

ORDINANCE OF THE OGLALA SIOUX TRIBAL COUNCIL  
OF THE OGLALA SIOUX TRIBE  
(An Unincorporated Tribe)

ORDINANCE OF THE OGLALA SIOUX TRIBAL COUNCIL ADOPTING OGLALA SIOUX TRIBE  
TRANSPORTATION CODE.

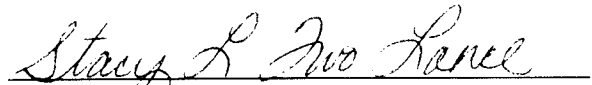
WHEREAS, the Oglala Sioux Tribal Council is empowered by the  
Constitution and By-Laws, Article IV, Section 1 (k) to promulgate and  
enforce ordinances governing the conduct of persons on the Pine Ridge  
Indian Reservation, and

WHEREAS, the Oglala Sioux Tribal Council Economic and Business  
Development Committee does hereby recommend that the Oglala Sioux Tribal  
Council adopt such Code, now

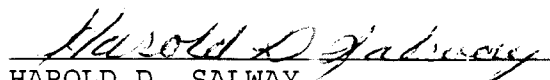
THEREFORE BE IT ORDAINED, that the Oglala Sioux Tribal Council does  
hereby at the recommendation of the Economic and Business Development  
Committee adopt the Oglala Sioux Tribe Transportation Code (attached  
hereto and incorporated by reference herein).

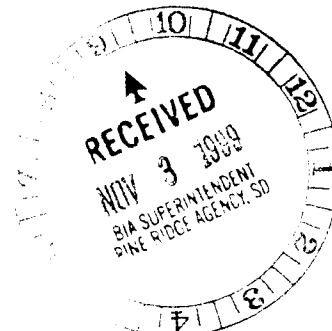
C-E-R-T-I-F-I-C-A-T-I-O-N

I, as undersigned Secretary of the Oglala Sioux Tribal Council, hereby  
certify that this Ordinance was adopted by the vote of: 14 for;  
0 against; 0 abstain; and 2 not voting, during a REGULAR SESSION held  
on the 27th day of OCTOBER, 1999.

  
STACY L. TWO LANCE  
Secretary  
Oglala Sioux Tribe

A-T-T-E-S-T:

  
HAROLD D. SALWAY  
President  
Oglala Sioux Tribe



**TRANSPORTATION CODE**

**OF THE**

**OGLALA SIOUX TRIBE**

**ADOPTED: OCTOBER 27<sup>TH</sup>, 1999**

OGLALA SIOUX TRIBE  
TRANSPORTATION CODE

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# **TRANSPORTATION CODE FOR THE PINE RIDGE INDIAN RESERVATION**

## **PART 1 - TRIBAL HIGHWAY SYSTEM**

### **1.1 DECLARATION OF LEGISLATIVE INTENT**

Declaration of legislative intent - Adequate highways, roads, and streets provide for the free flow of traffic; result in low cost of motor vehicle operation; protect the health and safety of the residents of the Pine Ridge Reservation; increase property value; and generally promote economic and social progress on the Reservation. Therefore, the Oglala Sioux Tribal Council hereby determines and declares that an adequate and integrated system of highways, roads, and streets is essential to the general welfare of the Pine Ridge Indian Reservation.

In designating the highway system of the Reservation as hereinafter provided, the Oglala Sioux Tribal Council desires to make the Director of the OST Transportation Department custodian of the Reservation highway system and to provide sufficiently broad authority to enable the Department of Transportation to function adequately and efficiently in all areas of appropriate jurisdiction with specific details to be determined by reasonable rules and regulations which may be promulgated by him, subject to the limitations of the Tribal Constitution and the legislative mandate hereinafter imposed.

While it is necessary to fix responsibilities for the construction, maintenance, and operation of the several systems of highways, it is intended the Pine Ridge Indian Reservation shall have an integrated system of all highways, roads, and streets to provide safe and efficient highway transportation throughout the Reservation. To this end, it is the intent of the Oglala Sioux Tribal Council to give broad authority and definite responsibility to the Director of the OST Department of Transportation, and the Tribal Highway Department acting through him, as custodian of the Reservation Highway system and to provide sufficiently broad authority to enable the Director to function adequately and efficiently in all areas, of which may promulgated by him, subject to the limitations of the Tribal Constitution and the legislative mandate hereinafter imposed.

While it is necessary to fix responsibilities for the construction, maintenance, and operation of the several systems of highways, it is intended that the Pine Ridge Indian Reservation shall have an integrated system of all highways, roads, and streets to provide safe and efficient highway transportation throughout the Reservation. To this end, it is the intent of the Oglala Sioux Tribal Council to give broad authority and definite responsibility to the Tribal Director of Transportation and to the Economic and Business Development Committee so that working together, free from political pressure and local interests, they may provide for the Reservation an integrated system of highways built upon a basis of sound engineering with full regard to the interest and well being of the residents of the Pine Ridge Indian Reservation as a whole.

