction to the Essentials of Innovative Finance for Tribal and Local Governments
  - <https://connectdot.connectsolutions.com/p0badz9pv6kz/?proto=true>
- FHWA Center for Local Aid and Support, Tribal Technical Assistance Program
  - [https://www.fhwa.dot.gov/innovativeprograms/centers/local\\_aid/ttpap/](https://www.fhwa.dot.gov/innovativeprograms/centers/local_aid/ttpap/)
- FHWA TTAP Webinar
  - [https://www.fhwa.dot.gov/innovativeprograms/centers/local\\_aid/ttpap/ttpap\\_webinar\\_120617.aspx](https://www.fhwa.dot.gov/innovativeprograms/centers/local_aid/ttpap/ttpap_webinar_120617.aspx)

# Wrap-Up

## Thank you for attending today's webinar

The BATIC Institute will post responses  
to all questions received today on its website

The recorded webinar will also be available  
on the BATIC Institute website:

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### UPCOMING BATIC INSTITUTE OFFERINGS

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Research Report  
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**Maintenance of Effort Test Best Practices**  
Research Report  
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