

# Tribal Consultation Best Practices Guide for Metropolitan and Regional Transportation Planning Organizations in Washington State

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Washington Indian Transportation Policy Advisory Committee

May 26, 2015

## Washington Indian Transportation Policy Advisory Committee

Greetings,

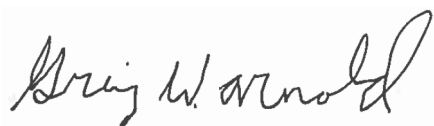
The Washington Indian Transportation Policy Advisory Committee (WITPAC) is comprised of representatives identified by their individual Tribes to work with the State on statewide transportation policy issues. One of our priorities over the past year was to strengthen relationships between tribes, metropolitan and regional planning organizations (MPOs & RTPOs).

This guide was developed to help Tribes, MPOs and RTPOs who may not be familiar with one another's purpose or planning processes to work together. It draws from best practices currently utilized across the state. We appreciate the hard work of the interagency subcommittee that developed the guide and included representatives from Tribes, MPOs, RTPOs, WSDOT, Federal Highway Administration and the Federal Transit Administration.

Tribes are interested in coordinating with other jurisdictions throughout the region on transportation. The transportation network does not stop at the reservation boundary. Tribes are transportation system owners, major employers and many reservations include significant tourist destinations. Tribes recognize the importance of regional planning processes. It's important that any regional planning efforts include Tribes so the plans accurately reflect the transportation needs and priorities within any region's planning area. We want to engage in regional transportation planning efforts in a way that ensures our sovereignty will be observed and protected. We hope this guide will help foster regional transportation planning efforts that will improve communication and consultation between Tribes and MPO/RTPOs to better our transportation future.

Thank you for your interest in building strong Tribal, MPO, RTPO relationships.

Sincerely,

A handwritten signature in black ink, reading "Greig W. Arnold". The signature is fluid and cursive, with the first name "Greig" being more prominent.

Greig Arnold

Chairman

Washington Indian Transportation Policy Advisory Committee



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**Lynn Peterson**  
Secretary of Transportation

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Greetings,

WSDOT was pleased to participate in the development of this Tribal Consultation Best Practices Guide for Metropolitan Planning Organizations (MPOs) and Regional Transportation Planning Organizations (RTPOs) in Washington State. Throughout this process, WSDOT staff has had the opportunity to collaboratively work with Tribes, MPOs, RTPOs, FHWA and FTA. This guide is the result of recognition of the importance of understanding and respecting the unique roles and responsibilities of the many stewards of our transportation system. WSDOT hopes that the requirements, recommendations, and innovative methods of communication and consultation as described in the guidance will be a valuable tool that can be used throughout Washington.

WSDOT values its government-to-government relationship with Tribes in Washington State as well its coordination with MPOs and RTPOs. Whether we are planning communities, working together to solve transportation issues, or continuing to better the quality of life for all Washington residents, effective communication and positively working together will continue to be the keys to our state's success.

I would like to thank the Tribes, MPOs, RTPOs, FHWA and FTA for their time and efforts in working on the Tribal Consultation Best Practices Guide that we trust will be a useful tool for our state for years to come.

Sincerely,

A handwritten signature in blue ink that reads "Lynn Peterson".

Lynn Peterson  
Secretary of Transportation



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May 27, 2015

Greetings,

The FHWA Washington Division and FTA Region 10 are pleased to support the development of the *Tribal Consultation Best Practices Guide for Metropolitan and Regional Transportation Planning Organizations in Washington State*.

Both FHWA and FTA value our coordination role with Metropolitan Planning Organizations (MPOs) and our trust responsibility with Tribal Governments. In cooperation with WSDOT, we provide planning oversight as well as funding to facilitate programming and project delivery in support of the state's multimodal transportation system. FHWA and FTA provide guidance and consultation for the development and implementation of statewide and MPO planning products that include Unified Planning Work Programs, Long Range Transportation Plans, and Transportation Improvement Programs. Tribes play an important role in contributing to these planning and programming efforts. This Guide should help facilitate that role and expand the level of understanding among FHWA/ FTA, Tribes, MPOs, and WSDOT.

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Division Administrator  
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# Acknowledgements

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In November 2014, the Washington Indian Transportation Policy Advisory Committee (WITPAC) formed a subcommittee to develop a consultation guide to help strengthen relationships between Tribes, Metropolitan Planning Organization (MPOs) and Regional Planning Organizations (RTPOs).

WITPAC gratefully acknowledges the contributions of tribal, federal, WSDOT, MPO and RTPO representatives for their hard work in developing this guide including:

- Andrew Strobel, Puyallup Tribe of Indians
- Julia Seyler Whitford, Kalispel Tribe
- Keri Shepherd, Nooksack Tribe
- Jim Longley, Nisqually Tribe
- Mary Pat Lawlor, Puget Sound Regional Council
- Robin Mayhew, Puget Sound Regional Council
- Michele Leslie, Puget Sound Regional Council
- Ron Cubellis, Whatcom Council of Governments
- Deb LaCombe, Yakima Valley Council of Governments
- Megan Cotton, WSDOT
- Matt Kunic, WSDOT
- Megan Nicodemus, WSDOT
- Sid Stecker, Federal Highway Administration
- Ned Conroy, Federal Transit Administration

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# Introduction

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The Washington Indian Transportation Policy Advisory Committee (WITPAC) is comprised of delegates and alternates authorized by their Tribes to consult with the State on statewide and policy issues. Improving tribal, MPO and RTPO relationships was a top priority in 2014 – 2015. WITPAC formed a subcommittee that included representatives from Tribes, WSDOT, FHWA, FTA, MPOs and RTPOs to develop the following guide.

There are twenty-nine federally recognized Tribes geographically located in Washington State. An additional five tribes have reservations outside of the State but have traditional homelands and / or treaty rights within the State.

There are 12 Metropolitan Planning Organizations (MPOs), organized under federal law and 14 Regional Transportation Planning Organizations (RTPOs) in Washington. The fundamental transportation goals of MPOs, RTPOs and Tribes are very similar: to provide safe, efficient and affordable transportation options to their communities. Many Tribes, MPOs and RTPOs seek opportunities to strengthen their intergovernmental relationships, coordination and partnership opportunities.

While there is no “one-size-fits-all” approach, this Best Practices Guide seeks to share best practices for collaboration and recommendations for Tribes and MPOs / RTPOs working together. It is considered a “living document” and will be updated periodically to reflect new practices.

## **Who is this guidance for and how is it organized?**

This document is intended to be a practical, “hands on” reference for Tribes, MPOs and RTPOs. It includes recommendations and best practices for how MPOs and RTPOs can effectively include Tribes in their organizations. It also provides important information to Tribes on how MPOs and RTPOs are organized and the work these agencies carry out. To this end, a key element of successful intergovernmental relationships is understanding the purpose, structure and function of the entities working together. This guide includes substantial background information about Tribes, MPOs, RTPOs, Washington State Department of Transportation (WSDOT), Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) (the latter two agencies are in the US Department of Transportation, USDOT). This guide only includes minimal references to the Bureau of Indian Affairs (BIA). While the BIA is the primary federal agency working directly with Tribes on transportation issues, they do not distribute funding to, or provide oversight for MPOs and RTPOs.

Finally, the guide includes a robust Frequently Asked Questions (FAQ) section.

## Goals of Tribal Consultation

- To create durable relationships with Tribes, MPOs and RTPOs based on mutual respect that promotes coordinated transportation partnerships in service to all of our citizens.
- For MPOs and RTPOs to take a comprehensive approach to consultation by ensuring Tribes are eligible to fully participate in MPO's or RTPO's planning processes and decision making.
- For MPOs and RTPOs to meet tribal consultation requirements under federal and state law.
- For WSDOT, FHWA and FTA to ensure they are meeting their oversight responsibilities for MPOs and RTPOs as well as their trust responsibilities for Tribes.

## Principles of Consultation

- For Tribes and MPOs / RTPOs to work directly with each other in a way that respects each other's roles and responsibilities.
- Take appropriate steps to remove impediments to working directly and effectively with each other's governments and programs.
- Endeavor to assure that each other's concerns and interests are considered whenever actions or decisions may affect the other's governments or programs.
- Encourage cooperation between Tribes and MPOs / RTPOs to resolve problems of mutual concern.
- Work with state and federal agencies, such as WSDOT, FHWA and FTA, who have both oversight responsibilities for MPOs and RTPOs and trust responsibilities for Tribes.



# Recommendations for Including Tribes in MPOs & RTPOs

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In this chapter, we focus on opportunities for including Tribes in common MPO and RTPO processes. We recognize that each MPO and RTPO is unique, as is their relationship with area Tribes. We've tried to include examples and best practices from around Washington State. If you have additional questions, we encourage you to reach out to other MPOs, RTPOs and member tribes to learn more.

## Membership & Voting

**Recommendation:** Tribes who have lands within the planning area boundary should be eligible to be full members of an MPO or RTPO and associated committees including the right to vote on decisions.

**Best Practice:** For several MPOs and RTPOs, including Peninsula RTPO, Thurston Regional Planning Council, Puget Sound Regional Council, and Whatcom Council of Governments, Tribes are eligible to be full members of the MPO or RTPO, associated committees and can vote on decisions.

## Tribal Representation

**Recommendation:** MPO or RTPO bylaws should stipulate that Tribes may identify an Alternate(s) that is not an elected official. In these cases, Tribes would ensure that the Alternate has the authority to speak for the Tribe and vote on regional policies on the Tribe's behalf. Tribes should identify their delegate and Alternate(s) via a tribal council resolution or letter from the Tribal Chair (if allowable under MPO / RTPO Bylaws).

**Best Practice:** Over the past few years, several MPOs and RTPOs around the state have recognized the significant scope of responsibility for tribal elected officials which make it difficult for many to actively engage in MPO or RTPO processes. To encourage tribal participation, they amended their bylaws to allow tribes to identify a non-elected alternate to speak on their behalf. Examples include Peninsula RTPO, Thurston Regional Planning Council, Whatcom Council of Governments and Puget Sound Regional Council.

### Consultation Tip:

Each Tribe has their own perspective on what constitutes "consultation". Yakama Tribal Council considers consultation as a meeting between Tribal Council and leadership of an agency or organization. Prior to considering participation, M/RTPO leadership should appear before Tribal Leadership to inform them of objective and benefits of Tribal participation, as well as assure Tribal Council that Tribal sovereignty will be observed and protected.

## Interlocal Agreements

**Recommendation:** Tribes, like other jurisdictions, should sign an interlocal agreement when they become a member of the MPO or RTPO. These agreements should clearly articulate the roles and responsibilities of the parties.

**Best Practice:** Both the Nisqually Tribe and Confederated Tribes of Chehalis signed the interlocal agreement with Thurston Regional Planning Council. The agreement outlines the purpose, function, and membership requirements of Thurston Regional Planning Council. The term of the agreement is two years. Member Tribes also sign Puget Sound Regional Council's interlocal agreement.

## Project Selection and Funding

**Recommendation:** Tribes should be eligible to participate on any committees that review, rank and select projects for funding. It's important that Tribes are eligible to participate and vote on any committees or Boards that make funding decisions.

**Best Practice:** Several MPOs and RTPOs including Whatcom Council of Governments, Thurston Regional Planning Council, Peninsula RTPO, Yakima Valley Conference of Governments, and Puget Sound Regional Council include tribes on committees to review and rank projects. This review often occurs at a Technical Advisory Committee level and is approved by a Policy or Executive Board. Whatcom Council of Governments, Thurston Regional Planning Council and Peninsula RTPO include Tribes that serve on boards that make final decisions.

### Consultation Tip:

Always copy staff on correspondence to Tribal leaders. For planning documents and initiatives, you should always copy transportation / transit staff. For NEPA / SEPA or other environmental issues, include tribal natural and cultural resource staff.

