
Tribes

JURISDICTION: Tribes

BACKGROUND

There are 29 federally recognized tribes in Washington State. There are 5,645 miles of roadway within or providing access to tribal reservations and communities. Of these, 1,729 miles are owned by each tribe or the Bureau of Indian Affairs (BIA), with the remaining being state, county or city roads. Nineteen tribes operate or partner to provide transit services.

Tribal governments are responsible for the planning, construction, maintenance and management of their transportation and transit facilities. They 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.

FUEL TAX AGREEMENTS

- Washington State currently has fuel tax agreements with 24 tribes. The two 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%.
 - 19 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.
 - 5 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.
 - As of November 22, 2013, the Yakama Nation’s Fuel Tax Consent Decree was replaced with a 75/25 tax agreement.
- RCWs [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 fuel tax revenue retained by Washington state for fuel purchased under the 75/25 agreements for the time period of January 1, 2013 through December 31, 2013 is \$9,968,893.
- The annual refund for the per-capita and 75/25 agreements for the time period of January 1, 2013 through December 31, 2013 is \$31,498,461.

FUNDING

- Not taking into account tribal general purpose funds or grant funds, approximately 41% of Tribes' transportation funding is generated from federal revenue sources (BIA & FTA) and 59% 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.