

LFC Hearing Brief



BACKGROUND INFORMATION:

The Tribal Infrastructure Project Fund (TIF) was created by the Tribal Infrastructure Act in 2005. The purpose of the act, Section 6-29-1 through 6-29-9 NMSA 1978, is to provide financial resources to Native American communities to plan and develop infrastructure to improve the quality of life and encourage economic development. The act recognizes that many of New Mexico’s tribes, nations, and pueblos lack basic infrastructure, including, but not limited to, water and wastewater systems, roads, and electrical power lines. All federally recognized tribes, nations, and pueblos within New Mexico have an opportunity to apply for these funds. The Tribal Infrastructure Board evaluates each proposal and awards funding based on a prescribed scoring system.

From 2005 to 2010, the Legislature appropriated a total of \$25.5 million to TIF. In 2010 the Legislature, through Chapter 37 (House Bill 162), earmarked 5 percent of the estimated senior severance tax bonding (STB) capacity each year for tribal infrastructure projects, beginning in 2012. The legislation directed the Board of Finance to issue STBs in the annually allocated amount for use by the Tribal Infrastructure Board to fund qualified projects through the TIF.

In 2015, as part of legislation that reduced statutory STB capacity to increase revenue to the Severance Tax Permanent Fund, the Legislature increased the percentage for TIF projects to hold the earmark harmless from the change in total STB capacity – to 6.5 percent in 2016 and 5.5 percent in 2017 and later years. However, in 2016, the Legislature reduced the earmark to 4.5 percent of STB capacity for 2017 and subsequent years as part of solvency efforts. For 2018, TIF received about \$8.8 million.

Tribal Infrastructure Needs

A National Congress of American Indians 2017 report highlighted that “The infrastructure crisis facing Indian Country is not a recent phenomenon.” The report notes the federal government has substantially under-invested in tribal infrastructure, as shown by the breadth and severity of unmet needs compared to the rest of the nation. In 2009, a group of U.S. Senators estimated a need of \$50 billion for tribal infrastructure improvements.

New Mexico’s Native American communities’ infrastructure priorities total \$1.7 billion according to 2017 infrastructure capital improvement plans (ICIP) submitted to the Department of Finance and Administration. Water projects accounted for \$505.4 million, followed by quality of life (\$428.8 million), transportation (\$339 million), public safety (\$105.7 million), health (\$95.7 million), economic development (\$86.3 million), environmental (\$76.3 million), housing (\$63.9 million), and education (\$16.7 million) projects.

During the 2018 legislative session, a proposed package including nearly \$2.5 million for capital projects benefitting Native American communities was circulated. Major projects included \$1 million for broadband expansion and \$500 thousand for a veterans’ center in Thoreau. Legislators should consider directing such requests to the TIF application process.

AGENCY: Indian Affairs

DATE: July 6, 2018

PURPOSE OF HEARING:
Tribal Infrastructure Fund (TIF)

WITNESS:
Secretary Suzette A. Shije;
Lawrence John, TIF
Administrator; Jonas
Armstrong, LFC Senior Fiscal
Analyst

PREPARED BY:
Jonas Armstrong

EXPECTED OUTCOME:
Update on the status of
outstanding TIF awards and
2016 revisions to TIF
guidelines and procedures.

**TIF Earmark Percentages
and Amounts**

Year	Percent of STB	Earmark Amount
2012	5.0%	\$ 13.2
2013	5.0%	\$ 16.4
2014	5.0%	\$ 14.2
2015	5.0%	\$ 14.3
2016	6.5%	\$ 12.2
2017	5.5%	\$ 5.4
2018*	4.5%	\$ 8.8

2017 Tribal ICIPs by Category

(estimated project costs)

Category	Requested Amount
Education	\$16,733,665
Housing	\$63,939,009
Environment	\$76,346,243
Development	\$86,280,930
Health	\$95,655,067
Public Safety	\$105,728,329
Transportation	\$338,957,664
Quality of Life	\$428,790,488
Water	\$505,438,788
Total	\$1,717,870,183