## Engagement with Non-Member Tribes

**Recommendation:** When MPO or RTPOs solicit information or distribute a planning document for a review to the larger community, they should include direct engagement with non-member Tribes as well. Non-member Tribes can be Tribes that have Tribal lands within the planning area boundary, but are not members of the MPO / RTPO, or they can be Tribes that have Usual and Accustomed Areas within the MPO / RTPO planning area. Tribes may not be members of an MPO or an RTPO for a variety of reasons, but it doesn't mean there are not important opportunities to engage. Direct engagement means sending a letter to the Tribal Chair and copying the tribal transportation / transit planning staff with information about the request for review and comment. Requests for comment should always include a due date for comments and an offer to meet upon request.

**Best Practice:** The Puget Sound Regional Council worked with the Muckleshoot Tribe during the development of PSRC's Human Services Transportation Plan to ensure the Tribe's transit needs were

addressed in the Plan. Muckleshoot was not a member of the MPO at the time, but has since become a member of PSRC.

## Develop a Consultation Policy / Plan

**Recommendation:** MPOs and RTPOs should have an adopted policy for consulting with Tribes that includes how the Tribal governments and agencies will work together on transportation planning concerns, how notification about upcoming planning activities will be given, and the types of outreach activities that will occur. For example, outreach activities could include leadership and staff level meetings between the Tribe and MPO / RTPO and direct letters when-comment periods are occurring. The policy should be developed in consultation with the Tribes and be periodically evaluated for effectiveness.

**Best Practice:** PSRC has an adopted policy for engaging Tribal governments as part of the intergovernmental and interagency section of its public participation plan. The policy includes language encouraging Tribes to become members, participation at the Tribal Transportation Planning Organization (TTPO), direct outreach and notification procedures.

## Long Range Transportation Plan Collaboration

**Recommendation:** MPOs and RTPOs regularly update regional Long Range Transportation Plans (LRTP) that project transportation, growth, transit, and planning needs within the region. Tribes should be consulted to ensure their economic development and transportation needs / projects are included resulting in a MPO/RTPO LRTP plan that accurately reflects the region's needs. Any advisory committee responsible for developing the plan should include a tribal representative(s) and all member and non-member Tribes should have the opportunity to comment on the draft plan.

**Best Practice:** The Peninsula RTPO contracted with Skokomish Tribe to draft its Regional Transportation Plan. The Skokomish Tribe met with each Tribe and other jurisdictions throughout the development of the plan. Yakima Valley Council of Governments (YVCOG) incorporated projects from the Yakama Nation on their last LRTP Update. Subsequently, when YVCOG solicited projects for STP funding, the Yakama Nation's project scored the highest and received funding.

### Something to Consider:

Though Tribes are not required to include projects on the MPO or RTPO Long Range Plan they should consider doing so to maximize eligibility for different funding sources and to take advantage of coordination and partnership opportunities.

## Collaboration on Transportation Improvement Programs (TTIPs, MTIPs, RTIPs & STIP)

**Recommendation:** Each MPO and RTPO should reach out to Tribes regarding their process for including tribal projects on the Metropolitan/Regional Transportation Improvement Program (M/RTIP) to ensure that projects are included in M/RTIPs and later into the State Transportation Improvement Program (STIP). All projects receiving FHWA or FTA funds must be included in the STIP prior to authorization (except for Tribal Transportation Program and Tribal Transit Program funds). See page 30 for additional information about Tribal, Metropolitan, Regional and State TIPs.

The M/RTIP development process is also an important opportunity for tribal projects to be considered and possibly designated as regionally significant. A “regionally significant project” is generally defined as a project on a facility that serves regional transportation needs. Each MPO / RTPO has criteria and a process for determining which projects are regionally significant. Being designated as “regionally significant” may make the project more competitive for funding.

It’s important to note that MTIPs and RTIPs have different development schedules.

**Best Practice:** The Jamestown S’Klallam Tribe has presented several projects to Peninsula Regional Transportation Planning Organization for inclusion in their RTIP, which were later incorporated into the STIP. One of the Tribe’s projects was designated as “regionally significant” and subsequently received Transportation Alternatives Program (TAP) funds. PSRC Members submit projects for inclusion in the TIP. Projects are evaluated and recommended by PSRC’s Boards for both inclusion in the long-range plan and for funding recommendations. Tribes are included in this outreach process and are eligible for both.

### Something to Consider:

Project prioritization and selection is conducted through the planning and programming process (plan development or during a call for projects). The M/RTIP and STIP include projects that have received FHWA or FTA funding. Determining if a project is “regionally significant” usually occurs during the M/RTIP process.



**Tribal Sovereignty**

Tribal sovereignty refers to the exclusive right for tribes to govern themselves. Examples of tribal sovereignty include, but are not limited to, the right to define membership, managing tribal property, regulating tribal business, operations of a tribal court, and the ability to pass laws that manage lands and the tribal membership. Tribal sovereignty is a closely guarded right by tribes as new laws and court cases continue to define, expand, and limit it. Tribal sovereignty is a unique and inherent right where state and local laws are superseded by the applicable federal or tribal laws.

**How Tribes are structured**

Each tribe is different. Under the Indian Reorganization Act of 1934, most tribes adopted standard constitutions that enumerated powers for tribal courts and councils. Since that time, tribal governments have modified their governments to include larger councils, legislative bodies, and executives that manage different facets of the tribe. Some decisions are reserved for tribal citizens. Governing bodies can have a variety of names including Tribal Council, Board of Directors, and Senate. The tribal executive is often referred to as a Tribal Chair or President. For tribes in Washington State the Tribal Chair is typically identified for correspondence and initiating the “government to government” consultation process. Tribal staff may facilitate projects, negotiations, and the government-to-government process as designated by their respective governing body. Generally, Tribal Councils retain decision making authority.

**Tribes’ role in Transportation**

Tribal governments have a large stake in transportation. Tribes own and maintain transportation infrastructure including roadways, transit services, bike and pedestrian trails, ferries and airstrips. Tribal governments are major employers; sometimes being the primary economic engine in a county. Transportation is an important driver for a Tribe’s economic growth.

Tribes develop Tribal Transportation Improvement Programs (TTIPs) which includes any projects that have received Tribal Transportation Program (TTP) funding via the BIA or FHWA (25 CFR 170) and that are included in the Tribe’s Long Range Transportation Plan.

Tribal Long Range Plans vary between Tribes, but often include future transportation projects, transit projects, maintenance needs, safety projects, hazards and priorities. It may be part of a Tribe’s larger Comprehensive Plan. Tribes are required to develop Long Range Transportation Plans in order to receive TTP funding. Plans are updated at least every five years.

Most reservations throughout Washington include a mix of tribal, federal, state, county and city roads. Given the overlapping nature of tribal transportation systems, tribes often need to engage federal, state, regional, and local jurisdictions to improve the overall transportation network for the benefit of the tribal government, their citizens and the communities they serve.

**State or Federal laws that don't apply to Tribes**

Generally, Tribes are not subject to state laws such as the Growth Management Act, which are applicable to the state, cities and counties.

When it comes to planning and transportation, tribes are usually governed by the prevailing federal standard set by the Department of Interior and USDOT. Many programs and opportunities have been structured to incentivize tribes to participate in growth management, air quality, and water quality, and other areas with mutual concerns. Tribes follow the NEPA process as part of the environmental review of a project, but some tribes have negotiated agreements that allow for tribal oversight and review of a project. Many tribes also have their own Tribal Historic Preservation Officer (THPO) that ensures compliance with Section 106 of the National Historic Preservation Act.

**Transportation Funding that Tribes Receive**

Tribes are eligible for a variety of federal and state funding programs. Most tribes in Washington receive a portion of federal formula funds through the Tribal Transportation Program (TTP), administered by the BIA (23 USC 201) or FHWA. FTA also has a formula and competitive program for tribal transit services. Tribes seek federal grant opportunities through the national TIGER program as well as state or regional program processes to receive FHWA or FTA funding. Tribal Transportation Program funds can be used as a local match for state and FHWA / FTA grants.

Twenty-four Tribes currently have agreements with the state to recoup a portion of state fuel taxes collected by tribally owned fuel stations on tribal trust lands.

Unfortunately, none of these sources are sufficient to address all of a Tribe's transportation needs. Many tribes also contribute tribal general funds for transportation purposes. Tribes frequently use their available funding to partner with other jurisdictions on projects.

**Inclusion of State, County and City Routes to the National Tribal Transportation Facility Inventory**

Tribes submit roads that are on or serving tribal lands to the Bureau of Indian Affairs (BIA) or FHWA for inclusion on their Tribal Transportation Facility Inventory (TTFI) (formally known as Indian Reservation Roads Inventory, IRR). If the Tribe wants to include a state, city or county route on their inventory they need to enter into a MOU with that jurisdiction. The MOU provides confirmation of the geographic location of the section of highway proposed through milepost identification. The MOU also stipulates whether the state / city / county have funding planned within 10 years for the section of roadway proposed for addition to a tribe's inventory. The BIA reviews and approves the addition of these routes to TTFI.

There are advantages to state, city and county jurisdictions that have routes on TTFI. TTFI facilities calculate the federal shares each tribe receives annually under the Tribal Transportation Program (TTP). The formula that provides TTFI funding is restricted to the list of tribal roads included on the inventory

prior to October 1, 2004. These annually allocated funds can only be spent on official TTFI routes. Adding non-tribally or BIA owned routes to the TTFI does NOT impact revenue other municipalities can generate nor is any tribe required to spend these federal funds on non-tribally owned facilities. These funds can be leveraged as match for federal and state grants whereas other federal funding sources cannot. Another advantage is that in the event of a natural disaster routes on the TTFI are eligible for the Emergency Relief for Federally Owned Roads (ERFO) program at 100% of the cost of repairs. For example, the state saved millions of dollars when a portion of SR 530 destroyed by a landslide near Oso, Washington because it was included on the Stillaguamish Tribe's inventory.

### **Washington Indian Transportation Policy Advisory Committee (WITPAC)**

The Federally Recognized Tribes (Tribes) and WSDOT established the Washington Indian Transportation Policy Advisory Committee (WITPAC) with the following purpose:

- Establish a forum for government-to-government dialogue between tribal and state transportation officials on WSDOT policy and statewide issues of interest to tribes.
- This forum allows tribal and state transportation officials a means to identify emerging transportation policy or statewide issues.

WITPAC provides an opportunity to build relationships, respect and resolve issues. Each Tribe is invited to identify a delegate and alternate(s) to consult on statewide or policy issues that affect all Tribes. WITPAC does not circumvent the sovereign authority of individual tribal governments. WITPAC meets quarterly.

### **Tribal Transportation Planning Organization (TTPO)**

The TTPO is a nonprofit group of tribal planners and engineers, federal and state agency representatives, MPO/RTPO representatives, transportation professionals and engineering/planning consultants. The purpose of the organization is to support the development of tribal transportation planning capacity. As envisioned, the TTPO improves Tribal government's planning and programming activity through enhanced coordination with tribal, federal, state, and local governments. There are aspects of tribal transportation planning that are very unique in nature, both in comparison to other jurisdictions and also from one Tribe to another. There is a common theme, partnership, and connection throughout the tribal transportation planning culture that the TTPO shares and celebrates. The TTPO provides useful information while encouraging communication, coordination, collaboration, and consultation between tribal planners and state and federal agencies. It also provides a forum for the advancement of professional skills and knowledge among transportation professionals employed by Indian governments.

