

**KAWERAK, INC.  
TRIBAL TRANSPORTATION PROGRAM  
PRIORITIZATION POLICY**

The Tribal Transportation Program<sup>1</sup> (TTP) formally called the Indian Road Reservation (IRR) Program is part of the Federal Lands Highway Program established in 23 U.S.C. 204 to address transportation needs of tribes. The program is jointly administered by the Bureau of Indian Affairs and Federal Highway Administration's (FHWA) Federal Lands Highway Office under authority granted by section 202(d)(5) of Chapter 2 of Title 23 U.S.C. FAST Act and in accordance with the Indian Self-Determination and Education Assistance Act (hereinafter "the ISDEAA"), Pub. L. 93-638, as amended (25 U.S.C. § 450 et seq) and 25 CFR 170 Tribal Transportation Program.

Background

Kawerak, Inc. entered into an agreement with the Bureau of Indian Affairs (BIA) for the assumption of the Indian Reservation Roads program. The program contract was signed in August 2000. The principal reason for Kawerak's action was to assure that funds generated by the TTP program through the application of the BIA's funding distribution formula be used to build Bering Straits Region projects. In the past, although the Bering Straits Region had generated about 13% of the funds for the BIA AK Region most of the funding was going elsewhere. Southeast Alaska also generated about 13% of the funding but had received for projects approximately 26% of the funds. The BIA AK Region's prioritization system prioritized projects in excess of \$3 million which allowed for the construction of only a few projects. Kawerak's assumption of the program has taken Kawerak out of the BIA project selection system. Kawerak submits updated 5-year financially constrained budgets to the BIA for projects identified on Kawerak's Priority List of Projects.

In March of 2000 Kawerak became a participant on the TTP Negotiated Rulemaking (Neg-Reg) Committee established to develop program regulations and a funding formula for the TTP program. As a part of that process Kawerak was a key player in negotiating Special Planning funds and Administrative Capacity Building funds. In 2016 Kawerak became a participant on the TTP Negotiated Rulemaking (Neg-Reg) Committee for DOT to create a Self-Governance Program.

In 2012 Kawerak joined FHWA for the TTP. All FHWA TTP funding now flows to Kawerak through its FHWA TTP Program Agreements and Reference Funding Agreements.

The KTP Project Prioritization Process allows Kawerak and its member villages the maximum flexibility in identifying and prioritizing transportation projects so that we may appropriately respond to the transportation needs of our communities.

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### Intertribal Agreement for Withdrawing from the TTP

The Board of Directors approved a process (Resolution 2010-01) for tribes to withdraw from the TTP that tribes will receive their tribal share (should they successfully contract or compact their own TTP Program with BIA or FHWA) beginning with the next funding year when they are no longer within Kawerak's TTP, and will receive no tribal shares from the current funding year where their tribal shares were pooled into Kawerak's TTP; nor will they receive any carryover TTP funding that Kawerak may still have from previous funding years.

Tribes agree not to exercise their right to withdraw from the TTP until they have reimbursed Kawerak and the remaining tribes with Kawerak's TTP program for all amounts that have been expended from pooled cumulative tribal shares for projects in the withdrawing tribe's village. This does not include any amounts previously passed through to a withdrawing tribe for maintenance activities. Prior annual tribal shares from previous years contributed to Kawerak's TTP by the withdrawing tribe may be counted to reduce the amount to be reimbursed by the withdrawing tribe. Any remaining balance may be reimbursed by the withdrawing tribe through each subsequent year's annual tribal shares contributed by the tribe following completion of the tribe's project, until there is a zero balance, at which point the tribe may withdraw from the TTP.

In 2010 the Tribes adopted a Resolution titled: “Adopting As Tribal Policy the Inter-Tribal Agreement Process Proposed by Kawerak for Withdrawing from Kawerak’s Indian Reservation Roads Program” that agrees to the Intertribal Agreement for Withdrawing from the TTP process in this policy.

### Funding Formula

The FAST Act, the funding formula is now as follows:

20% of the funds made available are distributed based on the tribal shares percentages of the former IRR Program as calculated in FY 2011.

The remainder of the funds are distributed using the following factors—

- 27% are based on eligible road miles, which is defined as the following mileage included in the National Tribal Transportation Facility Inventory (NTTFI):

- The mileage of roads identified as being owned by the Bureau of Indian Affairs (BIA) or an Indian Tribal Government for Fiscal year (FY) 2012; and
- The mileage of roads included in the BIA system inventory prior to October 1, 2004.

