



Self-Governance Communication & Education Tribal Consortium

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October 27, 2016

Anthony R. Foxx
Secretary
United States Department of Transportation
1200 New Jersey Avenue, SE, 9th Floor
Washington, DC 20590-1111

RE: Request to Fully Support the Tribal Transportation Self-Governance Program Negotiated Rulemaking Committee

Dear Secretary Foxx,

The Fixing America's Surface Transportation Act's (FAST Act) creation of the Tribal Transportation Self-Governance Program (TTSGP) has launched a new era of Tribal-Federal collaboration with the potential to make substantial progress to improve infrastructures, enhance access and ensure safe and reliable transportation systems serving Tribal communities. To accomplish these objectives, however, requires fulfilling the statute's negotiated rulemaking requirements and promulgating regulations. On behalf of more than 360 Self-Governance Tribes represented by Self-Governance Communication & Education Tribal Consortium (SGCETC), we write to request that you fully support the negotiated rulemaking process, allocate funding to allow for participation of all Committee members appointed by the Secretary, and foster equal participation from Federal officials. Inasmuch as P.L.114-94 was enacted in December 2015 following the completion of the FY 2016 appropriations, full funding for these proceedings will require special consideration by you.

To date, due to a limited budget, Department of Transportation (DOT) has not supported full participation by all Committee members, which includes Tribal and Federal Alternates. Failure to support the Committee adequately is worrisome for a few reasons. First, the statute states that the authority to promulgate regulations shall expire 30 months following enactment. Inasmuch as DOT was delayed in publishing the initial notice to solicit nominations for the Committee, an aggressive timeline to meet the legislatively determined deadline has been implemented. This timeline requires that all Committee members stay abreast of ongoing issues and are readily knowledgeable to engage in the development of the regulations.

Second, the Committee protocols support the active participation of all Alternate Committee Members stating they "shall be fully supported by DOT to the same extent as Primary Committee Members." However, in practice, due to the lack of allocated adequate funding to support this Committee, DOT is not fully supporting the negotiated rulemaking process and has not supported the attendance of Alternate members. Lastly, it is the Federal government's

responsibility to fully support the development of the TTSGP regulations by encouraging full participation so that all perspectives are incorporated as early in the rulemaking process as possible.

As the Committee continues to move forward with inadequate support, failure to fund Alternate member participation means that more than twenty percent of the Committee membership is not actively engaged in the negotiated rulemaking process. To honor the government-to-government relationship and in light of the concerns noted above, we respectfully request that you identify and dedicate the funding necessary to support the effective implementation of this negotiated rulemaking process.

Thank you for considering this request to facilitate the development and publication of final regulations for the TTSGP in DOT.

Sincerely,



W. Ron Allen, SGCETC Board Chairman
Jamestown S'Klallam Tribe



Kay Rhoads, Principal Chief
Sac and Fox Nation
Board Member, SGCETC
TTSGP Negotiated Rulemaking Committee Tribal Co-Chair



Joe A. Garcia, Head Councilman
Ohkay Owingeh
TTSGP Negotiated Rulemaking Committee Tribal Co-Chair