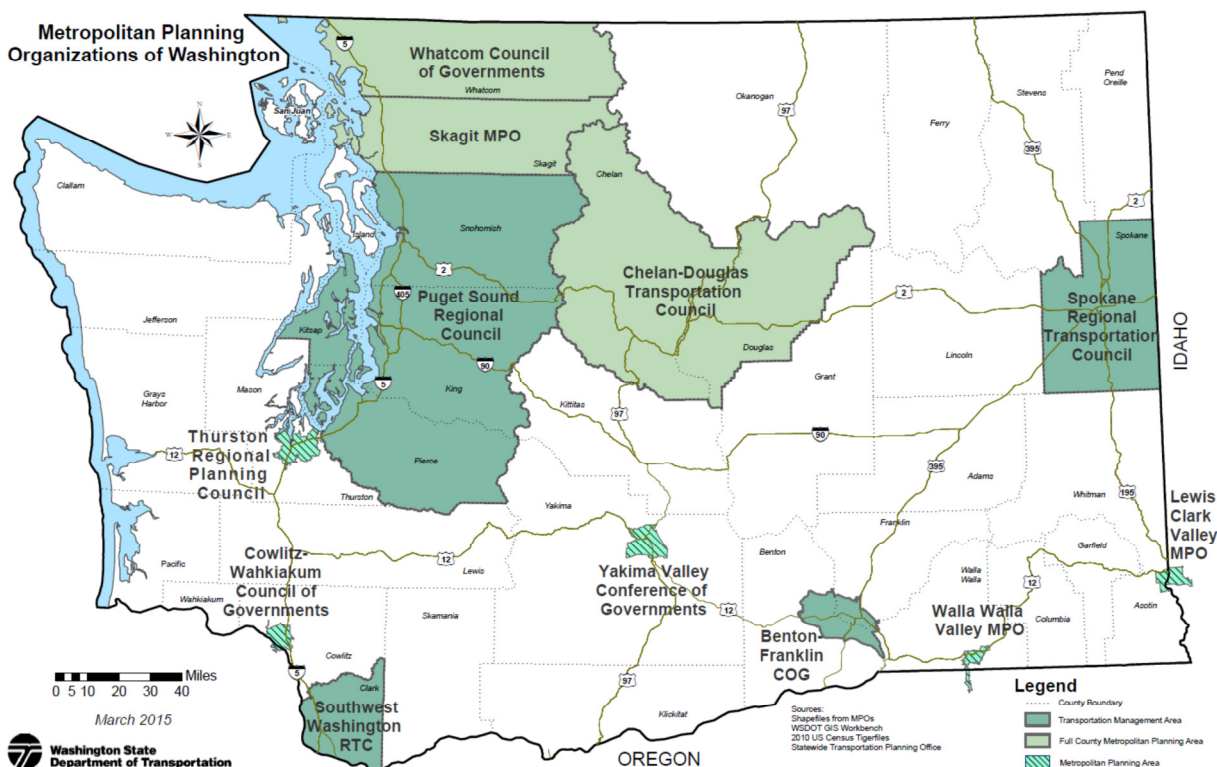
The TTPO meets quarterly. Meetings and membership is open to tribal planners and anyone interested in tribal planning, including representatives from MPOs / RTPOs. WSDOT provides staff support and



financial assistance to tribal planners to attend meetings which are held in tribal facilities located in the State of Washington.

The TTPO Transit Subcommittee was formed by the TTPO because of the detailed nature of tribal transit programs. It convenes regularly to discuss and share topics of interest to tribal transit operators, planners and other federal, state, and regional agencies and organizations and coordinates various transit trainings. It develops technical briefings on federal and state policy related to public transportation and reports to the full TTPO membership during their quarterly meetings. The subcommittee invites participation by any entity or agency that coordinates public transportation with tribal public transportation systems and rideshare programs.

# Metropolitan Planning Organizations (MPOs)



A MPO is the policy board of an organization designated to carry out the metropolitan transportation planning process (23 CFR 450.104). This federally mandated and federally funded transportation policy-making organization is made up of representatives from local governments, officials of public agencies that administer or operate major modes of transportation in the metropolitan planning area, and governmental transportation organizations. The United States Congress passed the Federal-Aid Highway Act of 1962, which required the formation of an MPO for any urbanized area (UZA) with a population greater than 50,000.

## Purpose of MPOs

Congress created MPOs in order to ensure that existing and future expenditures of governmental funds for transportation projects and programs are based on a continuing, cooperative, and comprehensive ("3 C") planning process. Federal funding for transportation projects and programs are channeled

through this planning process. Statewide and metropolitan transportation planning processes are governed by federal law (23 U.S.C. §§ 134–135).

There are five key functions of an MPO:

1. Establish a setting: establish and manage a fair and impartial setting for effective regional decision-making in a metropolitan planning area (MPA).
2. Evaluate alternatives: evaluate transportation alternatives, scaled to the size and complexity of the region, to the nature of its transportation issues, and to the realistically available options.
3. Maintain a long-range transportation plan (LRTP), or Metropolitan Transportation Plan (MTP): develop and update a fiscally constrained long-range transportation plan for the Metropolitan Planning Area (MPA) covering a planning horizon of at least twenty years that fosters mobility and access for people and goods, efficient system performance and preservation, and quality of life.
4. Develop a transportation improvement program (TIP): develop a fiscally constrained program based on the long-range transportation plan and designed to achieve the area's goals, using spending, regulating, operating, management, and financial tools.
5. Involve the public: involve the general public and all the significantly affected sub-groups in the four essential functions listed above.

When the Environmental Protection Agency (EPA) designated air quality non-attainment and/or maintenance area(s) fall within an MPA, then:

6. All transportation plans, programs, and projects must demonstrate conformity with the Clean Air Act and EPA regulations and to the State air quality plan, known as the "state implementation plan" (SIP). See the Washington State Department of Ecology for a list of nonattainment areas in Washington, at:  
[http://www.ecy.wa.gov/programs/air/sips/designations/nonattainment\\_areas.htm](http://www.ecy.wa.gov/programs/air/sips/designations/nonattainment_areas.htm)

### **MPO structure**

MPOs are either setup as separate legal entities or housed and operated within another entity such as a council of governments or regional planning agency. The MPO policy boards shall consist of: (A) local elected officials, (B) officials of local agencies that administer or operate major modes of transportation within the area, and (C) appropriate State officials. Although not required to, Tribes often fully participate in MPOs. MAP-21 requires participation of transit representatives in MPO planning and administration by requiring all MPOs that serve urbanized areas with a population of over 200,000 residents to include officials from local public transportation providers on their policy boards. (See Transportation Management Area below.)

**Unified Planning Work Program**

The UPWP describes all federally funded transportation planning activities and tasks that an MPO conducts within the metropolitan planning area boundary. The UPWP is updated every one or two years, and includes MPO revenues and expenditures. The UPWP must list all other federal funding received by the MPO for transportation planning (23 CFR 450.308(C)).

**MPO funding received and distributed**

MPOs are provided funding from FHWA and FTA to carry out the required transportation planning requirements. The FHWA and FTA planning funds are distributed to the MPOs based upon a formula agreed to by WSDOT and the MPOs. Washington State MPOs also receive allocations of FHWA Surface Transportation Program (STP), Transportation Alternatives Program (TAP) and in some cases Congestion Mitigation and Air Quality (CMAQ) funds for projects that have been prioritized and selected based on their regional process.

MAP-21 is the current federal transportation act that funds these federal transportation programs. As a condition for receipt of federal capital or operating assistance, MPOs must have a continuing, cooperative, and comprehensive transportation planning process (the "3C" planning process). MPOs are to cooperate with the state in developing transportation plans and programs for areas within the MPO Metropolitan Planning Area (MPA) boundary. This transportation planning process is to result in plans and programs consistent with the MPA's comprehensive planned development. In addition, the plans are to provide for the development of transportation facilities (including pedestrian walkways and bicycle facilities) and serve as an intermodal system for the state, metropolitan areas, and the nation.

MPOs and WSDOT collaboratively carry out their respective metropolitan and statewide planning and programming responsibilities for those categories of federal transportation funds under their respective jurisdictions. Through this process, projects are to be included in the Metropolitan Transportation Improvement Program (MTIP), and, subsequently, the State Transportation Improvement Program (STIP) in a manner consistent with federal regulations (23 CFR 450.216, 450.220, 450.330 and 450.332).

**Transportation Management Areas (TMA)**

FHWA and FTA designate all urbanized areas (UZAs) with populations greater than 200,000, as determined by the decennial Census, as Transportation Management Areas (TMAs). There are specific requirements that follow this designation, which are identified in federal law and are in compliance with the agencies' authorizing statutes, 23 U.S.C. 134, and 49 U.S.C. 5303.

The U.S. Department of Transportation (USDOT) is required to review and evaluate the transportation planning processes of TMAs no less than once every four years through a certification review. The review team consists of FHWA, FTA, and WSDOT. The team reviews the MPO's documented practices, procedures, guidelines and activities; a field review consisting of meetings with the MPO management

and staff; a public input session; a follow-up assessment and report on the findings and recommendations of the review team; and a joint statement of certification by FHWA and FTA.

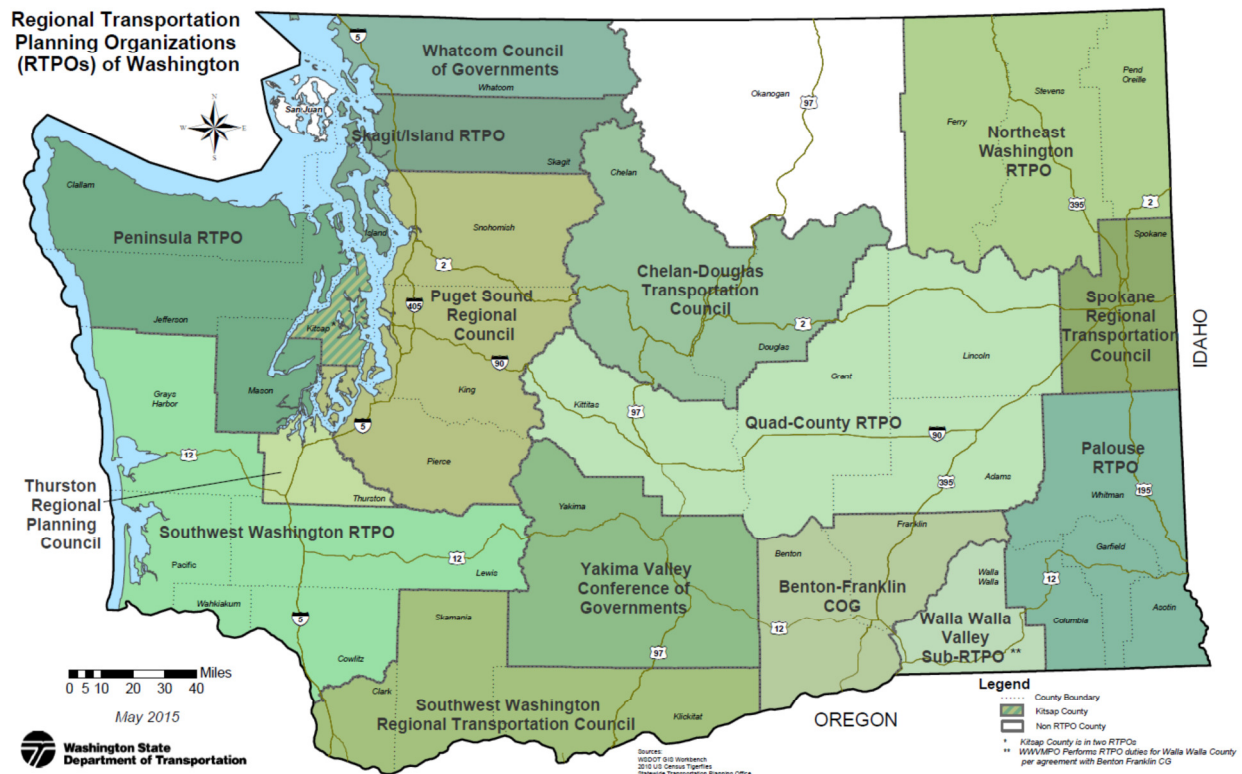
## **Tribal Consultation Requirements for MPOs**

### **Metropolitan Transportation Planning and Programming - Interested parties, participation, and consultation (23 CFR 450.316).**

Consultation requirements for MPOs who receive funds through the FHWA are outline in 23 CFR 450.316. Key provisions include:

- “When the MPO includes Indian Tribal lands, the MPO shall appropriately involve the Indian Tribal government(s) in the development of the metropolitan transportation plan and the TIP” (23 CFR 450.316(c)).
- “MPOs shall, to the extent practicable, develop a documented process(es) that outlines roles, responsibilities, and key decision points for consulting with other governments and agencies, as defined in paragraphs (b), (c), and (d) of this section, which may be included in the agreement(s) developed under §450.314.” (23 CFR 450.316(e)).
- Include in their plans and programs “a discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the metropolitan transportation plan. The discussion may focus on policies, programs, or strategies, rather than at the project level. The discussion shall be developed in consultation with Federal, State, and Tribal land management, wildlife, and regulatory agencies. The MPO may establish reasonable timeframes for performing this consultation”(23 CFR 450.322 (f) (7)).