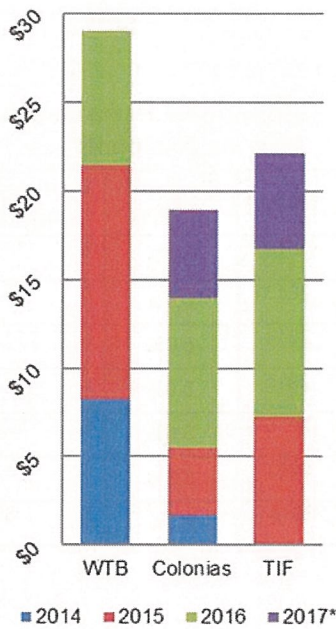
Source: DFA

TIF Board Project Scoring Criteria

Critical Need	30 points
Readiness	30 points
Capacity	25 points
Leveraging	15 points
Total	100 points

Earmarked Funds Balances by Year

(dollars in millions)



* No Water Project Fund distribution in 2017

Source: IAD & NMFA

TIF Board Application and Award Process

The Tribal Infrastructure Board consists of nine voting members and four non-voting members. Voting membership is made up of five members from the executive branch and four tribal representatives. The voting members are:

Name	Representing
Secretary Suzette Shije	Indian Affairs Dept.
Debbie Romero	Dept. of Finance & Administration
Judi Kahl	New Mexico Environment Dept.
Zack Dillenback	New Mexico Finance Authority
Aiko Allen	Dept. of Health
Perry Martinez	Pueblos
Vacant	Navajo Nation
Vacant	Jicarilla Apache Tribe
Vacant	Mescalero Apache Nation

The four non-voting members represent the Albuquerque and Navajo area offices of the Bureau of Indian Affairs and the Indian Health Services.

In January, the Indian Affairs Department (IAD) secretary issues a notice of funding availability outlining the application process and timeline. This year, the online application portal opened on February 2, and applications were due by March 12.

The IAD secretary selects certain board members to serve as the TIF Review Committee (TRC) which scores applications and recommends projects for funding to the full board. Per the TIF guidelines and procedures, TRC “convenes and conducts an in-depth review of all project applications along with supporting documentation based on the selection criteria.” Final project awards are made based on TRC scoring.

2016 Revisions to TIF Guidelines and Procedures

The Tribal Infrastructure Board amended the TIF guidelines and procedures in November 2016. The changes resulted from a work group composed of one tribally designated representative from each tribe, nation, and pueblo and reflect a consensus of these participants. Changes require projects be in the applying entity’s ICIP and that entities are in compliance with the Audit Act. Additionally, the board revised the scoring criteria and metrics to have a greater emphasis on criticality of need and placed caps on the amount of TIF capacity that can be awarded to a single project (15 percent).

Historically, grantees reported the time to process intergovernmental agreements (IGAs) negatively affected project progress, resulting in tribes needing unnecessary extensions. The 2016 guidelines and procedures attempt to address this issue by counting the time for project completion from the date the IGA is fully executed. Planning projects must be complete within 24 months of IGA execution, and other projects (design and/or construction) must be completed in 36 months. Although this has improved and all 2017 IGAs were executed within five months, only three of nine projects have submitted notices of obligation and started spending the awarded funds.

While the ICIP requirement is a step forward, there is opportunity for further improvement in how projects are prioritized and funds are awarded. Best practices seen in other state agencies include long-term facility master plans and use of

facility condition assessment data. For example, the Public Schools Facilities Authority (PSFA), targets capital funds and limits awards based on facility condition and other standards. PSFA assesses the condition and adequacy of public school facilities statewide on an eight-year cycle. Based on these factors, PSFA reaches a weighted New Mexico Condition Index score and ranks schools accordingly. Schools with the highest needs are then eligible to apply for funding through their school district; PSFA also requires districts to have a master plan that is updated every five years. After reviewing districts' applications, PSFA presents select projects to the Public Schools Capital Outlay Council which awards funding. PSFA's operating budget supports the master planning and facility condition assessment data used in this prioritization and selection process; IAD's budget does not include comparable funding and TIF funds have not been used for this purpose.

Award History and Project Progress

As of March 2018, about \$22 million, 39 percent, of TIF awards from 2014 through 2017 were unspent (see Attachment A for a list of active projects), of awards from that period. For projects awarded in 2014, just \$46 thousand, or 0.33 percent, remained; \$7.2 million, or 50 percent, for 2015 projects was unspent; and \$9.5 million, or 78 percent, of 2016 awards remains unspent. None of the \$5.4 million awarded in 2017 was expended. The TIF Board awarded an additional \$8.8 million on June 11, 2018.