## 1.2 - Definitions

The following words and phrases when used in this Code shall, for the purposes of the Chapter, have the meanings respectively ascribed to them in this subsection.

1. "Abandonment" shall mean cessation of use of a right of way or activity thereon with no intention to reclaim or use again for highway purposes.
2. "Acquisition or taking" shall mean the process of obtaining a right of way.
3. "Arterial highway" shall mean a general term denoting a highway primarily for through traffic, usually on a continuous route.
4. "Indian Reservation Roads" means public roads, including roads on the Federal-aid systems, that are located within or provide access to an Indian reservation or Indian land which is not subject to fee title alienation without the approval of the Federal Government, whom the Secretary of the Interior has determined are eligible for services generally available to Indians under Federal laws specifically applicable to Indians.
5. "Public Road" means any road or street maintained by a public authority and open to public travel. Irrespective of any construction or maintenance contributions by any public or private authority, the Oglala Sioux Tribe shall have jurisdiction over all such roads which presently or which may here after exist within the exterior bounds of the Pine Ridge Indian Reservation or which may hereafter be acquired by or for the Oglala Sioux Tribe or its members.
6. "Consequential damages" shall mean loss in value of a parcel, no portion of which is acquired, resulting from a highway improvement.
7. "Controlled-access facility" shall mean a highway or street especially designed for through traffic, and over, from, or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air, or view by reason of the fact that their property abuts upon such controlled-access facility or from any other reason.
8. "Department" shall mean the Department of Transportation of the Oglala Sioux Tribe.
9. "Direct compensation" shall mean payment for land or an interest in land and improvements actually acquired for highway purposes.
10. "Divided highway" shall mean a highway with separated roadways for traffic in opposite directions.

11. "Easement" shall mean a right acquired by public authority to use or control property for designated highway purposes.
12. "Employee compensation" shall include vacation and sick leave.
13. "Engineer" shall mean the Engineer of the Transportation Department or such employees performing engineering functions for the Department of Transportation..
14. "Expressway" shall mean a divided arterial highway for through traffic with full or partial control of access and generally with grade separations at intersections.
15. "Fee simple" shall mean an absolute estate or ownership in property including unlimited power of alienation, except as to any and all lands acquired or taken for highway, road, or street purposes. Where lands are taken for such purposes, "fee simple" shall not be deemed to include any oil, gas or mineral rights.
16. "Freeway" shall mean an expressway with full control of access.
17. "Frontage street or road" shall mean a local street or road auxiliary to and located on the side of an arterial highway for services to abutting property and adjacent areas and for control of access.
18. "Grade Crossing" shall mean the intersection of a public highway and of the track or tracks of any railroad, however operated, on the same plane or level.
19. "Highway, street, or road" shall mean a general term denoting a public way for purposes of vehicular travel, including the entire area within the right of way. A highway in a rural area may be called a "road," while a highway in an urban area may be called a "street."
20. "Indian Reservation Road (IRR) Program" shall mean the program authorized in the Federal Highway Legislation and is a part of the Federal Lands Highway Program within the Federal Highway Administration. The Program is jointly administered by the BIA Division of Transportation and Federal Lands Highway Program in FHWA.
21. "BIA Road Maintenance Program" shall mean the BIA road maintenance program that is funded through the Department of Interior, even if the Oglala Sioux Tribe should contract for such maintenance under P.L. 93-638.
22. "BIA Road System" shall mean those (existing or proposed) for which the BIA has an official right-of-way for or plans to acquire a right- of -way and that serve the transportation needs of Indians.
23. "Highway Trust Fund" shall mean a trust fund established within the Treasury of the United States consisting of federal highway user taxes to fund federal highway improvement programs.