- 39% are based on tribal population using the most recent population data on American Indian/Alaska Native Reservation or Statistical Area pursuant to the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA, 25 U.S.C. 4101 et seq.).

- The remaining 34% are divided equally among the 12 BIA regions and then distributed among Tribes in each region based on the proportion of each Tribe's average FY 2005-FY 2011 formula distribution compared to that region's total FY 2005-FY 2011 distribution.

TTP High Priority Project (HPP) is a separate funding source and congress has not provided funds for the program. HPP provides additional funds to tribes so that they can

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complete their highest priority project when their normal allocation of funds is insufficient to do so.

Per 25 CFR 170.227 Flexible financing is also available to Tribes, although it may be undesirable as the interest payments can increase the cost of the project.

Per 25 CFR 170.133 “TTP funds may be used to meet matching or cost participation requirements for any Federal or non-federal transit grant or program.”

#### Tribal Transportation Improvement Program

Per 25 CFR 170.421 describes the Tribal Transportation Improvement Program (TTIP), it is developed from the tribe’s priority list. The TTIP is consistent with the Long Range Transportation Plan and must contain all TTP funded projects. It may contain information regarding other Federal, State, municipal or tribal transportation projects initiated or developed in cooperation with the Tribe. We are only authorized to spend TTP funds on projects that are on the TTIP and the route must be approved in the tribal inventory. The TTIP is reviewed and updated as necessary. The TTIP must be publically advertise for public comment when it is updated. The TTIP must be forwarded to FHWA and approved for inclusion into the TTIP.

#### Long Range Transportation Plans (LRTP)

Per 25 CFR 170.440, in 2007 KTP completed the development of LRTPs for each village. These plans identify every type of intermodal transportation needs for the community. In 2015 the LRTP's were updated and are available. The LRTP’s should be updated every five years or as needed and public meetings will be held with the City, Tribe and Native Corporation leaders in attendance.

#### Inventory Submission

##### Background:

Prior to 2007 the official tribal inventory for Kawerak’s participating tribes was 513.2 miles. In March of 2007 Kawerak submitted on behalf of the participating tribes 3,212 miles of inventory into the federal system, of that 3,096.10 have been accepted by BIA and are official. More routes have been submitted and approved and there are 3393 miles of those 2810 are proposed.

Per 25 CFR 170.442 the TTP Inventory is a comprehensive database of all transportation facilities eligible for TTP Program funding by the tribes. Elements of the inventory are used in the funding formula. To be included in the TTP inventory the transportation facility must submit documents identified under 25 CFR 170.443.

Process to Update: BIA provides the tribes a copy of the TTP Inventory by November 1st each year. The tribe reviews the data and submits changes to the BIA office along with an authorizing resolution by March 15<sup>th</sup>.

BIA Regional office reviews each tribe’s submission for errors or omission and provides the tribe with its revised inventory by May 15<sup>th</sup>.

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The tribe must correct any errors or omissions by June 15<sup>th</sup>. BIA enters data by July 15.

BIA provides each tribe with copies of the RNDF distribution by percentage by August 15<sup>th</sup>. BIADOT approves submissions before they are included in the National TTP Inventory.

#### Project Administration

Design standards must comply with 25 CFR 170 Appendix B to Subpart D.

KTP has adopted the State of Alaska's, Department of Transportation and Public facilities "Standard Specifications for Highway Construction 2015 Edition" and had created a Section 100 specifically for KTP.

KTP follows "Kawerak, Inc., Transportation Program Guidance/Internal Procedures for Construction Firm Selection in the Context of Native/Tribal Preference" as allowed by funding source.

KTP complies with the procedures established in the "Guidance for Construction Firm Selection" adopted by the Board on April 3, 2009.

Each tribe had adopted a "Tribal Employment Rights Ordinance" which KTP complies with as allowed by the funding source.

KTP has created a RFP form and process, Construction Administrative Services and Construction Contracts with specific language required by the funding source.

#### KTP Reporting:

On an annual basis, KTP provides an annual report to the Board of Directors.

1. Quarterly-Status Summary Report on Projects to the Committee.

Per the Program Agreement or Compact Amendment, Kawerak reports to the funding agency twice a year no later than June 30 and December 31 of each year.