The Tribal Infrastructure Board awarded \$101 million to 215 projects from 2006 through 2017. Despite fluctuations in the TIF earmark, applications have been stable since 2015. The \$8.8 million distribution this year was the second lowest since the earmark was enacted.

Despite nearly equal on-reservation, or trust land, populations according to U.S. Census data for the Navajo Nation and New Mexico's Pueblos, more than two-thirds of TIF award dollars have gone to Pueblo projects. From 2006-2017, 81 Navajo Nation projects received \$29.8 million compared to \$69.7 million for 129 Pueblo projects. The Jicarilla Apache Tribe and Mescalero Apache Nation, combined, have received awards totaling \$1.5 million for 5 projects. See Attachment B for a more detailed list of awards by grantee and year.

TIF Awards by Grantee

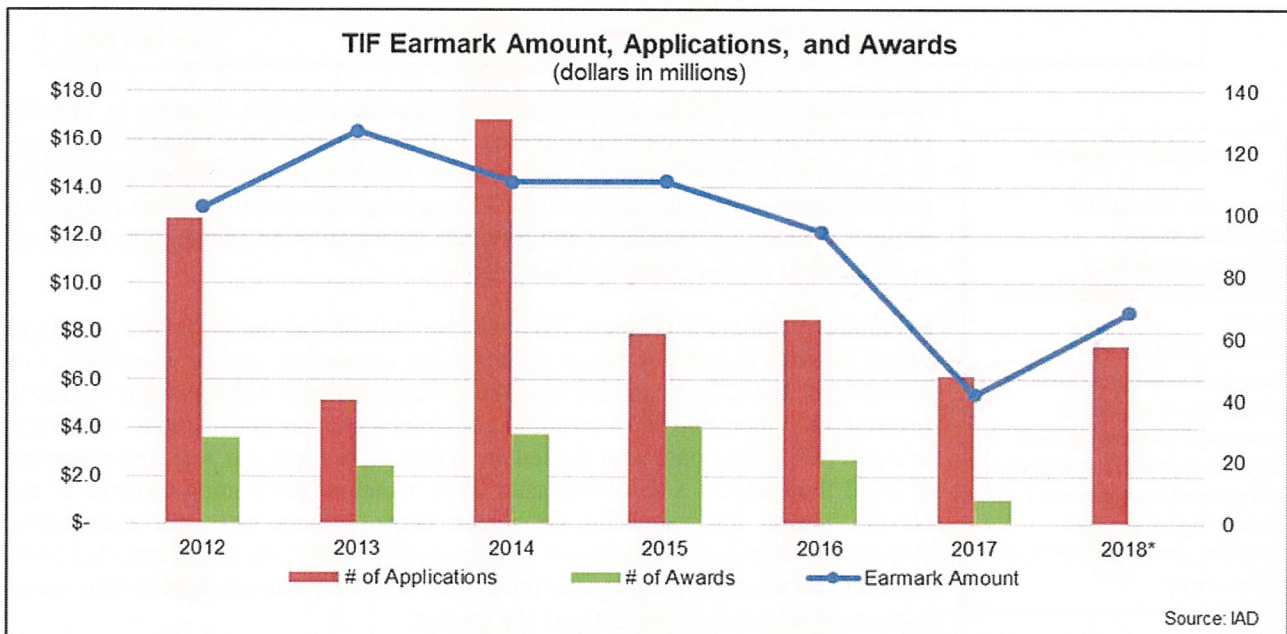
Grantee	Projects	Amount	Percent
Pueblos	129	\$69.7	69.0%
Jicarilla & Mescalero	5	\$1.5	1.5%
Apache			
Navajo Nation	81	\$29.8	29.5%
Total	215	\$101.0	100.0%

Source: IAD

New Mexico On-Reservation or Trust Land Population

Grantee	Population	Percent
Pueblos	66,148	47.7%
Jicarilla Apache	3,254	2.3%
Mescalero Apache	3,613	2.6%
Navajo Nation	65,764	47.4%
Total	138,779	100.0%

Source: U.S. Census (2010)