# Regional Transportation Planning Organizations (RTPOs)



In 1990, the Washington State Legislature authorized the creation of RTPOs (RCW 47.80) as part of the state's Growth Management Act (GMA). RTPOs are voluntary organizations composed of local governments within a county or within geographically contiguous counties. RTPOs conduct the regional transportation planning duties within Washington and provide broad guidance in developing the transportation element of local comprehensive plans for those cities and counties planning under the GMA.

## Purpose of RTPOs

RTPOs are required to:

- Prepare and periodically update a transportation strategy for the region
- Prepare a Regional Transportation Plan
- Certify that countywide planning policies and the transportation element of local comprehensive plans are consistent with the Regional Transportation Plan
- Develop and maintain a six-year Regional Transportation Improvement Program

- Develop a Human Services Transportation Plan (HSTP)
- Work with cities, counties, transit agencies, WSDOT, and others to develop level of service standards or alternative transportation measures.

The RTPO may be an existing regional organization, or may be established as a new transportation planning organization. State law requires RTPOs to have an interlocal agreement that establishes the organization and defines duties and relationships (WAC 468-86-070(d)). WSDOT is required to verify that RTPOs designated by local governments meet state requirements (WAC 468-86-070(2)). Within urbanized areas of greater than 50,000 population, the RTPO and MPO lead agencies must be the same organization.

Local governments decide the geographic extent and composition of their region. The region should reflect common transportation concerns, and a willingness among the local governments to work together in a cooperative planning process. Where contiguous urbanized areas or designated urban growth areas cross county boundaries, the RTPO should include all those counties as members.

#### **RTPO Duties**

State law (RCW 47.80.023, Duties) requires that RTPOs to establish a decision-making structure that has specific composition and to perform specific duties and functions.

Organizational structure varies across all of the RTPOs in the state. Some specific duties for each RTPO include (refer to RCW 47.80.023, Duties, for full list):

- Prepare and periodically update a transportation strategy for the region.
- Prepare a regional transportation plan as set forth in RCW 47.80.030 that is consistent with countywide planning policies if such have been adopted pursuant to chapter 36.70A RCW, with county, city, and town comprehensive plans, and state transportation plans.
- Certify that the transportation elements of comprehensive plans adopted by counties, cities, and towns within the region reflect the guidelines and principles developed pursuant to RCW 47.80.026, are consistent with the adopted regional transportation plan, and, where appropriate, conform with the requirements of RCW 36.70A.070.
- Where appropriate, certify that countywide planning policies adopted under RCW 36.70A.210 and the adopted regional transportation plan are consistent.
- Develop, in cooperation with the department of transportation, operators of public transportation services and local governments within the region, a six-year regional transportation improvement program which proposes regionally significant transportation projects and programs and transportation demand management measures.
- Include specific opportunities and projects to advance special needs coordinated transportation (e.g. Human Service Transportation Plans).
- Designate a lead planning agency to coordinate preparation of the regional transportation plan and carry out the other responsibilities of the organization.

#### **What is an RTPO authorized by federal law?**

In 2012, the Moving Ahead for Progress in the 21st Century Act (MAP-21) authorized states to designate regional transportation planning organizations for nonmetropolitan areas across the county. It is still not clear how these organizations might differ from Washington State's RTPOs.

- Review level of service methodologies used by cities and counties planning to promote a consistent regional evaluation of transportation facilities and corridors.
- Work with cities, counties, transit agencies, the department of transportation, and others to develop level of service standards or alternative transportation performance measures.

MPOs can cross state lines and the boundaries. RTPOs are exclusively contained within Washington State.

### **RTPOs structure**

Washington State law directs RTPO structure as follows:

Transportation Policy Boards must allow participation by the following if located in their region (RCW 47.80.040):

- Major employers
- WSDOT
- Transit districts
- Port districts
- Cities
- Towns
- Counties; and
- House or Senate Representatives

Although not required to, Tribes often fully participate in RTPOs.

A Policy Committee is typically the top-level decision making body for the RTPO. In most cases, the policy committee comprises:

- elected or appointed officials from local governmental jurisdictions such as municipalities or counties;
- representatives of different transportation modes, such as public transit, freight, bicycle/pedestrian; and
- state agency officials such as, WSDOT, environmental agency, etc.; and
- Non-voting members such as FHWA, FTA, FAA, FRA, WSDOT staff advisers, state house of representatives members, state senate members, Chambers of Commerce, and other community organizations.

The policy committee's responsibilities include debating and making decisions on key actions and issues, including adoption of the regional long-range transportation plans, transportation improvement programs, annual planning work programs, budgets, and other policy documents. The policy committee also may play an active role in key decision points or milestones associated with the agency's plans and studies, as well as conducting public hearings and meetings.

Technical committees may be formed to act as an advisory body to the policy committee for transportation issues that primarily are technical in nature. The technical committee interacts with the agency's professional staff on technical matters related to planning, analysis tasks, and projects.

### **Tribes are also Major Employers:**

Many Tribes throughout the State are the top employers in their counties. For example: The Squaxin Island Tribe is the largest in Mason County. Tulalip is the 3<sup>rd</sup> largest employer in Snohomish County. The Puyallup Tribe is the 6<sup>th</sup> largest employer in Pierce County.



Once the RTPO is designated, it designates a lead-planning agency to staff the RTPO. In an urban area, the MPO serves as the lead agency. In other regions, the lead agency may be a regional council; a county, a city, or town agency; or a WSDOT office. Usually, the agency has a core of professional staff in order to ensure the ability to carry out required planning processes in an effective and expeditious manner. The size and qualifications of this staff may vary across RTPOs.

RTPO members include cities, counties, WSDOT, tribes, ports, transportation service providers, private employers, and others. While the membership is voluntary, all RTPOs must include membership of counties, cities, and towns within the region. The RTPO must determine its own structure to ensure equitable and acceptable representation by member governments. Once the RTPO is established, all cities and counties planning under GMA are subject to the certification and consistency requirements described in Chapter 47.80 RCW.

### **RTPO Planning Funding**

RTPOs are provided state funding by WSDOT to carry out the State required transportation planning process. The formula agreed to by WSDOT and the RTPOs to allocate the biennial planning funds is based on the following factors addressed in RCW 47.80.050:

- A base amount per county for each county within each regional transportation planning organization, to be distributed to the lead planning agency;
- An amount to be distributed to each lead planning agency on a per capita basis; and
- An amount to be administered by WSDOT as a discretionary grant program for special regional planning projects, including grants to allow counties which have significant transportation interests in common with an adjoining region to also participate in that region's planning efforts.

The funding formula is also periodically reviewed by WSDOT, in coordination with the MPOs/RTPOs.

### **RTPO Project Funding**

RTPOs receive an allocation of FHWA Transportation Alternatives Program (TAP) funds for projects that have been prioritized and selected based on their regional process. TAP funds can be used for programs and projects defined by MAP-21 as transportation alternatives, including on- and off-road pedestrian and bicycle facilities, infrastructure projects for improving non-driver access to public transportation and enhanced mobility, community improvement activities, and safe routes to school projects.

<http://www.wsdot.wa.gov/LocalPrograms/ProgramMgmt/TAP.htm>

### **County Lead Agency Project Funding**

WSDOT allocates STP funds to County Lead Agencies for projects that have been prioritized and selected based on their regional process involving all entities eligible to participate in a public process. If you are

interested in learning more about participating in your county's process, please contact your county engineer.

### **Council of Governments (COG)**

A Council or Conference of Government (COG), also called a regional council or regional planning agency, is a type of regional planning body that exists throughout the US. In Washington, COGs are authorized through RCW 36.64.080. Generally a COG is an association that consists of elected public officials who come from the major local governments within a specified area. COGs are voluntary associations that represent governments, but they are not governments themselves. They are voluntary because local units cannot be forced to join these associations and can resign at any time. The council membership is drawn from the county, city, and other government bodies within its area. Councils of government lack general government authority in that they are not directly elected, they do not have direct taxation powers, and they do not have police powers or regulatory authority.

COGs were created in order to develop consensus regarding regional needs and actions to be taken in solving area problems. COGs benefit the state by planning, coordinating, and overseeing the administration of state and federal programs, assisting local governments in handling tasks set by state regulations, providing a flexible network for effective regional action, and fostering cooperation that helps avoid duplication of efforts and thus helps take advantage of economies of scale. A typical COG is defined to serve an area and address issues such as regional planning, water use, pollution control and transportation. That said, the nature and extent of the programs vary, depending on local needs and priorities of the board that governs the operation of the individual COG.

### **Regional Planning Commission (RPC)**

Another entity in Washington, under RCW 36.70.060, is a Regional Planning Commission or Council (RPC). An RPC is formed when a county or a city joins with one or more other counties, cities and towns, and/or with one or more school districts, public utility districts, private utilities, housing authorities, port districts, or any other private or public organizations interested in regional planning. RPCs participating in a regional planning district are authorized to receive grants-in-aid from, or enter into agreement with any department or agency of the government of the United States or of the State of Washington, and arrange for the receipt of federal funds and state funds for planning in the interests of furthering the planning program.

### **Difference between COGs/RPCs and MPOs/RTPOs**

Councils of Governments (COGs) and Regional Planning Councils (RPCs) are voluntarily formed to work on a variety of issues including but not limited to transportation. MPOs and RTPOs are federal and state mandated entities charged with examining the travel and transportation issues and needs in metropolitan and broader regional areas respectively. Given that COG and RPC boards often mirror the required board structures of MPOs and RTPOs, they are often chosen by

#### **Something to Consider:**

While there are numerous names for these different organizations, many serve the same function.

their area's governments to be the lead agencies for the MPO and RTPO planning processes.

As seen in the table on page 23 Washington State has many such agencies fulfilling one or more roles as a Council of Governments, Regional Planning Council, Regional Transportation Planning Organization, Metropolitan Planning Organization and Transportation Management Area. This table also lists which tribal areas are within the planning areas of the MPOs and RTPOs.

## Tribal Consultation Requirements

### RTPO Planning Standards and Guidelines (WAC 468-86-090)

In accordance with state law, RTPO plans and policies should adhere to the principle to “Encourage partnerships between federal, state, local and tribal governments, special districts, the private sector, the general public, and other interest groups during conception, technical analysis, policy development, and decision processes in developing, updating, and maintaining the regional transportation plan” (WAC 468-86-090(2)).