#### Construction Project Prioritization Process

The process described below is intended to provide Kawerak with maximum flexibility in addressing the transportation needs of the villages and the region. This includes using TTP program funds to leverage with other funding sources. The process has three phases:

- **Phase I** Project Planning is to move selected construction projects through project scoping. Phase I includes meeting with the community to define the limits of the project, identify potential conflicts (includes utility relocations), develop refined project cost estimates, for local force account evaluate workforce and equipment needs, coordinate with AK DOTPF for projects in the region. KTP has IDIQ engineering firms on contract for PS&E development which includes schedule and

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scope of work for Plans, Specification, and Estimate (PS&E) and construction management of the individual project.

- **Phase II** Preliminary design, environmental and archeological analysis and final design: is to select and schedule the projects for project development with our engineering firms for the development of the plans, specification and estimates (PS&E); Phase II includes the survey, design, geotechnical evaluation, environmental and archaeological evaluations (this can be categorical exclusions, environmental assessments, or full blown environmental impact statements), permitting, and perfection of rights-of-ways, and various phases of review by the government.
- **Phase III** is construction. The project is publically advertised with an RFP for Construction and an RFP for Construction Administration Services. Construction includes project survey staking, construction management, construction, quality control, quality assurance, inspection and acceptance by the government and close out documentation sent to FHWA.

To be considered as a project for the KTP the respective project must be on the village's LRTP or within the administrative planning component. By BIA regulations projects identified for construction must be on the TTP Inventory and approved in the TTIP. Projects associated with training and education maybe performed under transportation planning. KTP will analyze construction projects based on eligibility, potential funding, ability to coordinate with other infrastructure projects, and ability to build or implement.

**Transportation Planning:** Funds may be set aside for transportation planning activities. The funding sources for planning includes under 25 CFR 170.400 transportation planning and TTP construction funds. We will also seek additional funds from various planning grants. The transportation planning activities include but are not limited to:

- Update inventories and LRTP (including public involvement) and TTIP
- Develop the transportation component of comprehensive community and regional plans
- Coordinate community intermodal infrastructure planning and construction specifically as it relates to the transportation infrastructure of the community
- Nominate, review and comment to projects on the STIP; take lead on coordination with the local, state and other agencies
- Transportation training
- Transportation meetings
- Gather and evaluate data on transportation facility maintenance as well as the transportation associated management systems
- Monitor transportation system
- Fund special non-project specific planning activities such as snowmachine and 4-wheeler safety
- Coordination on special projects
- Monitor implementation of village LRTP
- Trail Stake and dust control planning

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- Special projects (GIS, mapping, studies)
- Primary transportation resource for the community
- Monitor transportation statutes, regulations, and policies
- Rights-of-Way, land ownership research
- Workforce evaluation
- Contract administration
- Program budget revisions
- Council technical assistance

### **Eligible Construction Projects**

The goal of KTP is to improve safety, quality of life, and mobility and access across the region. Due to the limited nature of funding for transportation projects, restrictions need to be applied to the projects eligible for funding. Only the following activities will be considered for the project prioritization process.

The definition of “construction” as defined in 23 USC 101 means “the supervising, inspecting, actual building, and incurrence of all costs incidental to the construction or reconstruction of a TTP transportation facility.”

### **Eligible projects**

#### **SAFETY**

- Grade and drain or reconstruction of an emergency evacuation trail or road to allow for evacuation of a community at risk.
- Access to airport for emergency evacuation (medical, natural disasters, etc.)
- Erosion protection to preserve an existing road or trail that is identified as critical to either the infrastructure of the community, or is a vital link to health, education, employment, subsistence, or is a principal access route.
- High use trails or road safety project including: installation of guardrail; realignment of dangerous road or trail sections; rehabilitation or replacement of substandard or failed drainage structures or bridges; and trail staking (i.e. hazard identification, reflective delineators).
- Installation of trail stakes for life/safety.

#### **QUALITY OF LIFE**

- Grade and drain to unimproved community streets.
- Gravel surfacing for a grade and drained community streets.
- Pavement or permanent (i.e. Hot Mix Asphalt) surfacing to a gravel community street.
- Environmentally safe dust control for community streets or access roads to subsistence areas with average daily traffic over 50 vehicles per day (if a community wants calcium chloride we will comply with their wish).
- Rehabilitation or replacement of structures that impair movement of fish and wildlife in critical subsistence locations.
- Trail or road access for drinking water.
- Improvements to landfill roads.

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- Plan for waterways infrastructure: ports, harbors, barge landings, etc.