Source: IAD

Spend Down Trends

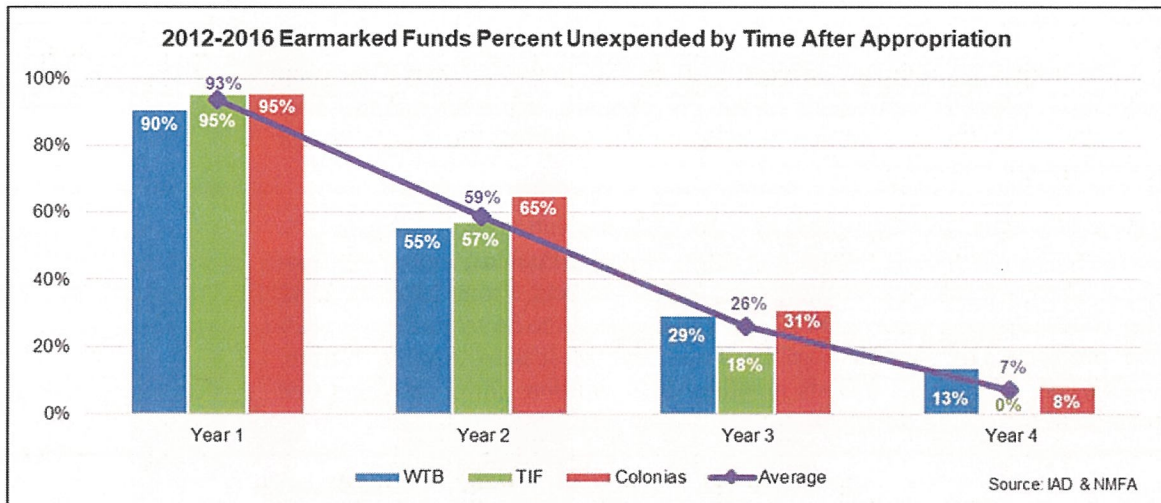
TIF projects awarded from 2012 through 2016 were nearly all fully expended or reverted within four years. Comparing these figures to the other STB earmarks for the Water Trust Board (WTB) and Colonias infrastructure projects, TIF projects have spent the awarded funds more quickly. While the table below shows \$46.5 thousand remaining in the fourth year for TIF projects, this amount is from projects awarded in 2014 and the funds reverted in June 2018.

2012-2016 Earmarked Funds Unexpended by Time After Appropriation
(dollars in thousands)

	Total Awards	Year 1	Year 2*	Year 3	Year 4*
TIF	\$70,242.6	\$66,792.7	\$39,555.5	\$10,861.8	\$46.5
Colonias	\$70,042.6	\$66,858.0	\$45,052.1	\$17,635.4	\$3,431.4
WTB	\$142,591.2	\$129,886.4	\$78,625.4	\$37,982.3	\$12,413.5
Total Spend Down	\$282,876.4	\$171,877.0	\$103,769.3	\$42,278.8	\$15,891.3

* Year 2 for 2016 Projects is as of March 2018; Year 3 for 2015 Projects is as of March 2018; Year 4 for 2014 Projects is as of March 2018

Overall, TIF awards from 2012 through 2016 have been spent at a faster rate than WTB and colonias funds. The length of time it historically took to execute IGAs resulted in little spending in the first year after awards were made. Expenditures tended to pick up in the second year, with nearly half of funding spent, and TIF projects surpass WTB and Colonias project spending in the third and fourth years.



TIF Qualified Projects

- Water and wastewater facilities/systems
- Electrical power lines
- Communications infrastructure
- Roads
- Health infrastructure
- Emergency response facilities
- Infrastructure needed to encourage economic growth
- Engineering feasibility reports
- Environmental assessments or archaeological surveys
- Acquiring land, easements, or rights of way

While expending funds in the four year timeline indicates success in moving project dollars and completing spending, it does not necessarily mean each project is successful. IAD staff conducts site visits on TIF projects, and other capital outlay projects overseen by the department. The agency reports progress on individual projects through its newsletter and provides information on spending to LFC that is included in capital outlay quarterly reports.

In monitoring ongoing projects, IAD will recommend that the Tribal Infrastructure Board rescind awards or reject requests for extensions due to inactivity. For example, in 2016, the board required the Iyanbito Chapter of the Navajo Nation to revert a \$200 thousand 2013 award to construct a chapter house due to inactivity. In April 2017, the board also denied an extension request and required reversion of \$472 thousand of a \$500 thousand 2014 award to the Ramah Chapter of the Navajo Nation for water line expansion because there were not extenuating circumstances to justify the extension. However, in 2017, the board awarded \$470 thousand for the same project after the chapter was able address right of way issues that would have otherwise delayed the project.

