
Tribes

JURISDICTION: Tribes

BACKGROUND

There are 29 federally recognized Tribes in Washington State. Tribes are not political subdivisions of the state. There are 5,645 miles of road within or providing access to Indian Reservations and communities. Of these, 31% are under jurisdiction of the Tribe or Bureau of Indian Affairs (BIA), 21% are state roads and 46% are county roads.

- Washington State currently has fuel tax agreements with 22 Tribes. The three types of agreements are:
 - 75 Percent Refund/25 Percent (75/25) State Tax Agreement
 - Fuel is delivered to the reservation with 100% of the tax. The tribe applies for a refund of 75%.
 - 16 Tribes have this type of agreement with the State
 - Per-Capita Agreement,
 - Fuel is delivered to the reservation with 100% of the tax. The tribe receives a refund based on a formula of tribal members and average fuel consumption rates.
 - 6 Tribes have this type of agreement with the State
 - Federally negotiated consent decree
 - A consent decree is a judicial decree issued by the court expressing voluntary agreement between parties to a dispute.
 - 1 Tribe has a federally negotiated consent decree
- RCW [82.36.450](#) and [82.38.310](#) give the Department of Licensing (by delegation from the Governor) the authority to enter into tribal fuel tax agreements with federally recognized tribes with a reservation located in Washington. The key provisions of the statutes are:
 - The tribe or the tribal retailer may acquire fuel only from persons or companies operating lawfully as a motor vehicle fuel distributor, supplier, importer or blender; or from a tribal distributor, supplier, importer, or blender.
 - Under the 75/25 agreements, tribes may only expend fuel tax proceeds on planning, construction and maintenance of roads, bridges and boat ramps; transit services and facilities; transportation planning; public safety; or other highway-related purposes.
 - The 75/25 agreements must include provisions for audits or other means of ensuring compliance. Compliance reports must be delivered to the director of the Department of Licensing (DOL).
 - Information from the tribe or tribal retailers received by the state or open to state review under the terms of an agreement are deemed to be personal information and exempt from public inspection and copying.
 - The DOL must prepare and submit an annual report to the Legislature on the status of existing agreements and any ongoing negotiations with tribes.

- The annual refund for the 22 tribal agreements for the most recent time period available was January 1, 2011 through December 31, 2011 and was a total of \$29.9 million. The fuel tax revenue *retained* by Washington state for fuel purchased under the 22 per-capita and 75/25 agreements for the same time period of January 1, 2011 through December 31, 2011 totaled \$8.8 million.

PROGRAM

- Tribes are responsible for the planning, construction, maintenance and management of transportation and transit facilities owned by the Tribe or BIA. Tribes also coordinate project development and construction in partnership with state and local jurisdictions for roads within or providing access to the Reservation or Tribal community.

FUNDING

- Not taking into account tribal general purpose funds or grant funds, approximately 36% of Tribes' transportation funding is generated from federal revenue sources and 64% from state fuel tax refunds.
- Federal Funding Programs
 - Tribal Transportation Program (BIA)
 - Distribution by formula
 - Set asides for Planning, Safety, Bridge, PM&O
 - Tribal High Priority Project Program (BIA)
 - General funds subject to annual appropriations
 - Tribal Transit Program (FTA)
 - Distribution by formula and competitive grants
 - Tribes are eligible sub recipients for variety of funding programs administered by the state, MPOs / RTPOs and local governments.
- General-purpose tribal revenue: funding derived from tribal general purpose funds vary by Tribe.