#### ACCESS

- Improvements to major access routes; must be proposed by all communities that use route and must have primary outside funding source.
- Trail staking, directional signs on major access trails; must be proposed by all communities that use route.
- Rest area/safety shelter on major access trails, requires maintenance agreement and outside funding source.
- Improvements to water transportation access (i.e. ocean, lake, stream or river) with seasonal average daily traffic of over 75 vehicles
- Improvements to ground to airport access with average daily traffic of over 100 vehicles per day, requires outside funding source. (DOT & PF is responsible for access to airports.)
- Other eligible projects that meet a significant community or regional need and have been approved by a committee made up of the KTP Director, Kawerak President, and two appointed members of Kawerak's Board.

The following scoring matrix will be used to prioritize projects.

**KTP Project Scoring Matrix for Construction Projects**

Rating	5	4	3	2	1	0
Funding percentage from other sources, MOA/MOU's finalized	100-80	79-60	59-40	39-20	19-1	0
Percentage of unimproved streets within community	100-80	79-60	59-40	39-20	19-1	0
Community or other entity in-kind contribution for project, i.e., gravel, right-of-way, labor/equipment, cash.	Over 40% of total project value	30-39	20-29	10-19	Under 10%	0
New road or improvements to an existing road needed to provide access to vital village facility (school, clinic, airport, post office, store, fuel source, emergency services, water source, land fill)	Serves more than 5 facilities	Serves more than 4 facilities	Serves more than 3 facilities	Serves more than 2 facilities	Serves more than 1 facility	0
Funding year on approved STIP	Current	1-2	3-4	5	6	>6
Fatalities on route due to route engineering	>0					

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deficiencies						
Fatalities on route due to any other unsafe condition	>0					
Injury accidents on route due to route engineering deficiencies	Medivac required		Require d health aid			
Injury accidents on route due to any other unsafe condition	Medivac required		Require d health aid			
Years since last TTP rehabilitation, reconstruction or new construction project (does not include emergency)	Never had project	>10	9-5	4-3	2-1	0
Project aligns with other work in community	Utilizes common equipment, reduces mobilization costs					
Number of people served	>1000	999-500	499-250	249-100	99-50	<50
Kawerak projected costs for the project.	Under \$50,000	50,001 - 250,000	250,001 – 500,000	500,001 - 750,000	750,001 - \$1 million	Over \$1 million
Kawerak is providing local match only	Providing a portion of the match	Providing full match				

### **TRIBAL SAFETY MANAGMENT PLANS (TSMP)**

KTP assisted each Tribe to complete their Tribal Safety Management Plans and Kawerak may apply for available funding through various grants to meet those plans priorities. The TSMP's are included in the LRTP.

### **Road Maintenance Policy**

KTP may use up to 25% of TTP allocation for maintenance activities as identified in 25 CFR 170.800 Subpart G-Maintenance. Maintenance activities are included on the TTIP.

KTP may begin with an inspection of the roadway and all associated safety features for:

1. Roadway surface
2. Shoulders

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3. Culverts
4. Ditches and drainage
5. Roadside appurtenances/guardrail
6. Traffic signs
7. Pavement markings
8. Traffic patters

Inspections in these areas offer a method of determining surface deficiencies and related safety feature conditions, through observation and records of the specific types and severities of defects or distress. Items to rate as documented by narrative and photographs are:

1. Type of defect
2. Severity of the defect.

#### Maintenance Rating System and Criteria

<b>Rating</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
Potholes	Level patches	Settled patches 1” max, <10% of area	Unfilled <10% of area	Unfilled <25% of area	Unfilled >25% of area
Signs	Highly reflective	<10% obscured	>10% obscured	Nonstandard conditions	No signs
Vegetation	Well maintained	Heavy growth	Starting to encroach	Significant encroachment	Heavy encroachment
Drainage	Free flowing	<1/4 blocked	<1/3 blocked	<1/2 blocked	>25% blocked
Community donation towards cost	1-19%	20-39%	40-59%	60-79%	80-100%
Total % amount of funding request	100-80%	79-60%	59-40%	39-20%	19-1%

#### Road Maintenance Pass-Through

As Kawerak’s overall mission is to increase the self-sufficiency of the tribal governments they serve, it is recommended that routine maintenance, when possible and requested by the tribe, be done by passing through funding and working with the tribe to create a pass through funding agreement, a maintenance plan and budget. This increases the tribe’s self-sufficiency and ability to provide road maintenance to existing and future roads while keeping funding in the community and providing needed employment opportunities.