**Tribal Infrastructure Fund (TIF) Allocations
(Statutorily Earmarked STB) - March 2018**

Attachment A

2014 Tribal Infrastructure Allocations (5% Statutorily Earmarked STB):

Entity	Project	Category	Grant Amount	Expended Amount	Balance
Acoma Pueblo	Waterless Composting Toilet Phase III	Construction	1,423,000	1,423,000	-
Cochiti Pueblo	Drainage Master Plan	Planning	40,000	40,000	-
Cochiti Pueblo	Visitors Center	Construction	940,000	940,000	-
Counselor Chapter - Navajo Nation	Lybrook ENWP Phase 6 Water System	Planning	150,000	150,000	-
Jemez Pueblo	Water Improvements	Design	250,000	250,000	-
Jicarilla Apache Nation	Cutter Lateral Inter-Tie	Design	400,000	400,000	-
Jicarilla Apache Nation	Cutter Lateral Inter-Tie	Planning	150,000	150,000	-
Laguna Pueblo	Kawaika Campus Infrastructure	Planning	150,000	138,515	11,485
Lake Valley Chapter	Owl Springs Water Line Extensions	Planning	150,000	150,000	-
Nambe Pueblo	Comprehensive Management Plan	Planning	150,000	150,000	-
Nambe Pueblo	Post Fire Reservoir Improvements	Construction	348,640	348,640	-
Navajo Nation	Gallup Regional Wastewater Treatment Plant	Planning	150,000	150,000	-
Ohkay Owingeh	Wastewater Treatment Facility	Planning	150,000	150,000	-
Picuris Pueblo	Water System PER	Planning	75,000	75,000	-
Ramah Chapter - Navajo Nation	Rehabilitation Wastewater System	Design	75,000	75,000	-
Ramah Chapter - Navajo Nation	Mountain View Water Line Expansion	Construction	500,000	500,000	-
Red Valley Chapter - Navajo Nation	Regional Transfer Station	Construction	200,000	200,000	-
San Felipe Pueblo	Historic Village Water Line Planning	Design	190,000	155,000	35,000
San Ildefonso Pueblo	Wastewater System	Design	400,000	400,000	-
San Ildefonso Pueblo	Tribal Utility Building	Planning	150,000	150,000	-
Santa Ana Pueblo	Wastewater Treatment Plant	Construction	1,423,000	1,423,000	-
Santa Clara Pueblo	Regional Health Fclty Water/WW Master Plan	Planning	75,000	75,000	-
Shiprock Chapter - Navajo Nation	Wastewater Treatment Plant Phase I	Design	400,000	400,000	-
Standing Rock Chapter	Beacon Bistil Lateral Water Project	Planning	150,000	150,000	-
Taos Pueblo	Sewer Water Line Expansion Project	Construction	1,400,000	1,400,000	-
Tesuque Pueblo	Tribal Infrastructure Improvements	Construction	1,423,000	1,423,000	-
To'Hajiilee Chapter - Navajo Nation	Field Office EMS Building	Construction	500,000	500,000	-
Zia Pueblo	Enterprize Zone - WW System Facilities - Ph I	Construction	1,423,000	1,423,000	-
Zuni Pueblo	Commercial Development Area - Water Infra	Construction	1,400,000	1,400,000	-
2014 Outstanding Balance (29 Projects)			\$ 14,235,640	\$ 14,189,155	46,485