### Washington State MPOs / RTPOs Structure

Organizations	Counties	Tribes/ Tribal Lands	Structure / Function			
			COG or RPC	RTPO	MPO	TMA
Benton-Franklin Council of Governments (BFCG) MPO and TMA & Benton-Franklin RTPO	Benton, Franklin, Walla Walla	Umatilla Tribe, Yakama Tribe	Y	Y	Y	Y
Chelan-Douglas Transportation Council (CDTC formerly WVTC) MPO and RTPO	Chelan, Douglas, Okanogan	Colville Tribe		Y	Y	
Cowlitz-Wahkiakum Council of Governments (CWCWG) & Southwest Washington RTPO (SWRTPO)	Cowlitz, Wahkiakum, Lewis, Pacific and Grays Harbor Counties	Cowlitz Tribe, Shoalwater Bay Tribe, Quinault Tribe, Chehalis Tribe	Y	Y	Y	
Lewis Clark Valley Metropolitan Planning Organization (LCVMPO)	Asotin, WA; Nez Perce, ID	Nez Perce Tribe			Y	
Northeast Washington Regional Transportation Planning Organization (NEW RTPO)	Ferry, Pend Oreille, Stevens	Kalispel Tribe, Spokane Tribe, Colville Tribe		Y		
Chelan-Douglas Transportation Council	Chelan and Douglas Counties			Y		
Palouse Regional Transportation Planning Organization (Palouse RTPO)	Asotin, Garfield, Columbia, Whitman	Nez Perce Tribe, Coeur D'Alene Tribe		Y		
Peninsula Regional Transportation Planning Organization (PRTPO)	Clallam, Jefferson, Mason, Kitsap	Hoh Tribe, Jamestown S'Klallam Tribe, Lower Elwah Tribe, Makah Tribe, Port Gamble S'Klallam Tribe, Quileute Tribe, Squaxin Island Tribe, Suquamish Tribe		Y		
Puget Sound Regional Council (PSRC) TMA, MPO, and RTPO	King, Kitsap, Pierce, Snohomish	Puyallup Tribe, Muckleshoot Tribe, Suquamish Tribe, Tulalip Tribes, Snoqualmie Tribe, Port Gamble S'Klallam Tribe, Stillaguamish Tribe, Sauk-Suiattle Tribe, Nisqually Tribe	Y	Y	Y	Y
Quad-County Regional Transportation Planning Organization (QuadCo RTPO)	Lincoln, Grant, Adam, Kittitas	Colville Tribe, Yakama Tribe		Y		
Skagit Metropolitan Planning Organization (SMPO) & Skagit/Island RTPO	Island, Skagit	Upper Skagit Tribe, Sauk-Suiattle Tribe, Swinomish Tribe Samish Tribe	Y	Y	Y	
Southwest Washington Regional Transportation Council (RTC) TMA, MPO, and RTPO	Clark, Skamania and Klickitat	Cowlitz Tribe and Yakama Tribe	nonprofit	Y	Y	Y
Spokane Regional Transportation Council (SRTC) TMA, MPO, and RTPO	Spokane	Spokane Tribe, Kalispel Tribe, Coeur D'Alene Tribe		Y	Y	Y
Thurston Regional Planning Council (TRPC) MPO and RTPO	Thurston	Nisqually Tribe, Chehalis Tribe		Y	Y	
Walla Walla Valley Metropolitan Planning Organization (WVVMPO) & Walla Walla Sub-RTPO	Walla Walla, WA; Umatilla	Umatilla Tribe		Y	Y	
Whatcom Council of Governments (WCOG) MPO and RTPO	Whatcom	Lummi Tribe, Nooksack Tribe	Y	Y	Y	
Yakima Valley Conference of Governments (YVCOG) MPO and RTPO	Yakima	Yakama Tribe	Y	Y	Y	

## Washington State RTPOs/MPOs/TMAs

### Board and Committees

Organizations	Executive Board	EB dues?	TPB	TPB dues?	PAC	TAC	CAC
Benton-Franklin Council of Governments (BFCG) MPO and TMA & Benton-Franklin RTPO			Y	Y	Y	Y	N
Chelan-Douglas Transportation Council (CDTC formerly WUTC) MPO and RTPO			Y				
Cowlitz-Wahkiakum Council of Governments (CWCWG) & Southwest Washington RTPO (SWRTPO)			Y	N	N	Y	N
Lewis Clark Valley Metropolitan Planning Organization (LCVMPO)			Y				
Northeast Washington Regional Transportation Planning Organization (NEW RTPO)			Y	N	N	Y	N
North Central RTPO			Y				
Palouse Regional Transportation Planning Organization (Palouse RTPO)			Y				
Peninsula Regional Transportation Planning Organization (PRTPO)			Y				
Puget Sound Regional Council (PSRC) TMA, MPO, and RTPO	Y	Y	Advisory		Y	Y	Y
Quad-County Regional Transportation Planning Organization (QuadCo RTPO)			Y	N	N	Y	N
Skagit Metropolitan Planning Organization (SMP) & Skagit/Island RTPO			Y	Y	N	Y	N
Southwest Washington Regional Transportation Council (RTC) TMA, MPO, and RTPO			Y				
Spokane Regional Transportation Council (SRTC) TMA, MPO, and RTPO			Y	Y	Y	Y	Y
Thurston Regional Planning Council (TRPC) MPO and RTPO			Y	Y	N	Y	N
Walla Walla Valley Metropolitan Planning Organization (WWVMP) & Walla Walla Sub-RTPO			Y				
Whatcom Council of Governments (WCOG) MPO and RTPO			Y	N	N	Y	Y
Yakima Valley Conference of Governments (YVCOG) MPO and RTPO			Y	Y	N	Y	N

**CAC** Citizen's Advisory Committee • **PAC** Policy Advisory Committee • **TAC** Technical Advisory Committee • **TPB** Transportation Policy Board

# Washington State Department of Transportation (WSDOT)

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WSDOT provides and supports safe, reliable and cost-effective transportation options to improve livable communities and economic vitality for people and businesses. The department includes approximately 6,600 employees, with responsibility for 18,600 lane miles of highway, 3,700 bridges, general aviation airports, passenger- and freight-rail programs, and the Washington State Ferry system, the nation's largest. The Secretary of Transportation is appointed by the Governor.

## **What is WSDOT's role in the MPO and RTPO Programs?**

### Planning Funding

WSDOT distributes FHWA metropolitan planning (PL) and FTA 5303 planning funds to MPOs. The formula for distribution of the federal planning funds is developed by WSDOT, in consultation with MPOs/RTPOs, and approved by FHWA and FTA (23 CFR 420.109). WSDOT must monitor MPOs' planning activities and expenditures. Each MPO submits an annual report to WSDOT within 90 days after the end of the reporting period, determined to be the end of the state fiscal year (June 30<sup>th</sup>). As part of its fiduciary responsibility, WSDOT reviews and forwards the annual reports to FHWA and FTA.

RTPOs receive state planning funding every biennium according to what the legislature appropriates. The amount of state planning funding has been approximately \$4.4 million dollars per biennium. WSDOT develops the formula for distribution of the state planning funds in consultation with the RTPOs.

Specific funding amounts by fiscal year for each MPO/RTPO can be viewed in the MPO or RTPO Unified Planning Work Program (UPWP), both of which are public documents.

### Tribal and Regional Coordination Office

The WSDOT Tribal and Regional Coordination office (TRCO) is responsible for administering the MPO and RTPO programs, which includes providing technical assistance, policy direction, and administrative oversight of MPOs/RTPOs. The TRCO office assigns staff, known as regional coordinators, to coordinate grant administration, invoice processing, financial agreements and travel reimbursement for tribal planners. Additionally, the TRCO oversees the development of MPO/RTPO Unified Planning Work Programs (UPWPs), publishes UPWP guidance, works in coordination with other WSDOT offices in processing the annual Transportation Improvement Programs (TIPs) and TIP amendments for the Governor's signature or designee (Secretary of Transportation), monitors the federal compliance areas required for MPO certification, and assists MPOs/RTPOs with updating their metropolitan/regional transportation plans to ensure they are in compliance with federal and state policy goals.

The UPWP must list all other federal funding received by the MPO for transportation planning (23 CFR 450.308(C)). WSDOT provides assistance to MPOs on Washington State-related transportation policies that are relevant to the UPWP, such as incorporation of the six legislative transportation system policy goals of RCW 47.04.280.

RTPOs must meet the work program requirements and the intent of agreements as outlined in RCW 47.80.010 through 47.80.080. WSDOT staff provides assistance to RTPOs to understand the transportation planning requirements of the Growth Management Act and how it applies to their responsibility in certifying countywide planning policies and transportation elements of local comprehensive plans.

#### Local Programs Office

WSDOT Local Programs assists in the successful delivery of transportation projects by providing educational, technical, and financial support to cities, counties, tribes, ports, and transit agencies and other transportation partners. The federal and state funding programs administered through Local Programs include: Bridge, Safety, Safe Routes to School, and Pedestrian & Bicycle Safety. In addition, Local Programs is responsible for allocating the federal STP, CMAQ and TAP funds allocated for the MPOs, RTPOs and county lead agencies.

WSDOT Local Programs is also responsible for the Statewide Transportation Improvement Program (STIP). The STIP is a four-year fiscally constrained prioritized program of projects. These projects have been identified through state, regional and local planning and programming processes (MPO, RTPO and County Lead Agency TIPs, previously discussed) as the highest priorities for available funding to preserve and improve the state's transportation network. Federal law requires each state to have a federally approved STIP in order for projects to be authorized for federal funding.

WSDOT develops the STIP in consultation with tribes in those areas under tribal jurisdiction (23 U.S.C. 134 and 135). There are three options for Tribes to include their projects on the STIP: 1) through their MPO 2) through their RTPO or directly, based on agreed upon procedures or 3) through the inclusion of the list of Tribal TIPs that is received from the BIA and WFLH, which is attached to the approved STIP. WSDOT works with BIA and WFLH to ensure that the Tribal TIPs are included as a package to assist in streamlining the process. Local Programs provides regular training on the STIP and as requested at MPOs, RTPOs and TTPO meetings. Each STIP amendment is distributed to Tribes and other jurisdictions.

Local Programs implemented a Local Agency Federal Obligation Authority (OA) Policy that puts in place target delivery amounts for each MPO, RTPO, and County Lead Agency. Maximizing the delivery of the local federal program not only ensures improvements to the local transportation system, it positions local agencies to obtain additional OA from other states for local projects

#### Public Transportation Division

The WSDOT Public Transportation Division provides technical assistance to MPOs / RTPOs in the development of their Human Services Transportation Plans (HSTP). MPO/ RTPO organizations are

required to complete an HSTP in order receive Federal funding (49 U.S.C. Sections 5302, 5303, 5310, and 5311). The Plans detail the human service transportation needs in a local region and aims to improve transportation services for persons with disabilities, older adults, and individuals with lower incomes by ensuring that communities coordinate transportation resources provided through multiple federal and state programs. Coordination will enhance transportation access, minimize duplication of services, and facilitate the most appropriate and cost-effective transportation possible with available resources. HSTP's are completed every four years and updated every two. MPO's /RTPO's are required to present their completed Human Service Plans to the Agency Council on Coordinated Transportation for approval.

Every two years, organizations (transits, tribes, non-profits) apply for funds from the WSDOT Consolidated Grant Process. These funding requests must be tied to a demonstrated need in the adopted Human Services Transportation Plan.

### **WSDOT's Role with Tribes**

#### Funding

Tribes are eligible to participate in a number of grant programs administered by WSDOT including Safe Routes to School, Pedestrian & Bicycle Safety, and Consolidated Transit Grant Program among others. The Divisions that administer these programs work with Tribes to solicit projects, provide technical assistance and administer project funds.

Unlike with MPOs and RTPOs, WSDOT does not have a role in tribes' federal and state formula funds. For example, Tribes receive the Tribal Transportation Program funds directly via the BIA or FHWA, Tribal Transit Program funding from FTA and state fuel tax funds via compacts with the Washington State Department of Licensing.

#### Government-to-Government Consultation

WSDOT follows federal, state and agency policies to engage Tribes in government-to-government consultation on a variety of issues. WSDOT has a number of consultation policies in place including the following:

- The WSDOT *Centennial Accord Plan* includes detailed descriptions of the programs, services, and funding available to tribes from key WSDOT divisions and offices.
- *Secretary's Executive Order 1025.01 on Tribal Consultation* articulates WSDOT's commitment to consulting with Tribes and outlines employees' specific roles and responsibilities.
- The *Consultation and Communication Protocols for Statewide and Policy Issues* assists staff when communicating with tribal governments and brings consistency to WSDOT's consultation process for statewide and policy issues that affect all Tribes. This includes consultation on WSDOT's Long Range Transportation Plan and STIP.

These policies are designed to align with federal and state requirements that formally recognize and establish tribal/state government-to-government relationships. They are available online at [www.wsdot.wa.gov/tribal](http://www.wsdot.wa.gov/tribal).