24. "Tribal road system" shall mean those roads whose rights-of-ways are under the jurisdiction of a tribe.
25. "Other Federal Agency Roads" shall mean those public roads whose rights-of-way are under the jurisdiction of various Federal agencies such as Bureau of Land Management, Forest Service, Corps of Engineer, Department of Defense, Bureau of Reclamation, or National Park Service. Nothing herein shall prevent the Oglala Sioux Tribe from exercising jurisdiction over such roads pursuant to agreement with the relevant federal agency as permitted by federal and tribal law.
26. "Local street or local road" shall mean a street or road primarily for access to residence, business, or other abutting property.
27. "23 USC" shall mean the U.S. Code on Federal Laws and Materials relating to Federal-Aid Highways.
28. "Market value" shall mean the highest price for which property can be sold in the open market by a willing purchaser, neither acting under compulsion and both exercising reasonable judgment.
29. "Reservation" shall mean the area encompassing the exterior bounds of the Pine Ridge Indian Reservation (the geographic extent of which is defined in the Constitution of the Oglala Sioux Tribe) as well as such areas which hereafter may be acquired by or for the Oglala Sioux Tribe or its members.
30. "Municipal corporation or municipality" shall mean all cities organized under the laws of the State of South Dakota, but shall not include any other political subdivision.
31. "Right of Access" shall mean the right of ingress to a highway from abutting land and egress from a highway to abutting land.
32. "Right of survey entry" shall mean the right to enter on to property temporarily to make surveys and investigations for proposed highway improvements.
33. "Right of way" shall mean a general term denoting land, property, or interest therein, acquired for or devoted to highway purposes and shall include, but not be limited to, publicly owned and controlled rest and recreation areas, sanitary facilities reasonably necessary to accommodate the traveling public, and tracts of land necessary for the restoration, preservation and enhancement of scenic beauty adjacent to the Reservation highway system.
34. "Right of way appraisal" shall mean a determination of the market value of property including damages, if any, as of a specified date, resulting from the analysis of facts.

35. "Right of way estimate" shall mean an approximation of the market value of property including damages, if any, in advance of an appraisal.
36. "Roadway" shall mean, in general, the portion of a highway, including shoulders for vehicular use. In construction specifications, the portion of a highway within limits of construction
37. "Severance damages" shall mean loss in value of the remainder of a parcel resulting from an acquisition.
38. "Shoulder" shall mean the portion of the roadway contiguous with the traveled way for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses.
39. "Traffic lane" shall mean the portion of the traveled way for the movement of a single line of vehicles
40. "Tribal Highway System" shall mean the system of Indian Reservation Roads the responsibility for which is lodged in the Transportation Department of the Oglala Sioux Tribe.
41. "Functional Classification" is the grouping of roads, streets, and highways into integrated systems, each ranked by its relative importance and the function it is intended to serve, relative to mobility and land access.

### **1.3 - TRIBAL HIGHWAY SYSTEM**

The Tribal Highway System shall include all highways/roads designated by the Economic Development and Business Committee (hereinafter referred to as EDA) of the Oglala Sioux Tribal Council. All highways/roads within the exterior bounds of the "Reservation" as defined hereinabove and which are a "Public Road" as defined hereinabove shall be deemed to be included unless specifically disclaimed by the Oglala Sioux Tribe.

### **1.4 - DESIGNATION OF TRIBAL HIGHWAY SYSTEM**

The EDA is hereby vested with authority to designate, locate, create and determine what roads, highways, and streets shall constitute the Tribal Highway System, subject, however, to approval by the Oglala Sioux Tribal Council and such conditions, requirements, and mileage limits as provided by law. In designating, locating, creating and determining the routes of the Tribal highway system, the Director of the OST Transportation Department shall take into account such factors as the actual or potential traffic volumes, the type of service class, the construction of bypasses and alternate routes, the economy of the Reservation and its communities, and the desirability of fitting such system into the general scheme of the State and nationwide network of highways.

## **1.5- CLASSIFICATION OF TRIBAL HIGHWAY SYSTEM**

The Tribal highway system shall be classified in four classes of routes; three vehicular classes and one non-vehicular class. Functional classification is based on the existing or anticipated functional use of the road. The road classes are then combined with the traffic characteristics of the road to select criteria and standards for the adequate design of the roadway. Definitions of the four system classes are given below.

**Class 1:** Major or minor arterial roads providing an integrated network have the characteristics of serving traffic between population centers; generally without stub connections. May also link towns and communities to recreation and resort areas that attract travel over long distances and generally provide for relatively high overall speeds with minimum interference to through traffic movement. Generally spaced at intervals consistent with population density.

**Class 2:** Streets and roads that are located within communities serving residential or other urban type settings.

**Class 3:** Section line and/or stub out roads that collect traffic for arterial type roads and make connections within the grid of the Indian Reservation Road Systems. May serve areas around villages, into farming areas, to schools, tourist attractions or various small enterprises. Also includes roads and vehicular trails for administration of forest, grazing, mining, oil, recreation, or other utilization purposes. The classification encompasses all those public roads not falling into either class 2 or Class 3 definitions set forth above.

**Class 4:** This classification encompasses all non-road paths, trails, walkways, bike paths, or other designated types of routes for public access of non-vehicular traffic.

