



U.S. Department
of Transportation
**Federal Highway
Administration**

FEDERAL HIGHWAY
ADMINISTRATION
Office of Infrastructure

1200 New Jersey Ave., S.E.
Washington, DC 20590

FISH AND WILDLIFE
SERVICE
Fish and Aquatic Conservation

5275 Leesburg Pike
Falls Church, VA 22041



Dear Tribal Leader:

On November 15, 2021, President Biden signed the Infrastructure Investment and Jobs Act (also known as the Bipartisan Infrastructure Law or BIL) which provides more than \$13 billion for direct investments into Tribal communities across the country. The U.S. Fish and Wildlife Service (USFWS) and the Federal Highway Administration (FHWA) received funding under two provisions focused on removing in-stream barriers and providing technical assistance on project design and implementation. Funding provided by these provisions benefits both fish and people by removing instream barriers, mitigating public safety hazards, and by restoring Tribal trust resources and river ecosystems.

USFWS and FHWA have made it a priority to garner input from Tribal leaders on the important opportunities and decisions that this funding provides. Both agencies want to engage interested Tribes in a sustained dialogue about these funding opportunities. We will keep Tribal leaders informed as dates and deadlines are determined.

To inform our discussion, we have attached additional information on two provisions of the BIL that focus on removing instream barriers to improve fish passage as well as providing technical assistance. Although this request focuses on these two specific BIL provisions, we are open to verbal and written input on other USFWS and FHWA provisions of the BIL. The two provisions are listed below.

- **USFWS: National Fish Passage Program (NFPP)** – \$200 million over five years for restoring fish and wildlife passage by removing in-stream barriers and providing technical assistance on project planning, prioritization, design, engineering, and implementation.
- **FHWA: National Culvert Removal, Replacement, and Restoration Grant Program (Culvert Program)** – \$200 million per year, over five years for grants to replace, remove, and repair culverts or weirs that would meaningfully improve or restore fish passage for anadromous fish. With respect to weirs, projects may include infrastructure to facilitate fish passage around or over the weir as well as weir improvements.

We will be holding three virtual sessions. Each session will cover the same material so you can attend any session that fits your schedule. We look forward to speaking with you at one or more of the following sessions:

Date	Time	Zoom Link/Register At
Wednesday, September 7, 2022	1:00 p.m. – 4:30 p.m. ET	Register in advance for this meeting: https://doitalent.zoomgov.com/meeting/register/vJItceiqrDItHpFRQdvUKV0S6yyzmyopCAI
Thursday, September 8, 2022	1:00 p.m. – 4:30 p.m. ET	Register in advance for this meeting: https://doitalent.zoomgov.com/meeting/register/vJIsdemqrzgrHhQt8Qt39Mv8qyeLYaCeHb4
Friday, September 9, 2022	1:00 p.m. – 4:30 p.m. ET	Register in advance for this meeting: https://doitalent.zoomgov.com/meeting/register/vJIsd-isrT4jHA3Y5nRNHl9KgC1FgiV7iOM

If you would like to provide written input or have any questions on the NFPP, please contact Shannon Boyle at (571) 447-7496 or NFPP@fws.gov.

If you would like to provide written input or have any questions on the Culvert Program, please contact Joe Krolak at (202) 366-4611 or CulvertAOP@dot.gov.

Sincerely,

David A. Miko

David Miko
Assistant Director for Fish and Aquatic
Conservation (Acting), U.S. Fish and Wildlife
Service

Hari Kalla

Hari Kalla
Associate Administrator, Office of Infrastructure,
Federal Highway Administration

Enclosure

Enclosure

USFWS—National Fish Passage Program (NFPP): \$200 million over five years for restoring fish and wildlife passage by removing in-stream barriers and providing technical assistance on project planning, prioritization, design, engineering, and implementation.

The Infrastructure Investment and Jobs Act (also known as the Bipartisan Infrastructure Law or BIL) provides \$200 million over five years to the U.S. Fish and Wildlife Service (USFWS) for restoring fish and wildlife passage by removing in-stream barriers and providing technical assistance on project planning, prioritization, design, engineering, and implementation under the National Fish Passage Program (NFPP).