# Federal Highway Administration (FHWA) & Federal Transit Administration (FTA)

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FHWA and FTA, within the US Department of Transportation (USDOT), administer federal funds by direct allocation to tribes and states or by grant to direct recipients for both planning activities and projects. They share joint responsibility to provide oversight and ensure compliance with all applicable federal laws and regulations.

## **FHWA and FTA roles with MPOs and RTPOs**

FHWA Division office (Washington) and FTA Regional Office (Washington, Idaho, Oregon, Alaska) work in cooperation with WSDOT to provide planning and programming oversight, management and funding to facilitate planning, programming and project delivery in support of the state's multimodal transportation system. FHWA and FTA provide guidance and coordination in the review and consultation for the development and implementation of statewide and MPO planning products that include Unified Planning Work Programs, Long Range Transportation Plans, and Transportation Improvement Programs.

## **FHWA's and FTA's responsibilities to Tribes**

### FHWA

The FHWA Tribal Transportation Program (TTP) is co-managed by the FHWA Office of Federal Lands Highways and Bureau of Indian Affairs within the Department of Interior. Each Tribe chooses which agency will oversee its program and then negotiate how the program will be managed (e.g. self-governance, PI93-638 Contract, Programmatic Agreement, Governmental to Governmental Agreement). Both agencies work directly with tribal governments and provide technical assistance in planning and project delivery. A prime objective of the TTP is to contribute to the economic development, self-determination, and employment of Indians and Native Americans.

The TTP is funded by contract authority from the Highway Trust Fund and is subject to the overall Federal-aid obligation limitation. Funds are allocated among Tribes using a new statutory formula based on tribal population, road mileage and average tribal shares of the former Tribal Transportation Allocation Methodology (TTAM) formula. Funding can be used for tribal projects and planning activities.

FHWA provides technical support and oversight in the development and construction of federally funded state and local transportation projects. These activities include preliminary engineering, environmental evaluation and consultation, right-of-way acquisition, design, and project inspection.

### FTA

FTA administers a variety of public transit grants to states and transit agencies to fulfill the provisions of MAP-21. FTA authorizes the Public Transportation on Indian Reservations Program (Tribal Transit Program (TTP)) which is a set-aside from the Formula Grants for Rural Areas program.

TTP provides direct funding to federally recognized tribes to provide public transportation service on or around reservations or tribal land in rural areas. Eligible projects include capital, planning, and

operations. No local match is required. Grant awards are selected on an annual basis and are determined by both formula and competitive basis. Competitive grants are applied for directly to FTA based on a notice of funding availability posted each year. Tribes are not required to include FTA TTP projects in the STIP.

## **Tribal Consultation Responsibilities**

### **Executive Order 13175: Consultation and Coordination with Indian Tribal Governments**

Issued by President Clinton in 2000, as reaffirmed by President Obama, this Order requires federal agencies to consult with tribes on the creation or implementation of any federal policy. The order also reaffirms the federal government's trust responsibility to tribes and the right of tribes to self-government.

### **DOT Executive Order 5301.1 on Department of Transportation Programs, Policies and Procedures Affecting American Indians, Alaska Natives and Tribes.**

Issued in November 1999, this order requires the US Department of Transportation and all of its agencies (including the Federal Highway Administration and Federal Transit Administration) to "consult with Indian Tribes before taking any actions that may significantly or uniquely affect them."

### **Federal Trust Responsibility and Tribal Treaty Rights**

In order to understand why and how and with whom we consult, it is necessary to examine the principles of tribal sovereignty, the federal trust responsibility and treaty rights. Below is a brief discussion of these concepts. The sources of federal Indian law include the Constitution, Treaties, federal statutes, regulations, executive orders and court decisions. The sovereign status of federally recognized tribes distinguishes them from other ethnic minorities.

European nations and later the United States Government recognized the sovereign status of tribes when they negotiated treaties with tribes. When tribes negotiated treaties with the federal government, they relinquished land and specific rights in exchange for commitments from the US government to provide peace, protection, education, and health care, among others. Tribes retain any rights not expressly relinquished.

A series of early Supreme Court Cases helped shape the legal relationship between the federal government and tribes. These cases, commonly referred to as the Marshall Trilogy, acknowledged that a tribe is a "distinct political society separate from others and capable of managing its own affairs and governing itself," while at the same

#### **What does the US Constitution say about treaties?**

Article VI, Section II states that, "all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."

time describing tribes as “domestic dependent nations.” The federal government is considered a “trustee” of Tribal rights and interests, and as a trustee it has in some cases “fiduciary obligations” to federally recognized tribes. For example, federal agencies are obligated to honor and uphold tribal treaty rights.

In 1854 and 1855, Territorial Governor Isaac Stevens negotiated treaties with 24 of the 29 modern-day federally recognized tribes in Washington. Virtually all of these treaties included the following clause:

“The right of taking fish at usual and accustomed grounds and stations is further secured to said Indians in common with all citizens of the Territory, and of erecting temporary houses for the purpose of curing, together with the privilege of hunting and gathering roots and berries on open and unclaimed lands. Provided, however, that they shall not take shell-fish from any beds staked or cultivated by citizens.”

This phrase is at the heart of off-reservation Tribal treaty rights, and has given rise to the important concept of “usual and accustomed areas” of the treaty Tribes, also called “U&A areas.” The federal courts have affirmed these rights, which are critical to understanding Tribal perspectives on how project activities may affect Tribal interests.

# Alphabet Soup: MTIPs, RTIPs, TTIPs, STIPs

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## **City/County/Transit agency six-year transportation and transit programs**

State law requires cities and counties to prepare and adopt a comprehensive transportation program for the ensuing six calendar years. Similarly public transit systems in Washington State are required to develop six-year transit development plans. All of these documents are commonly referred to as Transportation Improvement Programs (TIPs).

## **Metropolitan or Regional Transportation Improvement Program (M/RTIP)?**

An M/RTIP provides a list of current transportation projects within the MPO or MPO/RTPO. These projects are funded with federal, state, or local funds, including federal grants awarded and managed through a project selection process. The M/RTIP is required under federal and state legislation. It is a useful way to ensure that transportation projects are meeting regional transportation, growth and economic development goals and policies, as well as clean air requirements.

### **Metropolitan TIPs (MTIPs) per 23 USC 134(j)**

- Four-year program (calendar years)
- Developed cooperatively with the state and transit operators
- Must be consistent with the Metropolitan Transportation Plan
- Approved by the MPO and the Governor or designee
- Must be updated at least every four years
- Included in STIP without change

### **Regional TIPs (RTIPs) per WAC 468-86-160**

- Six-year program (calendar years)
- Developed cooperatively with local governments, WSDOT and transit operators
- Must be consistent with the Regional Transportation Plan
- Approved by the RTPO
- Must be updated at least every two years

## **Tribal TIP (TTIP)**

Tribal Transportation Improvement Programs (TTIPs) are codified by 25 CFR 170. Tribal TTIPs are integrated into the STIP by the federal contracting agency (BIA or Federal Lands Highways) annually. Tribes will be notified by the BIA or Federal Lands Highways when their TTIPs are certified and updated.

### **Tribal TIPs (TTIPs) per 25 CFR 170.421**

- Must be consistent with the tribal long-range transportation plan;
- Must contain all Tribal Transportation Program funded projects programmed for construction in the next 3 to 5 years;
- Must identify the implementation year of each project scheduled to begin within the next 3 to 5 years;
- May include other Federal, State, county, and municipal, transportation projects initiated by or developed in cooperation with the tribal government;
- Will be reviewed and updated as necessary by the tribal government;
- Can be changed only by the tribal government; and
- Must be forwarded to BIA or FHWA by resolution or by tribally authorized government action for inclusion into the TTIP.

A TTIP may include other Federal, State, county, and municipal, transportation projects initiated by or developed in cooperation with the tribal government.

## **Statewide Transportation Improvement Program (STIP)**

The Statewide Transportation Improvement Program (STIP) is a four-year, fiscally constrained prioritized program of transportation projects compiled from local transportation programs and regional transportation improvement programs and is consistent with regional long range plans, along with the 2007-2026 Washington Transportation Plan (WTP). FHWA and FTA jointly approve the STIP. Projects listed in the STIP are the only projects that can be authorized by FHWA and FTA to utilize federal funds.

### **Projects Required in Regional TIP and STIP**

- All projects receiving FHWA or FTA funds must be in the RTIP and the STIP in order to authorize the funds.
- All regionally significant projects in the state (regardless of funding source), including WSDOT projects, that have committed or reasonably available funding and are expected to begin within the next four years from STIP adoption.

### **Including Tribal Projects on the STIP**

- Tribes are required to prepare Tribal Transportation Improvement Programs (TTIPs) per 25 CFR 170.402 and 170.421 and forward to Bureau of Indian Affairs (BIA) or FHWA for inclusion into the TTP TIP. Each year WSDOT coordinates with Western Federal Lands Tribal Transportation Programs Division in obtaining new TTIPs for the upcoming STIP development after the TTP TIP annual update. The TTP TIPs are included as part of the final STIP submittal package to FHWA and FTA each year.

#### **Regionally Significant Projects**

A “regionally significant project” is generally defined as a project on a facility that serves regional transportation needs. Each MPO / RTPD has a process for determining which projects are regionally significant which typically occurs during the M/RTIP process. “Regionally Significant Projects may be more competitive for funding.

After the STIP is approved by FHWA and FTA, the TTIPs are available separately on the STIP web page at <http://www.wsdot.wa.gov/LocalPrograms/ProgramMgmt/STIP.htm>

- In order for a Tribe to include regionally significant projects or projects that have received funding through the Metropolitan Planning Organization (MPO), Regional Transportation Planning Organization (RTPO), or County lead process in the respective TIPs, the projects have to be entered into the STIP database through Secure Access Washington (SAW) [\[https://secureaccess.wa.gov/\]](https://secureaccess.wa.gov/). The web based STIP was developed for electronic submittals to the specific MPO or RTPO. Instructions for the STIP database, including how to set up a SAW account, are in the STIP Training Manual at <http://www.wsdot.wa.gov/LocalPrograms/ProgramMgmt/STIP.htm>.
- Tribal Nations within an RTPO need to verify the RTPO's policy regarding project submittal. Some RTPO's require that projects be submitted to them and they will submit to WSDOT for inclusion in the STIP, other RTPO's allow submittal directly to WSDOT for inclusion in the STIP.

Note: The STIP development schedule and the amendment due dates are posted on the STIP web page at <http://www.wsdot.wa.gov/LocalPrograms/ProgramMgmt/STIP.htm>. Also, each MPO and RTPO have their respective processing timelines to align with the STIP deadlines.

#### **Technical Assistance**

STIP training is offered for two weeks each year across the state for all users (Tribes, MPOs, RTPOs, cities, counties, transit agencies, ports, etc.) as a means to update all of changes to/or new programming requirements. Assistance is also available by e-mail, phone calls, and presentations at conferences such as the Annual Tribal Transportation Symposium, as requested.

For questions about the STIP contact Nancy Huntley at 360.705.7378 or e-mail [huntlen@wsdot.wa.gov](mailto:huntlen@wsdot.wa.gov).

# Chapter 4: Frequently Asked Questions

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## Working with Tribes

### **How should an MPO / RTPPO initiate contact with the Tribe to see if they have an interest in participating?**

The MPO / RTPPO should send a letter to the Tribal Chair and copy transportation / transit planning staff. Consider including an offer to meet with Tribal representatives at the tribal office to talk about the MPO / RTPPO and the opportunities for tribal participation. For example, the Yakama Tribal Council considers consultation as a meeting between Tribal Council and leadership of an agency or organization. Prior to considering participation, M/RTPPO leadership should appear before Tribal Leadership to inform them of the objectives and benefits of tribal participation as well as assure Tribal Council that Tribal sovereignty will be observed and protected. MPOs and RTPPOs are encouraged to provide an orientation to new tribal representatives.