**Tribal Infrastructure Fund (TIF) Allocations
(Statutorily Earmarked STB) - March 2018**

Attachment A

2015 Tribal Infrastructure Allocations (5% Statutorily Earmarked STB):

Entity	Project	Category	Grant Amount	Expended Amount	Balance
ChiChiltah Chapter - Navajo Nation	Drill Water Well - Chichiltah-Vanderwagen W/L	Planning	268,519	153,025	115,494
Cochiti Pueblo	Phase 3 Cochiti Visitor Center	Design	45,000	-	45,000
Isleta Pueblo	Upgrade to Westside Treatment Plant	Design	200,000	154,809	45,191
Isleta Pueblo	Plan Upgrade to Westside Treatment Plant	Planning	133,000	39,456	93,544
Jemez Pueblo	Pueblo Place Subdivision Infrastructure Project	Construction	1,080,610	1,000,080	80,530
Jemez Pueblo	New Agriculture Water Well Development	Design	75,000	-	75,000
Laguna Pueblo	L22 Road Reconstruction	Construction	665,000	665,000	-
Laguna Pueblo	I-40 Exit 108 Interchange and Approaches	Planning	200,000	-	200,000
Little Water Chap - Navajo Nation	Heart Butte Electrical Power Line Extension	Construction	259,875	259,875	-
Mariano Lake Chap - Navajo Nation	Mariano Lake Power Line Planning Project	Planning	300,000	225,000	75,000
Navajo Nation	Crownpoint Community Wellness Center	Construction	2,200,000	-	2,200,000
Newcomb Chapter - Navajo Nation	Waterline Extension	Design	200,000	-	200,000
Ohkay Owingeh	Community/Wellness Ctr Educational Complex	Design	155,000	155,000	-
Ohkay Owingeh Pueblo	Phase 3 Waterline Improvements	Construction	476,500	397,015	79,485
Picuris Pueblo	Waterline/Pump House Design	Design	150,000	-	150,000
Ramah Chapter - Navajo Nation	Section 21 Water Well Evaluation and Design	Design	250,000	29,750	220,250
Red Rock Chapter - Navajo Nation	Upgrade Sewer Line & Sewer Lagoon	Construction	680,000	332,467	347,533
Red Rock Chapter - Navajo Nation	Red Rock Senior Center Building	Planning	50,000	-	50,000
San Felipe Pueblo	NM 313 Connection to Hagen Road	Planning	200,000	-	200,000
San Ildefonso	Irrigation System	Design	400,000	-	400,000
Santa Ana Pueblo	Wastewater Lift Station	Construction	980,000	980,000	-
Santa Ana Pueblo	Electric Utilities	Design	100,000	78,783	21,217
Santa Clara Pueblo	Main Village and IHS Clinic Sewer	Design	250,000	248,642	1,358
Santo Domingo Pueblo	Recreation & Wellness Center	Design	150,000	-	150,000
Santo Domingo Pueblo	Elderly Care Facility	Planning	90,000	-	90,000
Shiprock Chapter - Navajo Nation	Emergency Response Incident Command Ctr	Design	600,000	-	600,000
Taos Pueblo	Plan Taos Pueblo Multi-Complex Building	Planning	125,000	54,721	70,279
To'hajilee Chapter - Navajo Nation	Water System Improvements	Design	600,000	253,750	346,250
Twin Lakes Chapter - Navajo Nation	Johnson Road Improvement Project	Construction	800,000	71,159	728,841
Zia Pueblo	Public Safety/First Responder Fire Station	Construction	1,400,000	800,817	599,183
Zia Pueblo	Solar Water Pumps (Windmills) & Photovoltaic	Planning	40,000	39,996	4
Zuni Pueblo	Teen/Youth Center Facility	Construction	1,150,454	1,150,454	-
2015 Outstanding Balance (32 Projects)			\$ 14,273,958	\$ 7,089,797	\$ 7,184,161

2016 Tribal Infrastructure Allocations (6.5% Statutorily Earmarked STB):

Entity	Project	Category	Grant Amount	Expended Amount	Balance
Santa Ana Pueblo	Water Well Development and Infrastructure	Construction	2,000,000	687,439	1,312,561
Santa Clara Pueblo	Wastewater System Improvements	Construction	1,650,000	33,273	1,616,727
Zuni Pueblo	Commercial Development Water Improvements	Construction	1,622,156	41,009	1,581,147
Taos Pueblo	Water and Sewer Expansion	Construction	1,500,000	1,093,895	406,105
Smith Lake -Navajo Nation	Smith Lake Water System	Construction	1,320,000	15,000	1,305,000
Laguna Pueblo	L26 Re-construction Project	Construction	1,000,000	-	1,000,000
Baca Thoreau - Navajo Nation	Baca Thoreau Water Supply Improvement	Design	390,000	75,000	315,000
To'Hajilee - Navajo Nation	To'Hajilee Water Supply Line	Planning	350,000	49,750	300,250
Taos Pueblo	New Housing Development	Design	310,000	-	310,000
Mariano Lake -Navajo Nation	Mariano Lake Bathroom Additions	Construction	300,000	131,621	168,379
Isleta Pueblo	Westwide Water Improvements	Design	250,000	-	250,000
Santa Ana Pueblo	Public Safety, Judicial & Social Services Complex	Design	250,000	19,420	230,580
Chichiltah -Navajo Nation	Chichiltah Powerline Extensions	Construction	250,000	125,000	125,000
Standing Rock - Navajo Nation	Standing Rock Waterline Extension	Planning	200,000	58,750	141,250
Littlewater Springs -Navajo Nation	Littlewater Springs Power Line Extension	Construction	173,250	131,500	41,750
Counselor Chapt -Navajo Nation	Counselor Chapter Powerline Extension	Planning	160,000	-	160,000
Thoreau -Navajo Nation	Thoreau Chapter Power Line Extension	Construction	150,000	150,000	-
Two Grey Hills -Navajo Nation	Two Grey Hills Elderly Group Home Parking Lot	Construction	102,662	-	102,662
Laguna Pueblo	NM 124/L22 Intersection PER	Planning	70,000	-	70,000
Pojoaque Pueblo	Wastewater Reclamation Facility	Planning	60,000	11,999	48,001
Tesuque Pueblo	Wastewater Expansion Project	Planning	50,000	50,000	-
2016 Outstanding Balance (21 Projects)			\$ 12,158,068	\$ 2,673,656	\$ 9,484,412