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- How will the amount available for pass-through funding be calculated per community each year?

Maintenance funding available to a tribe will be calculated based on the number of miles of community streets inventoried that need to be routinely maintained. These funds are to be used for routes approved in the tribal inventory community streets. If the tribe receives other funding, such as BIA Road Maintenance funding through Kawerak Tribal Affairs, those routes are not considered eligible mileage for the community streets routine maintenance allocation. See Appendix A.

According to Kawerak's current inventory, the mileage for community streets is as follows, miles are rounded up to the nearest tenth of a mile:

<b>Community</b>	<b>Community Street Miles</b>
Brevig Mission	14.6
Diomedea	2.7
Elim	11.6
Gambell	14.1
Golovin	23.2
Koyuk	8.6
Shaktolik	5.7
Mary's Igloo	1
Solomon	1
Shishmaref	3.4
St. Michael	16.7
Stebbins	9.5
Teller	4.2
Wales	14.3
White Mountain	12.1
Unalakleet	10.3
<b>TOTAL</b>	<b>153.00</b>

The amount of funding available for routine maintenance funds to tribes will be approved by the Kawerak Board if the funding is available. Kawerak Transportation will recommend an amount for Board approval based on funding available. The Transportation department will identify routes that are included in the inventory eligible for maintenance.

KTP staff will work closely with tribes who would like to access these funds to create a maintenance plan, budget and reporting.

Process for requesting Routine Road Maintenance Pass Through funding:

1. A Notice of Availability of Funds will be issued.
2. The tribe develops a letter to Kawerak requesting funds for routine maintenance with a description of what these funds will be utilized for.

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3. The tribe develops a Yearly Routine Maintenance Plan and the tribal council approves and submits this plan.
4. The tribe develops a Yearly Routine Maintenance Budget and the tribal council approves and submits this budget.
5. Tribal council approval of the Yearly Maintenance Plan and Routine Maintenance Budget are required prior to submitting these documents to Kawerak.
6. The tribe shall comply with Kawerak's Policy Regarding Pass-Through of Compact Funds to Tribal Governments, approved March 31, 2005 for reporting requirements.

Procedures for the Award of Funds:

1. The Routine Maintenance Plan and Budget submitted and approved (must be signed by tribal council representative attesting to tribal council approval) by the Transportation Program Director or designee.
2. Notice of Award, Pass-Through Policy, approved Routine Maintenance Plan and Budget shall be issued along with the disbursement of funds to tribes that comply with the Pass-Through Reporting requirements (reports submitted on time).

**Emergency Maintenance**

This covers repairs that cannot be foreseen but require immediate attention, this funding is meant to be one-time only. Examples of emergency maintenance include: work in erosion areas, repairs to major drainage washouts, retrieving hazardous materials and repairing the ravages of disasters.

Process for Emergency Road Maintenance Funding:

Eligible tribes can apply for priority health, safety and emergency maintenance projects. Limited funding is available for these types of projects. Criteria are as follows:

- 1) The project must be a health, safety or emergency priority that needs to be addressed (priority or emergency identified).
- 2) The project must protect the immediate or emergency well being, safety and/or health of the community. Routine maintenance work as outlined above does not qualify for this funding.
- 3) The project must not be within the village's twenty year flood plain.
- 4) The route must be on the TTP Inventory.
- 5) Maintenance must be within the existing right-of-way.
- 6) Extra consideration will be given when a village shows a broad range of community support, as evidenced by donations of:
  - a. Gravel.
  - b. Equipment and man hours.
  - c. Matching funds to help fund the project.

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- 7) Projects that are eligible for funding through FEMA or ERFO, are not eligible for funding through this maintenance fund.

**Appendix A**

Currently the following tribes receive BIA Road Maintenance Pass Thru Funds from Tribal Affairs and may not apply for KTP pass-thru funding for the following routes:

Tribe	Amount (Approx)	Route
Elim	\$42,605	Elim-Moses Point Road # 0014
Stebbins	\$17,639	Stebbins/St. Michael Road # 1026
St. Michael	\$25,142	St. Michael/Stebbins Road # 1026
Teller	\$1,405	#0062
Wales	\$28,521	Tin City Road # 1002
Unalakleet	\$5,045	North River Road #1049 (Kanagyagat Road)