## **1.6 RESPONSIBILITY FOR TRIBAL HIGHWAY SYSTEM**

The Director of the OST Transportation Department shall be responsible for the construction, maintenance, and operation of the Tribal highway system. The Director, subject to Tribal Council approval of any agreement, shall be authorized to enter into a cooperative agreement with a municipality, county, or State for construction, maintenance or repair of any road, highway, street or bridge on the Tribal highway system.

## **1.7 COMMUNITY STREET MASTER PLANS**

Each Community shall develop and adopt a master street plan cooperatively between the Director and the Community officials. The cooperating officials shall take into account the more important principal streets that connect the residential areas with business areas, and the streets that carry the important rural traffic into and through the community to ensure a system of streets upon which traffic can be controlled and protected in such a manner as to provide safe and efficient movement of traffic within a community.

The Department shall compile and maintain a booklet containing all such community street master plans

### **1.8 ABANDONMENT**

The Director shall have the authority to propose abandonment of sections of routes on the Tribal highway system when such abandoned sections are substantially replaced by improvements on new locations serving the area or are not being used for transportation purposes. However, irrespective of such proposals, no abandonment or transfer of any right, interest, or title shall occur unless such abandonment or transfer is made consistent with tribal and federal law.

### **1.9 OFFICAL MAP OF RESERVATION TRANSPORTATION SYSTEM**

The Department at all times shall provide and maintain an official map of the Reservation Road system, which shall show all the highways which have been designated, located, created, and constituted as part of the Tribal highway system and, if practical, the status of improvement thereof.

### **1.10 TRIBAL TRANSIT SYSTEM**

The Director shall examine the feasibility of establishing a Tribal Transit System to meet transportation needs of those persons without access to motor vehicles and to facilitate transportation to work.

The Director shall:

- A. Conduct a Needs Analysis to document desirability of a Tribal Transit System.
- B. Utilize the Needs Analysis and other available information to formulate proposed schedules, stops, vehicles and other relevant factors.
- C. Examine staffing, facility, vehicle, and other costs to develop a proposed budget for the Tribal Transit System.
- D. Seek and secure funding to implement the Tribal Transit System.

## **PART 2 - DEPARTMENT OF TRANSPORTATION**

### **2.1 ESTABLISHMENT OF DEPARTMENT OF TRANSPORTATION**

There is hereby established a Tribal Transportation Department as a Division within the Executive Branch of the Oglala Sioux Tribal government. It shall be known as the Oglala Sioux Tribe Transportation Department. The Department shall consist of a Director and other engineers, draftsmen, and such other persons and employees as are necessary to carry out the intent and purpose of this Chapter.

The Director shall have full control, management, supervision, administration, and direction of the Department and shall perform such other duties as may be imposed upon him or placed under his jurisdiction. All powers and duties which hereinafter may be conferred on the Department shall be exercised solely by and through the Director or his authorized agents.

## **2.2 OFFICE HOURS**

The office of the Department shall be open for the transaction of business every day of the year, except Saturdays, Sundays, and Tribally-recognized holidays. The Director, or whomsoever may be designated by him, may hold sessions or conduct investigations or hearings at the Tribal Administrative Building, or at any other place within the Reservation, when deemed necessary to facilitate the work of the Department.

## **2.3 PURPOSES**

The purposes of the Department of Transportation are to provide and develop a safe and adequate transportation system to improve the methods of mobilization of people, goods, and services and to regulate transportation activities for the protection, safety and welfare of residents of the Oglala Sioux Reservation and the traveling public. The Department of Transportation shall coordinate its activities with tribal law enforcement agencies to the maximum extent possible.

## **2.4 OBJECTIVES**

The objectives of the Department of Transportation are as follows:

1. To provide a single administrative department which addresses feasibility studies, planning and implementing of various transportation activities within the Oglala Sioux Reservation.
2. To improve the Oglala Sioux Tribe's transportation capacities by establishing a coordinated government-to-government relationship with federal, state, county and other agencies as it relates to transportation matters.
3. To develop a motor vehicle regulatory system including operator licensing, permitting and user fee collection.
4. To advise the EDA and the OST Tribal Council on highway user revenue and the Tribe's ability to finance the Department of Transportation and its activities.
5. To oversee and coordinate all activities for all modes of transportation including roads, rail, water and air.

## **2.5 DUTIES**

The Economic and Business Development Committee of the Oglala Sioux Tribe will serve as the oversight committee to the Department.