### **Who can represent a Tribe in MPO / RTPPO meetings?**

MPO / RTPPO Bylaws include criteria for delegates and alternates. For example, some require delegates to the Policy Board be elected officials, while others allow Tribes to identify a non-elected official to represent the Tribe. The criteria for participation may vary for different committees within an MPO / RTPPO (i.e. Executive Boards, Transportation Policy Boards and Technical Advisory Committees). A member tribe has discretion to identify any representative that meets the criteria. The Tribe should identify delegates and alternates via tribal council resolution or letter from the Tribal Chair, provided this is allowable under the MPO / RTPPO Bylaws.

### **How can an RTPPO / MPO identify tribal representation for an advisory committee?**

Invite the official tribal delegate to participate in the committee. In the event they are not available, ask them to identify a representative who can participate on the committee. If the MPO / RTPPO are unable to identify a tribal representative for an advisory committee, they can work with individual Tribes to determine if there are other avenues and opportunities to include them or their input.

### **How should an MPO/RTPPO request data from a participating member Tribe**

MPO/RTPPO's should request data directly through the tribe's assigned point of contact, as established through the receipt of a Resolution from Council. Not all information requested by the MPO/RTPPO will be able to be disclosed, this will be determined by the individual tribes.

### **How should an RTPPO / MPO submit documents to a Tribe for review or comment?**

If the Tribe is a member of the MPO / RTPPO, documents should be submitted to the delegate and alternates for review or per any protocols agreed to by the MPO / RTPPO and the individual Tribe.

Posting information on a website or in the newspaper does not constitute consultation. Generally, for Tribes who are not members of the MPO / RTPO, you should send a letter to the Tribe Chair with a copy to staff, requesting their review and comment on specific milestone phases of a plan or project that will affect a Tribe. For example, send a draft scope of work or draft plan to a Tribe for review and request input. It's important to note that Tribes are not considered the "public." While tribal review may occur concurrently with public review, the term "public" should generally be avoided when engaging in Tribal consultation.

Tribal members are citizens of both the Tribe and the State they live in. If you would like to reach out to tribal citizens as part of your public outreach, you should work through your tribal delegate. They can help you distribute information to tribal staff and tribal members and also determine the best way to get the input.

**If a MPO / RTPO does not receive a response from a Tribe, should they assume the Tribe is not interested and move forward?**

No, MPOs / RTPOs should not assume the Tribe is not interested. They are encouraged to follow up with the Tribe on requests for information, engagement or plan review with a phone call / email to the tribal delegate to ascertain the level of interest. It's appropriate to move forward if they don't receive a response after the following: directly contacting a Tribe to solicit their participation or review and comment on a document and after providing sufficient time for review and response. It's important that any requests for information or comment include a date by when the MPO / RTPO would like to response. Thirty days is generally the minimum amount of time that should be provided for requests for information, or review and comment on draft documents.

**Is there a directory of Tribes in Washington? How can I find contact information for Tribes or specific staff?**

There are several resources available including:

- Working with your tribal delegate.
- WSDOT lists Tribal contact information on their website:  
[www.wsdot.wa.gov/tribal/tribalcontacts](http://www.wsdot.wa.gov/tribal/tribalcontacts).
- You can also check individual tribal websites for information.

**What is the proper way to refer to Tribes or individuals?**

Tribes refer to themselves in a variety of ways (Tribes, Indian Tribes, Nations, Confederacies, Indian Communities, and so forth.). We recommend using a Tribe's official name when referring to them. When speaking or writing about tribal governments in general, it's appropriate to use the term Tribes. When generally referring to individuals, the terms Native American or American Indian are commonly accepted.



### **What interest and/or role do Tribes have on non-Tribal transportation projects outside of the reservation?**

Tribes are often interested in projects outside their reservation boundaries for a variety of reasons including:

- It's important for tribal members and employees to access services. For example, many Tribes in Washington State are major employers whose employees live off reservation and who depend on the regional transportation system during their commute.
- Many Tribes maintain certain rights on Usual and Accustomed Lands or ceded territories. Tribes are also interested in any effects projects may have on natural or cultural resources.

### **How can and MPOs / RTPOs work with a Tribe to determine which off-reservation projects they have an interest in?**

Discussions regarding tribal interest in projects and their potential to affect the Tribe (e.g., transit, natural and cultural resource, etc.) are best done directly with the individual Tribe. These discussions may involve staff that typically does not participate in MPO / RTPO committees (i.e. such as Tribal Historic Preservation Officer, Natural Resource or Fisheries Director, etc). Work with the Tribal delegate / alternate(s) to schedule meetings with appropriate tribal representatives. Contact information for each Tribe is available on WSDOT's website at [www.wsdot.wa.gov/tribal/tribalcontacts](http://www.wsdot.wa.gov/tribal/tribalcontacts)

MPOs / RTPOs can also work with Tribes to define a "consultation area" for MPO / RTPO plans or projects.

### **Why should local governments coordinate with Tribes on land use?**

The region's tribal governments are key players in planning for the future. As sovereign nations, tribes are not required to plan under the Growth Management Act. However, the Act recognizes the importance of coordination and cooperation with the tribes regarding environmental planning, land use, economic development, and the provision of services. In order to develop the most representative plans, local and tribal governments, transit operators, and other federal, state and regional agencies should actively participate in the development of regional (or metropolitan transportation plan (RTP / MTP) updates.

### **Do MPOs / RTPOs need to work with non-Federally recognized Tribes?**

Non-federally recognized Tribes do not have the same legal status as federally recognized Tribes. Consultation requirements in federal and state law are specific to federally recognized Tribes. That being said, there are several reasons for an MPO / RTPO to work with a non-federally recognized Tribe, such as Environmental Justice and Title VI compliance.

### **Is Training available on how to work with Tribes?**

Yes. The Governor's Office of Indian Affairs offers Tribal Relations Training throughout the year and around the state. Additional information is available online at: <http://www.goia.wa.gov/G-2-G-Training/G-2-G-Training.htm>

## Working with MPOs or RTPOs

### **Who should a Tribe contact within a RTPO / MPO to better engage with their planning processes?**

Most MPO/RTPO agencies have a planning director or transportation director position. The executive director may fulfill this position in smaller agencies. These are the best individuals to contact about engaging in their planning processes. WSDOT maintains a directory of the key MPO/RTPO personnel contact information on its website (<http://www.wsdot.wa.gov/planning/Regional/>).

### **If a Tribe is not contacted by a MPO / RTPO, should they assume that the MPO / RTPO are not interested in working with them?**

Not necessarily. Some MPOs / RTPOs do know who or how best to contact Tribes. If you are aware of an opportunity or have concerns you should contact the MPO / RTPO.

### **What types of plans do MPOs /RTPOs develop?**

MPOs / RTPOs typically develop:

- Long-range regional transportation plans (RTPO)
- Long-range metropolitan transportation plans (MPO)
- Regional coordinated public transit-human services transportation plans (both)
- Six-year transportation improvement programs (RTPO)
- Four-year transportation improvement programs (MPO)
- Title VI Plans
- Public Participation Plans
- Intelligent Transportation Systems (ITS) Plans
- Additionally, some MPOs/RTPOs develop pedestrian, bicycle, freight and public transit plans, and some develop long-range regional land use plans.

### **What transportation project funding is available for Tribes?**

The MPO/RTPO agencies receive annual allocations of FHWA transportation funds for projects in their respective geographic areas. Each MPO is allocated FHWA Surface Transportation Program (STP) funds and FHWA Transportation Alternative Program (TAP) funds. The MPOs with air quality planning requirements also receive an allocation of FHWA Congestion Mitigation and Air Quality (CMAQ) funds. The RTPOs receive allocations of the TAP funds for distribution to projects.

### **What types of technical assistance is available to Tribes for grant programs?**

The technical expertise of MPO/RTPO staff varies. The MPOs receive federal planning funds and typically have more staff to fulfill the additional federal planning requirements. WSDOT provides technical assistance to the RTPO-only agencies when possible. Tribes should contact their area's MPO/RTPO to determine the level of assistance available to tribes and local governments.

### **What meetings of an MPO / RTPO are important for Tribes to engage in?**

Tribes should work with their MPO / RTPO to determine the purpose and schedule of various committees and board meetings. Tribes interested in partnering with local jurisdictions on projects or accessing available funds should participate as fully as possible. Regular participation in MPO / RTPO meetings can help develop relationships and raise awareness of tribal transportation interests and needs.

It is important to the MPO/RTPOs that the tribes participate. The regional planning process depends on participation from all interested parties from system users to policy makers. Ongoing planning processes inform investment decisions, so participation by Tribes is important. MPOs / RTPOs should solicit tribal participation at the beginning of a planning or project prioritization process and continue outreach for the duration of the activity.

### **What is the purpose and difference between common standing committees and boards (TAC, PAC, and PB)?**

Each MPO / RTPO can have its own governance structure and use different names for its boards and committees. The purpose of committees is to provide a regular forum for members and stakeholders to engage and provide input.

- Technical Advisory Committee (TAC) – The TAC is an advisory board made up of local, state and tribal planning and public works staff. The TAC advises the Transportation Policy Board.
- Technical Advisory Group (TAG) - same as TAC.
- Policy Advisory Committee – These committees advise the Transportation Policy Board on planning policy matters similar to the way a TAC advises on technical issues. Not every MPO/RTPO has a policy advisory committee. Smaller MPO/RTPOs rely on staff to advise them on policy issues.
- Transportation Policy Boards – Transportation Policy Boards are mandated by state and federal law to fulfill the respective regional and metropolitan transportation planning functions. They are made up of local elected officials, state and tribal elected officials or staff representatives and occasionally non-government entities or individuals. The policy boards in most MPOs/RTPOs are the entities that select the projects for the STP, TAP and CMAQ federal funds and also approve the prioritized regional ranking for the HSTP projects being submitted to WSDOT for the Consolidated Grant Program (Transit). For larger MPOs, the Transportation Policy Board may be an advisory board to an Executive Board, which adopts policy and approves funding programs of projects.
- Executive Board – Executive Boards or Committees are typically a subset of a larger board or assembly. The larger board often delegates the day to day board functions to the Executive Board/Committee.
- Citizen Advisory Committees – Citizen committees are an important part of MPO/RTPO stakeholder participation process. They advise the Transportation Policy Boards. Not every MPO/RTPO has a citizens committee.

### **What is a Transportation Management Area (TMA)?**

MPOs representing urbanized areas of over 200,000 in population are designated as Transportation Management Areas (TMAs). These MPOs have a more direct relationship with the federal transportation agencies. They also have additional planning responsibilities and access to funding that smaller MPOs do not.

### **Is there a directory of the MPOs and RTPOs?**

Yes, the Washington State Department of Transportation maintains a directory of RTPOs/MPOs on their website: <http://www.wsdot.wa.gov/planning/Regional/>

## **Tribal Jurisdiction & Planning Emphasis Areas**

### **What is a Usual and Accustomed Area (U&A)?**

Usual and Accustomed Areas is a term included in many of the Treaties that were negotiated between the Federal Government and Tribes. Tribes reserved the right to take fish in their usual and accustomed grounds and stations. U&A areas have been adjudicated by the federal courts. Tribes maintain the right for their members to fish, gather traditional foods, harvest shellfish, hunt game, and practice traditional ceremonies off reservation. It is important to recognize that tribal sovereignty extends beyond reservation boundaries as tribes have responsibilities in maintaining these treaty rights. In addition to reservations, tribes have an interest in road projects, zoning, and growth in their usual and accustomed areas.

### **What is ceded territory?**

Ceded territory includes lands traditionally occupied by tribes who relinquished their claim to these lands but not all of their rights to it. This was conducted through the treaty process with the federal government. In exchange for the ceded lands tribes were provided compensation, aid, and services by the federal government. These lands can be affected by multiple planning organizations.

