
Tribes

JURISDICTION: Tribes

BACKGROUND

There are 29 federally recognized tribes in Washington State. There are 6,040 miles of roadway within or providing access to tribal reservations and communities. Of these, 1,872 miles are owned by each tribe or the Bureau of Indian Affairs (BIA), with the remaining being state, county or city roads. Eighteen 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.

TRIBAL LICENSE PLATE COMPACTS

In 2020, the Legislature provided the Governor authority, which has been delegated to the DOL, to enter into compacts with federally-recognized tribes in Washington to create tribal license plates for tribal member owned vehicles and tribal government vehicles. DOL is coordinating with interested tribes to enter into license plate compacts and develop tribal license plates.

FUEL TAX AGREEMENTS

- Washington State has fuel tax agreements with 25 tribes. The two types of agreements are:
 - 75 Percent Refund/25 Percent State (75/25) Tax Agreement
 - Fuel is delivered to the reservation with 100% of the state fuel tax paid. The tribe applies for a refund of 75%.
 - 23 tribes have this type of agreement with the State.
 - Per-Capita Agreement
 - Fuel is delivered to the reservation with 100% of the state fuel tax paid. The tribe receives a refund based on a formula of tribal members and average fuel consumption rates.
 - 2 tribes have this type of agreement with the State.
- RCW [82.38.310](#) gives 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.
 - 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; police services; or other highway-related purposes.

- All agreements negotiated since 2007 must include a provision 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 that are 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, 2021, through December 31, 2021 is \$17.8 million.
- The annual refund for the per-capita and 75/25 agreements for the time period of January 1, 2021, through December 31, 2021 is \$54.9 million.

FUNDING

- Not taking into account tribal general-purpose funds or grant funds, approximately 59% of Tribes' transportation funding is generated from federal revenue sources including the BIA and Federal Transportation Administration (FTA) and 41% from state fuel tax refunds.
- Federal Funding Programs
 - Tribal Transportation Program (BIA)
 - o Distribution by formula
 - o Set asides for Planning, Safety, Bridge, PM&O
 - Tribal Transit Program (FTA)
 - o Distribution by formula and competitive grants
 - Tribes are eligible sub recipients for a variety of funding programs administered by the state, Metropolitan Planning Organizations (MPOs)/Regional Transportation Planning Organizations (RTPOs) and local governments.
- General-purpose tribal revenue: funding derived from tribal general-purpose funds vary by Tribe.

Sources:

DOL's [Tribal Fuel Tax Agreement Report](#) (October 2021)

WSDOT's Tribal Liaison Office: <https://wsdot.wa.gov/about/contacts/tribal-contacts>

WSDOT phone query to Bureau of Indian Affairs Tribal Transportation Facilities Inventory

WSDOT phone query to Federal Transit Administration Tribal Liaison Office