The Department of Transportation shall:

- A.** Develop legislation, policies, rules and regulations relating to the Oglala Sioux Tribe's transportation's needs based upon feasibility studies and analysis.
- B.** Implement and monitor policies for projects and/or program operation to ensure compliance with guidelines, regulations and requirements mandated by funding agencies and Oglala Sioux Tribal government.
- C.** Establish a centralized data center for all transportation activities and disseminate necessary information to appropriate Agencies.
- D.** Develop methodologies for raising revenues for the orderly development of the Oglala Sioux Reservation transportation system.
- E.** Develop effective coordination, liaison and planning of all transportation priorities within the Pine Ridge Reservation with other entities, agencies and departments to provide a systematic and orderly transportation development process.
- F.** Research, plan, develop and recommend an Oglala Sioux Tribal vehicle registration, operator licensing, and user fee collection program.
- G.** Prepare and recommend effective priority criteria for project schedules and updating the annual and five year transportation plan for the Oglala Sioux Tribe.
- H.** Report periodically on department activities, progress and recommendations to the EDA and other committees of the Oglala Sioux Tribal Council.
- I.** Assist the EDA Committee in developing recommended policies and guidelines concerning all modes of transportation activities with the Pine Ridge Reservation.
- J.** Develop and maintain current computerized management and reporting systems to manage and report the activities of the department.
- K.** Prepare and maintain a program for construction and improvement of all transportation facilities including roads, railways, airports and waterways.

## **2.6 DISTRICT ADVISORY COMMITTEE**

- A.** The OST Department of Transportation shall convene a meeting with transportation representatives from each District on at least a quarterly basis each year to receive their formal input regarding road priorities as part of the one year and five year plans.
- B.** The District Advisory Committee shall provide specific information and recommendations regarding condition of roads within their respective Districts.
- C.** The OST Department of Transportation is hereby authorized to provide travel expenses to the meetings provided in Section 2.6(A) for the official transportation representative of each District from such funds as may be legally available for such purposes.

## **2.7 AUTHORITY**

The Department of Transportation shall have full authority to carry out the duties and responsibilities delegated by the provisions of this Code.

## **2.8 ORGANIZATION**

The Department of Transportation shall be divided among two functions: Administrative and Operational.

**A.** The administrative functions, powers, duties, rights and responsibilities shall include:

1. Personnel management and training, testing and development including maintenance of records, data processing, procurement, and payroll.
2. Financial aspects of the department including, but not limited to , budgets, accounting, contracts, and fiscal planning.
3. Reservation planning studies, including but not limited to, the development of priority programming for all forms of transportation on the Pine Ridge Reservation including highways, school bus routes, airports, and railroads, public relations, local government coordination, transportation safety, maintaining current transportation, social, economic and environmental data relating to transportation for use in developing, revising and updating plans.
4. Develop and propose legislation to implement a motor vehicle registration and licensing program on the Pine Ridge Indian Reservation.

**B.** Operational functions, powers, duties, rights, and responsibilities shall include but not be limited to:

1. Pre-Construction/Construction activities including preparation of plans, specifications and estimates relating to the construction of transportation systems, testing, examination and research into the materials and methods for construction, administration of activities performed by private contractors under contract with the Department including engineering, inspection for compliance with specifications, certification of quantities and estimate and settling disputes.
2. Right-of-way issues for acquisition of any necessary rights-of-way, negotiations, appraisals, archeological clearances, conservation procedures and research related to those procedures, relocation assistance programs and providing information to other offices or divisions of the department relative to the need for special facilities to provide access to or across tribal highways and land operations abutting tribal highways.
3. Maintenance activities for overall maintenance of transportation systems including, but not limited to, maintenance of the present highway system on the reservation actually carried out by the maintenance and warehousing operations of the department.

4. Safety issues involving implementation of highway safety programs, development of transportation safety standards and coordination of all safety programs within the department, except as otherwise assigned to the Department of Public Safety by law or by the Tribal President:
  - a. Investigate, inspect, or cause to be investigated or inspected, all public carriers to ensure compliance with the orders and regulations of the department and the provisions of the Tribal code.;
  - b. Investigate the condition of highway-railway crossings and maintain files in relation thereto.
  - c. Develop Rules and Regulations relating to security and safety as well as other acts consistent with this.
  - d. Develop safety regulations as they pertain to public and private motor carriers engaged in interstate and intra-reservation operations.

Equipment matters including development of equipment management system., inventory, purchasing new equipment, scheduling and transporting equipment, equipment utilization, and purchase and inventory of repair parts. The Department shall employ or contract for engineers as needed, draftsmen and such other persons as needed to carry out the purpose and intent of this Chapter.

## **2.9 DEPARTMENT OFFICES**

The Department of Transportation shall maintain office(s) on the reservation as deemed necessary and reasonable to carry out the purposes of this act.

## **2.10 PERSONNEL**

The Director shall employ such personnel necessary to carry out the responsibilities of the Department. All personnel matters of the Department shall be governed by the Oglala Sioux Tribal personnel policies and procedures.

