

## Department of Transportation Plan of Actions

### **Background**

As directed in the Presidential Memorandum issued on January 26, 2021, titled “Tribal Consultation and Strengthening Nation-to-Nation Relationships,” the U.S. Department of Transportation (Department or DOT) consulted with Indian Tribes during three listening sessions held on March 10, 15, and 24, 2021. In addition, on March 9, 2021, the Department published a Federal Register notice seeking public comment on issues related to tribal consultation and communication with Tribes. The comment period closed on March 31, 2021. The Department received 219 comments from 25 Tribal Nations and Tribal organizations regarding how the Department’s Tribal consultation policy and procedures can be improved to better implement Executive Order (EO) 13175 and to strengthen the Nation-to-Nation relationship between the U.S. and Indian Tribes. These comments ranged from requesting a clearer definition of consultation, to protection of culturally significant information collected during consultation, requiring DOT employees to take Tribal training (on topics such as sovereignty and trust responsibility) to requesting DOT combine our Tribal Policy and Tribal Consultation Plan into one document.

### **The Presidential Memorandum Direction and the Department’s Response**

- A. The head of each agency shall submit to the Director of the Office of Management and Budget (OMB), within 90 days of the date of this memorandum, a detailed plan of actions the agency will take to implement the policies and directives of EO 13175. The plan shall be developed after consultation by the agency with Tribal Nations and Tribal officials as defined in EO 13175.

#### **To accomplish this, the Department plans to take the following action:**

The Department proposes using the comments received from the Tribal consultation required by the Presidential Memorandum to update and revise the internal Department Order 5301.1, “Department of Transportation Programs, Policies, and Procedures Affecting American Indians, Alaska Natives, and Tribes” and the Department Tribal Consultation Plan. The Department is considering combining Department Order 5301.1 and the Tribal Consultation Plan into a single document.

As DOT considers these revisions the Department plans to consult with Tribes to ensure they are participants in the process. Tribal Consultation on these proposed actions will be held between August 1 and November 30, 2021. This time frame will allow DOT to host consultation sessions at the end of the year in conjunction with conferences held by Tribal organizations such as the National Congress of American Indians, Inter-Tribal Transportation Association, Alaska Tribal Transportation Working Group, and the United

South and Eastern Tribes, thus allowing the Department to ensure wide-ranging Tribal involvement.

In addition, in early 2022, the Department will separately proceed with an additional standalone consultation policy regarding Native Hawaiian Organizations that will be developed in consultation with Native Hawaiian Organizations.

- B. Each agency's plan and subsequent reports shall designate an appropriate agency official to coordinate implementation of the plan and preparation of progress reports required by this memorandum. These officials shall submit reports to the Assistant to the President for Domestic Policy (APDP) and the Director of OMB, who will review agency plans and subsequent reports for consistency with the policies and directives of EO 13175.

**To accomplish this, the Department has taken the following action:**

Milo Booth, Director of Tribal Affairs, has been designated as the DOT official responsible for coordination and implementation of this plan.

- C. The head of each agency shall submit to the Director of OMB, within 270 days of the date of this memorandum, and annually thereafter, a progress report on the status of each action included in the agency's plan, together with any proposed updates to its plan.

**To accomplish this, the Department plans to take the following action:**

Within 270 days of the date of the Presidential Memorandum, DOT will submit a progress report on the Department's efforts. In addition, DOT will submit an annual progress report providing an update on the Department's efforts. In addition, DOT will clarify definitions, address tribal technical assistance and issue consistency throughout DOT.