**Tribal Infrastructure Fund (TIF) Allocations
(Statutorily Earmarked STB) - March 2018**

2017 Tribal Infrastructure Allocations (4.5% Statutorily Earmarked STB):

Entity	Project	Category	Grant Amount	Expended Amount	Balance
Tesuque Pueblo	Wastewater Expansion Project	Design	750,000		750,000
Nambe Pueblo	Early Childhood Learning Center	Construction	780,000		780,000
Ramah Chapter - Navajo Nation	Ramah Mountain View Estates Water System Expansion	Construction	470,000		470,000
Acoma Pueblo	Natural Gas Distribution Project Phase I	Construction	780,000		780,000
Santa Clara Pueblo	Water System Improvements - West Housing	Construction	711,245		711,245
Santa Ana Pueblo	Arsenic Treatment System	Construction	780,000		780,000
San Ildefonso Pueblo	Wastewater System Improvements	Construction	780,000		780,000
Laguna Pueblo	Wide Striping, Pavement Repair, & Safety Enhancements	Construction	364,250		364,250
2017 Outstanding Balance (8 Projects)			\$ 5,415,495	\$ -	\$ 5,415,495

 Reversions

TIF Awards by Year and Grantee

Grantee	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Total
Torreón Chapter – Navajo Nation				\$703,589									\$703,589
Tsayatoh Chapter – Navajo Nation						\$390,000							\$390,000
Tse'j'lahi Chapter – Navajo Nation							\$300,000						\$300,000
Twin Lakes Chapter – Navajo Nation										\$800,000			\$800,000
Two Grey Hills – Navajo Nation											\$102,662		\$102,662
Upper Fruitland Chapter – Navajo Nation		\$2,400,000											\$2,400,000
White Rock Chapter – Navajo Nation						\$504,148	\$600,000						\$1,104,148
Navajo Nation Subtotal	\$390,000	\$2,633,000	\$690,000	\$3,217,896	\$1,569,017	\$1,364,850	\$3,156,275	\$4,445,000	\$2,275,000	\$6,208,394	\$3,395,912	\$470,000	\$29,815,344
TOTAL	\$3,000,000	\$5,000,000	\$4,804,023	\$4,952,896	\$5,386,975	\$2,160,000	\$13,207,965	\$16,366,928	\$14,235,640	\$14,273,958	\$12,158,068	\$5,415,495	\$100,961,948

As Percent of Total Awards

Grantee	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Total
Pueblos Subtotal	87.0%	39.3%	85.6%	35.0%	70.9%	36.8%	72.2%	72.8%	80.2%	56.5%	72.1%	91.3%	69.0%
Jicarilla/Mescalero Subtotal	0.0%	8.0%	0.0%	0.0%	0.0%	0.0%	3.9%	0.0%	3.9%	0.0%	0.0%	0.0%	1.5%
Navajo Nation Subtotal	13.0%	52.7%	14.4%	65.0%	29.1%	63.2%	23.9%	27.2%	16.0%	43.5%	27.9%	8.7%	29.5%

Number of Projects

Grantee	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	Total
Pueblo	11	6	9	7	8	3	17	11	18	21	11	7	129
Jicarilla/Mescalero	0	1	0	0	0	0	2	0	2	0	0	0	5
Navajo	2	3	7	9	7	5	9	8	9	11	10	1	81