## **2.11 BUDGET**

Not later than the thirtieth (30<sup>th</sup>) day of September of each year, the Director shall submit a budget for each division or activity of the Department for the ensuing fiscal year. Nothing herein, however, shall prevent the Director from amending, from time to time and as circumstances may warrant, such budget, subject to Tribal Council approval.

## **2.12 ANNUAL REPORT**

The Director shall submit to the committee an annual report.



## **2.13 RECORDS OF THE DEPARTMENT**

The Department shall be custodian of, and preserve, the files and records of the Department. The books of account shall be kept by the Tribal Financial Office/Treasurer's Office.

## **2.14 PAYROLLS**

Payroll vouchers, time cards, or other payroll forms shall be used in accordance with the governing policies of the Finance Office of the Oglala Sioux Tribe.

## **2.15 CONTRACTS FOR CONSTRUCTION WORK OR MAINTENANCE WORK**

The Transportation Director and the OST Economic and Business Development Committee with the approval of the Tribal Council may elect to contract any road construction or maintenance project under P.L. 93-638(or successor federal legislation). The Department may elect to subcontract all or a portion of the work required(including equipment, labor, material, supply, etc.) or may perform all or a portion of the work through the Force Account method.

Subcontracting a vendor supplies may be obtained by the Department through Request For Bids(RFB), Request For Proposals(RFP), or a negotiation process as permitted by procurement policies under Tribal and Federal law.

Contracts utilizing monies from the OST Tribal Highway and Roads Fund or other funding sources not subject to P L. 93-638 shall be expended utilizing the same purposes specified by this Code or as prescribed by the source of such funds.

The Department shall add to each P.L. 93-638 subcontractors or vendor's price fair and reasonable amount (not to exceed 15%) which will be used by the Department of Transportation for administrative costs, wages, supplies, equipment, force account construction, and maintenance.

## **2.16 CONTRACTS AND SUBCONTRACTS**

Whenever the cost of any construction improvement shall exceed the sum of twenty-five thousand dollars (\$25,000), the Department shall proceed to obtain prices through request for bids or request for proposals and award such contracts in the manner provided by procurement policies of the Oglala Sioux Tribe unless otherwise provided herein. Under unusual circumstances where time is of the essence, the Department may negotiate for such improvement provided the Chairman of the Economic and Business Development Committee is fully informed on a timely basis and the agreement is approved as provided by law.

## **2.17 REQUEST FOR BIDS OR PROPOSALS**

Any requests for bids or proposals for construction work or improvement of highway or structure in excess of the amount of \$25,000.00 shall be advertised. Such RFB or RFP shall state where the bidder may inspect the plans and specifications, with whom bids or proposals shall be filed, and the time and place where bids shall be opened. Such place shall be the Transportation Department office unless otherwise specifically provided. All requests for the purchase of equipment, materials, and supplies, exclusive of repairs to equipment, in excess of the sum of \$25,000.00 shall be advertised for bid.

## **2.18 BIDS WHERE OPENED**

All bids shall be opened at the time and place specified in the advertised request for bids. Each bid shall be accompanied by a certified or cashier's check in an amount equal to five percent (5%) of their bid, to be forfeited to the Tribal Highway and Roads Fund should the bidder fail to effect a contract within twenty (20) days after notice of an award, or by a bidder's bond in an amount equal to ten percent of the full amount of the bid executed by the bidder as principal and by surety company authorized to do business in the State of South Dakota and the Oglala Sioux Tribe, conditioned that if the principal's bid be accepted and the contract awarded to him, he, within (20) days after notice of award, will execute and effect a contract in accordance with the terms of his bid and a performance and payment bond as required by law and by the regulations and determinations of the Department.

All bonds or checks, except those of the responsible bidders submitting the three (3) lowest and best bids, shall be returned to the bidders promptly upon opening such bids. The bond or check of the responsible bidder submitting the lowest and best bid may be cashed or retained until the contract has been awarded and executed properly. The bonds may be returned to the bidders when the Department has determined when and to whom the contract is to be awarded.

## **2.19 AWARD ON CONTRACTS - BONDS**

All construction contracts shall be awarded only after the contractor provides suitable bonds that are in compliance with tribal law and approved by the Director.

## **2.20 NOTICE TO PARTICIPATING AGENCIES**

Participating state, county or municipality to be notified of opening bids. In the event that the State or any county or municipality shall participate in and defray the cost, or part of the costs, of any improvement to be made by the Department, the Director shall notify the board of county commissioners of the county so interested, the proper city officials of the municipality, or the State Highway Commissioner of the time set for opening of bids.

## **2.21 PAYMENTS MADE TO CONTRACTORS**

Unless otherwise provided, payments shall be made monthly to the contractor for all work performed and accepted and material furnished and accepted, in such amount as determined by the terms of the contract and approved by the Director.