### **What is trust land? Fee Land?**

Trust lands are properties where the federal government holds legal title but the beneficial interest remains with the tribe or individual tribal member. Typically, tribes retain jurisdictional rights like zoning, taxation, permitting, on these lands unless otherwise stipulated. Fee lands are properties that may be in ownership by a tribe or individual tribal member but have not gone through the federal fee-to-trust process. These properties are likely purchased, can be found within and outside of the reservation, and are usually subject to city, county, and state jurisdiction.

### **Are Tribes considered a segment of the public?**

No. Federally recognized tribes are sovereign governments and consultation, as required by federal law, necessitates direct engagement with individual Tribes and independent of the public process. Tribes have interests in state, local, and regional matters that affect the livelihood of its tribal members and its sovereignty. Some Tribes may be willing to participate in an intergovernmental consultation process while others may request direct government-to-government consultation on a plan or policy development. Government-to-government communication protocols should outline how an MPO or RTPPO will consult with Tribes and should be flexible enough to include both multijurisdictional and direct consultation options.

Tribal members are both citizens of the tribe and of the State in which they live. MPOs / RTPPOs interested in outreach to tribal members should work with their tribal delegate on opportunities to engage tribal members.

### **Are Tribes subject to the Growth Management Act?**

Tribes have inherent sovereignty to manage the growth of their own trust lands independent of local, regional, and state growth initiatives like Washington's Growth Management Act. Fee lands are subject to the Growth Management Act since tribes generally do not have prevailing jurisdiction over those lands unless otherwise stipulated.

**Do Tribes develop their own comprehensive plans? Land use development plans?**

Generally, Yes. Tribes engage in regular updates to their comprehensive plans. They often include housing, utilities, land use, and other related elements. Many tribes have adopted a “seven generation” concept of planning for the future whereas traditional planning places most planning documents on 15-20 year cycles. Like all jurisdictions, tribal administrative capacity varies. Some tribes have the administrative capacity to develop more extensive plans than others. Tribes are required to have Long Range Transportation Plans and to update them on a regular basis (25 CFR 170).

**Are Tribal comprehensive plans separate from GMA County plans?**

Yes. They are mandated and regulated by 25 CFR 170 rather than Washington’s Growth Management Act.

**Do the Tribes handle their own zoning?**

For trust lands, Tribes will be the prevailing jurisdiction for zoning and permitting. For fee lands owned by Tribes, the prevailing City or County will zone appropriately.

**Who is responsible for maintenance of the roads on the reservations?**

This depends on the ownership of the road. Some reservations have county, city, state, and federal roads on their reservation. Unless a maintenance agreement between local/state/federal entities and the Tribe exists on any particular road, the responsibility rests on the jurisdiction that owns the road. This does not limit Tribe from using maintenance funds in agreement with that jurisdiction on non-tribally owned routes.

**Are Tribes required to prepare Transportation Improvement Programs (TIPs) or something similar?**

Yes. Tribal TIPs must include projects that receive Tribal Transportation Program (TTP) funds through the BIA or FHWA (25 CFR 170).

**How do federal performance measures apply to Tribes?**

Performance measures for Tribes are outlined by the prevailing contract the Tribes have engaged in for their transportation projects. These contracts include contracting with the Office of Self Governance, Federal Highways, and/or Bureau of Indian Affairs (638 contracts, Programmatic Agreements, and Direct Service Agreements). When Tribes are awarded funds from alternative sources, they may pass funds through their prevailing contract unless otherwise stipulated. Performance measures are further outlined through 25 CFR 170.

**How will performance measures developed by States and MPOs under MAP-21 affect Tribes?**

MAP-21 established several performance measures that state DOTs and MPOs must implement related to safety, bridge and pavement condition, freight and congestion. Once USDOT releases its performance measure rules, State and MPOs will develop their own targets to meet the performance goals. States and MPOs that fail to meet their targets risk losing federal funds. This will certainly be a consideration when ranking or prioritizing future projects for funding. Tribes who want to access FHWA

and FTA funds through the State or MPO will want to familiarize themselves with these performance measures and be able to articulate how their projects contribute to meeting performance goals.

#### **What is the role of the Bureau of Indian Affairs?**

The Bureau of Indian Affairs is the primary federal agency working directly with Tribes. Most federal transportation funding, intergovernmental agreements, right of way negotiations, leases, etc., need to be approved and monitored by the Bureau of Indian Affairs before being ratified. The Bureau of Indian Affairs has a trust responsibility with Tribes to act in Tribe's best interest and promote self-governance.

### **Tribal Participation in MPOs & RTPOs**

#### **Why would Tribes want to be part of an MPO/RTPO?**

There are several reasons including: to be eligible to share state/federal transportation funds; to have a say in funding decisions on regional projects as well as regional policy development; and to develop positive relationships with neighboring jurisdictions.

#### **Are Tribes interested parties, stakeholders, or jurisdictions in a MPO/RTPO?**

Tribes are recognized as sovereign nations. Tribes, like other jurisdictions (i.e. City, County, and State governments), should be full members of an MPO/RTPO and share the same privileges and responsibilities. This is typically seen as a jurisdictional status within a MPO/RTPO.

#### **As MPO / RTPO members, do Tribes have a different status than other jurisdictions that participate in an MPO / RTPO?**

It depends on the bylaws of the MPO/RTPO. Ideally, Tribes are granted the same rights and opportunities as other governments who are members of the MPO/RTPO.

#### **Can MPO/RTPOs create a formal and individualized consultation process with each Tribe within its jurisdictional area?**

Yes, MPO/RTPOs are able and encouraged to create an individualized consultation process with each of the tribes within their planning area. As tribes vary by internal structure and goals/objectives, this process would best allow tribes and MPO/RTPOs to work more efficiently together.

#### **Why is it important for Tribes to be able to vote in MPO/RTPO decisions?**

Like any jurisdiction, Tribes want a say in decisions that affect them. When an MPO / RTPO denies a tribe the right to vote, it is often viewed by the Tribe as disrespectful and an attempt to prevent tribes from actively participating in the MPO / RTPO. Many decisions made at the regional level have the ability to affect Tribes. Transportation facilities owned by non-tribal governments can service tribal communities and operate on tribal lands.

**Are Tribes required to pay dues or fees to participate on an MPO or RTPO board?** It depends on the MPO / RTPO structure and criteria for participation and voting. Some require all members to pay dues in order to participate or vote on decisions. Tribes are treated no differently than other jurisdictions.

**Do tribal projects have to be on the STIP to be qualified for MPO/RTPO funding?**

Projects that receive FHWA or FTA funds, that are distributed by MPOs/RTPOs, must be in the STIP and MTIP if in an urban area unless the Tribe and MPO/RTPO choose to transfer the funding to be administered under the BIA transportation program.

**How can a Tribe share their transportation planning system needs with the MPO / RTPO?**

By regularly participating in MPO / RTPO policy, technical and ad hoc committees to share their needs and priorities. Tribes can share planning documents like their Long Range Transportation Plans, Comprehensive Plans, and other documents that articulate and document transportation needs.

In addition, MPO / RTPO leadership and tribal representatives are encouraged to meet at least annually to discuss tribal engagement and the consultation process. These direct coordination/consultation meetings would be the most effective way to meet the individual and unique needs of tribes within an MPO/RTPO jurisdictional boundary.

**What meetings of the MPO/RTPO should a Tribe attend?**

Each MPO/RTPO has a unique committee and board structures. By learning about the boards and committees, tribes can determine which topics are relevant to their interests.

**Should Tribes share their tribal transportation plans with RTPOs / MPOs (and other jurisdictions).**

Yes. Sharing plans can raise awareness of tribal needs and priorities and lead to partnership opportunities.

**Are Tribes eligible to participate in interlocal agreements?**

Yes. Most MPOs / RTPOs have standard interlocal agreements that are the same for every participating jurisdiction. Tribes are not required to relinquish rights or sovereignty to participate. For example, the Nisqually Tribe and Confederated Tribes of Chehalis have entered into interlocal agreements with Thurston Regional Planning Council.

**Can Tribes participate on MPO /RTPO boards if they aren't subject to the Growth Management Act (GMA)?**

Yes, absolutely. GMA planning does not preclude or change a tribe's participation abilities or rights.

**Is a Tribal comprehensive plan subject to an RTPO review and certification process for GMA?**

No. Since Tribes are not subject to GMA, their comprehensive plans do not need to be approved by the RTPO.

**If a Tribe participates in an MPO / RTPO, does it compromise their sovereignty?**

No. Tribal participation in an MPO/RTPO is an act of tribal sovereignty. If a Tribe decides to participate in an MPO/RTPO, it is based on the premise that regional coordination and group decision making is advantageous to the management and betterment of the Tribe.

**Does the Tribe need to include their projects in the BIA TIP, State TIP (STIP), or both? Other than referencing each other, does the BIA and WSDOT TIP need to be consistent? If so, does that start at the MPO/RTPO level or at the STIP level?**

At a minimum, tribal transportation projects must be in the corresponding transportation improvement program that corresponds to the funding source. For FHWA or FTA funds, that means the WSDOT STIP. Ideally, for optimal planning purposes, regionally significant projects from either funding source would be included in the regional long-range transportation plan, and in both the Tribal Transportation Improvement Program (TTIP) and the WSDOT STIP.

**If an RTPO / MPO include tribal projects in their long range plans, do those projects need to show the same level of fiscal constraint as the other projects in the plan?**

Yes. All projects in the long-range transportation plan are required to be fiscally constrained. If the projects are planned for, but funding is yet to be determined, the projects could be listed in the regional plan in the unprogrammed portion of the plan.

**How can an RTPO / MPO include tribal transportation revenue projections?**

MPOs and RTPOs interested in fuel tax forecasts for individual Tribes should work directly with that Tribe. It's important to note that this information is considered proprietary by many Tribes, like many other agencies and organizations, because the revenue is derived from tribal business and thus they may not be willing to share it. Upon request, WSDOT can provide technical assistance and best practices on how to forecast fuel tax revenues. For example, WSDOT helps provide sale tax estimates for transit agencies.



# Acronyms

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BIA	Bureau of Indian Affairs
CMAQ	Congestion Mitigation and Air Quality
CAC	Citizen's Advisory Committee
COG	Conferences / Council of Government
EPA	Environmental Protection Agency
FAA	Federal Aviation Administration
FHWA	Federal Highway Administration
FRA	Federal Rail Administration
FTA	Federal Transit Administration
GMA	Growth Management Act
HSTP	Human Services Transportation Plan
IRR	Indian Reservation Road
IRR TIP	Indian Reservation Road Transportation Improvement Program
ITS	Intelligent Transportation Systems Plan
L RTP	Long-Range Transportation Plan
MAP-21	Moving Ahead for Progress in the 21 <sup>st</sup> Century Act
MOU	Memorandum of Agreement
MPA	Metropolitan Planning Area
MPO	Metropolitan Planning Organization
MTIP	Metropolitan Transportation Improvement Program
MTP	Metropolitan Transportation Plan
NEPA	National Environmental Policy Act
PAC	Policy Advisory Committee

PSRC	Puget Sound Regional Council
RPC	Regional Planning Commission
RTIP	Regional Transportation Improvement Program
RTPO	Regional Transportation Planning Organization
SAW	Secure Access Washington
SIP	State Implementation Plan
STIP	State Transportation Improvement Program
STP	Surface Transportation Program
TAC	Technical Advisory Committee
TAP	Transportation Alternative Program
TIGER	Transportation Investment Generating Economic Recovery
TMA	Transportation Management Area
TPB	Transportation Policy Board
TTP	Tribal Transportation Program or Tribal Transit Program
TRCO	Tribal and Regional Coordination Office
TRPC	Thurston Regional Planning Council
TTAM	Tribal Transportation Allocation Methodology
TTFI	Tribal Transportation Facility Inventory
TTIP	Tribal Transportation Improvement Programs
TTPO	Tribal Transportation Planning Organization
U & A	Usual and Accustomed Area
UPWP	Unified Planning Work Program
USDOT	United States Department of Transportation
UZA	Urbanized Area
WITPAC	Washington Indian Transportation Policy Advisory Committee

WSDOT	Washington State Department of Transportation
WTP	Washington Transportation Plan