



Federal Permitting Improvement Steering Council
1800 M Street, NW, Suite 6006 | Washington, D.C. 20036

**FRAMING PAPER: TRIBAL CONSULTATION ON \$5MILLION FUNDING TO ENHANCE
TRIBAL ENGAGEMENT FOR FAST-41 PROJECTS**

*Hosted by the
Federal Permitting Improvement Steering Council*

February 15, 2023 from 2:00-3:30 pm ET

February 16, 2023 from 3:00-4:30 pm ET

February 23, 2023 from 3:00-4:30 pm ET

BACKGROUND

The Federal Permitting Improvement Steering Council (Permitting Council) Executive Director is committing to make \$5 million available to Federally recognized Tribes to enhance Tribal engagement in the environmental review and authorization process for FAST-41 covered projects to make project review more timely and efficient.¹ The \$5 million is an investment from funds appropriated in the Inflation Reduction Act (IRA) to the FAST-41 Environmental Review Improvement Fund (ERIF).² The Permitting Council Executive Director may consider the need for additional funding at a later date.

Established in 2015 by Title 41 of the Fixing America’s Surface Transportation Act (FAST-41), the Federal Permitting Improvement Steering Council (Permitting Council) is a unique Federal agency charged with improving the transparency and predictability of the Federal environmental review and authorization process for “covered” infrastructure projects. The Permitting Council is comprised of the Permitting Council Executive Director, who serves as the Council Chair; [13 Federal agency Council members](#) (including deputy secretary-level designees of the Secretaries of Agriculture, Army, Commerce, Interior, Energy, Transportation, Defense, Homeland Security, and Housing and Urban Development, the Administrator of the Environmental Protection Agency, and the Chairs of the Federal Energy Regulatory Commission, Nuclear Regulatory Commission, and the Advisory Council on Historic Preservation); and the Chair of the Council on Environmental Quality and the Director of the Office of Management and Budget.

FAST-41 authorizes the Permitting Council Executive Director to transfer ERIF funds to state, local, and Tribal entities “to facilitate timely and efficient environmental reviews and authorizations” for FAST-41 projects.³

¹ 42 U.S.C. § 4370m-8(d)(3).

² Inflation Reduction Act of 2022, Pub. L. 117-169, 136 Stat. 1818 (Aug. 16, 2022); *see* 42 U.S.C. § 4370m-8(d).

³ 42 U.S.C. § 4370m-8(d)(3).



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SCOPE AND APPLICABILITY

The Permitting Council coordinates Federal environmental reviews and authorizations for infrastructure projects that seek and obtain FAST-41 coverage. FAST-41 covered projects are entitled to comprehensive Federal permitting timetables, and transparent, collaborative management of those timetables on the Federal Permitting Dashboard by the appropriate Federal agencies. Tribes involved or consulted in the Federal environmental review and authorization process for a FAST-41 covered project may be eligible to receive ERIF funding if the funding would make the environmental review and authorization process more timely and efficient. For a full list of current projects covered under FAST-41 please refer to the [Permitting Dashboard](#).

FAST-41 covered projects may be in the following sectors: renewable or conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, water resource, broadband, pipelines, manufacturing, mining, carbon capture, semiconductors, artificial intelligence and machine learning, high-performance computing and advanced computer hardware and software, quantum information science and technology, data storage and data management, and cybersecurity. FAST-41 does not directly affect the underlying environmental review and authorization process or the obligation of any Federal agency to consult with tribes or conduct project review pursuant to the National Environmental Policy Act (NEPA). FAST-41 does not affect or dictate the outcome of any Federal decision making process.

The Permitting Council is focused on addressing the needs of Federally recognized Tribes affected by infrastructure projects. The Permitting Council Executive Director recognizes the capacity issues that Tribes face when asked to engage in the Federal environmental review and authorizations process for FAST-41 infrastructure projects. Providing funding to build capacity for Tribal Historic Preservation officers (THPOs) and other Tribal departments to meaningfully participate in environmental reviews under NEPA and consultations under Section 106 of the National Historic Preservation Act is critical to identify and protect natural, archeological, and cultural resources and locations of historic and religious significance in project areas.

The Permitting Council Executive Director seeks Tribal Leaders' input on Tribal needs for meaningful engagement in the environmental review and authorization process for projects that are or may become FAST-41 projects. The Executive Director acknowledges that these needs will vary widely across Tribes and by project. The Executive Director will consider this input in developing the criteria for the types of activities that can be funded, and funding methods.



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I. Topics for Consultation

The questions below are intended to guide discussion during the consultation, but all comments related to the topic are welcome. Written comments may also be sent to fast.fortyone@fpisc.gov by March 10, 2023.

- 1. At what stage(s) in the state or Federal environmental review and authorization process are resources most needed for engagement?**
 - a. Are there specific permits or authorizations for which resources are most needed for engagement? (e.g. NEPA, Section 106, Endangered Species Act consultation etc. Click [here](#) for a list of Federal environmental reviews and authorizations)
 - b. What are the key issues at these stages?
 - c. What types of resources are needed at these stages? (e.g., technical expertise, consultants, project managers, contractors, temporary staff, reimbursement for existing staff time and expertise, digital tools, capital expenses like computers and office materials, etc.)

 - 2. Has your Tribe experienced limitations to participating in reviewing projects or participating in consultations due to staff and resource constraints?**
 - a. If funding was available to mitigate these constraints, what specific resources and activities would the funding be used for?

 - 3. Are your Tribal lands located in an area that expects growth in one or more of the FAST-41 project sectors (e.g., broadband, transmission, offshore wind)?**
 - a. If so, what resources do you foresee needing to engage in future projects, particularly for projects that may have overlapping permitting time frames? (e.g., resources for coalition building with agencies and/or industry, staff to act as liaisons with Federal agencies, programmatic resources?)

 - 4. What types of capacity building resources would be most beneficial beyond engagement in a single project (e.g., technical training, workforce training and development)?**

 - 5. Would your Tribe benefit from funding to determine the scope of resources needed to engage in the permitting process (e.g., strategic planning and budgeting)?**
 - a. What are the specific activities related to strategic planning and budgeting for which your Tribe needs additional resources?
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