## **2.22 CLAIMS AGAINST PROJECT**

A person who has furnished labor, materials, or supplies on a contract awarded by the Department, and who has not been paid in full at the time of final acceptance of the project by the Department, shall have the right to file a claim against the contractor and the surety furnishing the performance bond.

Notice of the claim shall be given, in writing, to the contractor or the surety furnishing the performance bond and must provide a clear and concise statement of the labor, materials, and supplies furnished, to whom it was furnished and the monetary value thereof. The notice of the claim shall be made by certified mail postage prepaid, in an envelope addressed to the contractor at any place the contractor maintains an office or has a residence and posted within one hundred eighty (180) days from the date on which the person completed the contract giving rise to the claim.

The claimant shall have the right to commence an action through arbitration procedures to recover the amount of his claim against the contractor or surety within six (6) months of date of the final acceptance of the project by the Director.

## **2.23 CONTROVERSIES TO BE ARBITRATED**

All controversies arising out of any contract for the construction or repair of highways entered into by the Director shall be submitted to arbitration as provided in the section if the parties cannot agree. Any person who voluntarily enters into a contract for the construction or repair of highways shall be considered as having agreed to arbitration of all controversies arising out of such contract. Three (3) persons shall compose the arbitration board, one of whom shall be appointed by each of the parties and two thus appointed shall name a third.

## **2.24 CONDITION PRECEDENT TO CONTRACTOR DEMAND FOR ARBITRATION**

In addition to the provisions of subsection 3.30, full compliance by a contractor with the provisions of this subsection is a condition precedent to the contractor's right to demand arbitration. If the contractor believes the contractor is entitled to additional compensation for work or materials not covered in the contract or not ordered by the Director as extra work or force account work in accordance with the contract specifications, the contractor shall, prior to beginning the work which the claim will be based upon, notify the Director in writing of the intent to make claim for additional compensation. If the basis for the claim does not become apparent until the contractor has commenced work on the project

and it is not feasible to stop the work, the contractor shall immediately notify the director that the work is continuing and that written notification of the intent to make a claim will be submitted within ten (10) calendar days. Failure of the contractor to give the notification required and to afford the Director facilities and assistance in keeping strict account of actual costs will constitute a waiver of claim for additional compensation in connection with the work already performed. Notification of a claim, and the fact that the Department has kept account of the costs involved, shall not be construed as proving or substantiating the validity or actual value of the claim.

The contractor shall make available to the Department and allow the Department to examine and copy all of the contractor's records, documents, worksheets, and other data which are pertinent to the justification of the claim and to the substantiation of all costs related to the claim.

## **2.25 ARBITRATION DEMAND**

If parties fail to name arbitrators, the Tribal Court may appoint arbitrators. The party desiring arbitration shall make a written demand therefor and shall name the arbitrators selected by him. He shall also set forth the controversies and claims which he desires to submit to arbitration in a concise statement of his claims with reference to each controversy. Such demand shall be served upon the opposite party who shall respond within twenty (20) calendar days asserting any additional claims or controversies he desires to submit to arbitration on his part as well as his naming of desired arbitrators.

## **2.26 PROCEDURE FOR ARBITRATION**

When a board of arbitration has been appointed, a submission to arbitration in writing shall be acknowledged by the parties which shall set the time on or before which the award shall be made by the arbitrators and provide that judgment may be entered upon the award by the Tribal Court.

Arbitration may proceed although one party fails to agree. If either party refuses to submit to arbitration as provided in this section, he shall be deemed to have waived all claims and demands, and the arbitrators shall proceed to determine the controversies set forth by the moving party according to the justice of the case. Judgment shall be entered upon the award of such arbitrators in all things the same as though the submission to arbitration has been signed by both parties.

## **2.27 ARBITRATORS SHALL DETERMINE ALL CONTROVERSIES**

The arbitrators shall determine all controversies between the parties growing out of the contract including the question whether it had been performed at the time claimed by the contractor and whether the additional work required by the Director as specified has been done, and if not done, they shall specify the particulars in which it has not been done, give appropriate directions with reference thereto, and shall make a proper award for any extra work they find the contractor entitled to, making such award so far as it is

practicable upon the basis of the contract price, having due regard to what is just and equitable between the parties under the facts and circumstances of the case. If after an award to do further work, any controversies arise between the parties as to the doing of such work, any controversy may be submitted to the same arbitrators on ten (10) days notice.

No arbitration shall be had under this section unless commenced within six (6) months after the right thereto has arisen.

## **2.28 STANDARD CONTRACT FORMS**

The Director may prepare, adopt and amend uniform standard forms for contracts, bonds, estimates and other forms and documents deemed essential for the efficient administration of highway matters within the department.