The NFPP fully acknowledges the responsibility of the USFWS to protect and conserve tribal trust resources.¹ With that responsibility to federally recognized Tribes, NFPP has prioritized garnering input from tribal leaders on the important opportunities that this funding provides. NFPP aims to improve our engagement with all interested Tribal Nations and better incorporate tribal priorities into the delivery of the program.

With Fiscal Year 2022 NFPP BIL funding, the USFWS is providing \$38 million to 40 projects across 23 states and Puerto Rico. Of those 40 projects, ten are either led by, or partnered with, Tribes. To inform NFPP BIL program implementation in future fiscal years, the USFWS is seeking input on the opportunities provided and how the USFWS can better align fish passage funding with tribal priorities. Implementation of the NFPP will occur over several years and thus, we will likely require additional listening sessions to ensure tribal priorities continue to be captured in the delivery of NFPP. Right now, we are seeking input on early planning decisions for Fiscal Year 2023 funding.

FHWA—National Culvert Removal, Replacement, and Restoration Grant Program: \$200 million per year, over five years for grants to replace, remove, and repair culverts or weirs that would meaningfully improve or restore fish passage for anadromous fish. With respect to weirs, projects may include infrastructure to facilitate fish passage around or over the weir and weir improvements.

BIL also establishes the National Culvert Removal, Replacement, and Restoration Grant Program (Culvert Aquatic Organism Passage (AOP) Program) and provides \$200 million per year, over five years to the Federal Highway Administration (FHWA) for grants to replace, remove, and repair culverts or weirs that would meaningfully improve or restore fish passage for anadromous fish. With respect to weirs, projects may include infrastructure to facilitate anadromous fish passage around or over the weir as well as weir improvements. The grant program is prioritized to benefit anadromous fish stocks listed as endangered or threatened pursuant to the Endangered Species Act of 1973 (ESA); anadromous fish stocks identified by the National Oceanic and Atmospheric Administration (NOAA) or the USFWS that could reasonably become listed as an endangered or threatened species under the ESA; anadromous fish stocks identified by NOAA or USFWS as prey for federally endangered species, threatened species, or protected species, including Southern resident orcas (*Orcinus orcas*); anadromous fish stock identified by NOAA or

¹ 49 U.S.C. 6703(g)

USFWS as climate resilient stocks; and projects that would open up more than 200 meters of upstream habitat before the end of the natural habitat.

Under the Culvert AOP Program, technical assistance will be provided to Indian Tribes and underserved communities to assist in the project design and grant process and procedures. With that responsibility to federally recognized Indian Tribes, the Culvert AOP Program has also prioritized garnering input from tribal leaders on the important opportunities that this funding provides.

With Fiscal Year 2022 Culvert AOP Program BIL funding, FHWA is providing \$196 million in awards. Eligible entities for this grant program include Indian Tribes, States, or units of local government. To inform the Culvert AOP Program implementation in this and future fiscal years, FHWA is seeking input on the opportunities provided and how FHWA can better address tribal priorities and needs in the delivery of the Culvert AOP Program. Implementation of the Culvert AOP Program will occur over several years and thus, we will likely request additional listening sessions as FHWA continues to advance the Culvert AOP Program.

USFWS and FHWA are conducting this tribal engagement to receive feedback in the following areas:

1. How can our agencies align these funding opportunities with tribal priorities and needs?
2. How can our agencies ensure increased accessibility to these funds for Tribes and tribal consortia?
3. USFWS will use a grant mechanism that results in cooperative agreements to allocate their NFPF funds. FHWA plans to utilize grant agreements to allocate their Culvert AOP funds. What are your recommendations for how these agencies award these funds to engage with and support Tribes, including funding going directly to Tribes?
4. What additional information or support, such as delivering funds through tribal-serving or partner organizations, would be most helpful to your Tribe in accessing these funds?
5. What type of technical assistance is needed for grant processes and procedures, implementation, and reporting?