## **2.29 SEPARATE PROPOSALS**

Whenever any highway improvement involves structural work, dirt grading and traffic service gravel, graveling, stabilizing and paving, or concrete surfacing, or any two or more of them, whenever practicable, and not contrary to any tribal or federal law or regulation, separate proposals and bids may be received on each separate type of work

## **2.30 INFORMAL BIDS**

All bids are to be made pursuant to this Code and pertinent provisions of Tribal and federal laws and regulations.

## **2.31 FORCE ACCOUNT WORK**

The Department may perform any work in construction, improvement, and/or maintenance by the force account method whenever, it is deemed by the Director that the public interest would best be served by performing such work. Whenever work is performed by the force account method, the Director shall hire employees in accordance with applicable tribal and federal laws relating to Indian preference.

## **2.32 INDIAN PREFERENCE**

The Department shall utilize Indian preference to the fullest extent permitted by Tribal and Federal law for all employment and contract decisions.

## 2.33 TRIBAL EMPLOYMENT RIGHTS OFFICE ORDINANCE

- A. Provision of the Tribal Employment Rights Ordinance (TERO) of the Oglala Sioux Tribe shall apply to all contractors or subcontractors who provide work, materials or equipment to the OST Department of Transportation; provided, however, that TERO shall not apply to the Oglala Sioux Tribe.
- B. The OST Department of Transportation is authorized to take all steps necessary to assure contractor or subcontractor compliance with TERO, including, (but not limited to) tribal court action, withholding of payments to the contractor or subcontractor, or termination of contracts for repeated willful violations of TERO. The TERO Office shall receive notice of such actions and related hearings.

## PART 3: DIRECTOR OF TRANSPORTATION

### 3.1 SELECTION

The Director of the Transportation Department is hereby established. The Director shall be selected, according to requirements and procedures of the Personnel Policies of the Oglala Sioux Tribe.

### 3.2 QUALIFICATIONS

The Director shall be a professional with technical and administrative experience and training. At a minimum, the position requires:

- A. **Training and Experience:** Graduation from an accredited college with a bachelor's degree and two years experience in transportation planning; a master's degree; or an equivalent combination of training and experience that provides the knowledge, skills, and abilities to perform the required duties. An advanced degree in Engineering, Transportation Planning, Law, or similar technical training shall be highly desirable.
- B. **Knowledge and Skill:** A working knowledge of the Federal laws relating to the administration of the Federal-aid and highways program, transit programs, the Indian Reservation Road (IRR) program, Public Law 93-638, and any other related federal and state transportation regulations. Excellent oral and written communication skills. A working knowledge of other tribal infrastructure programs, such as education, economic development, health, housing, senior citizen, tourism, zoning and land use, etc.
- C. **Cultural Requirements:** A working knowledge and respect for the Tribes culture, tradition, and practices and how these tribal values interact with the tribe's transportation planning program. A working knowledge of the Tribe's archeological and environmental policies and concerns.

- D. Additional Requirements:** Possession of a valid driver's license and submission to drug testing.

### **3.3 DUTIES AND RESPONSIBILITIES**

The Director shall have the authority and responsibility for the coordination of the transportation program within the reservation. The Director shall be responsible for the execution of department policy, the operation of the department office, the supervision of maintenance and construction, and for promoting effective contact with and involvement of civic organizations, public officials and citizens.

Specific responsibilities include but are not limited to the following:

- A.** Report and respond to the Tribal President and the Economic Development Committee for the accomplishment of the purposes and objectives of the Department of Transportation.
- B.** Exercise supervisory control and direction of program staff and delegate authority to other staff members.
- C.** Formulate overall administrative policies for effective and efficient operation of the Department of Transportation and to take such actions as deemed necessary for the accomplishment of the objectives thereof.
- D.** Supervise the signing of vouchers, order for supplies, materials, and any other expenditures
- E.** Employ engineers, draftsmen, assistants, clerks, agents, attorneys, and any other employee required for the proper transaction of Department business, determine employees' duties and compensation and termination in his discretion subject to provisions of the Oglala Sioux Tribe's personnel policies..
- F.** Sign and execute agreements and contracts for highway construction and purchase of equipment, materials, and supplies.
- G.** Designate systems which he may functionally classify as to the types of services.
- H.** Develop construction standards as hereinafter provided, and review the annual programs for each of the major systems to ensure coordination of planning and general conformity with the law.
- I.** Coordinate with programs for the transportation systems of other governmental entities, and participate in their planning process.
- J.** Develop and submit budgets for the Department in accordance with Tribal policy on budget formulation.
- K.** Attend training sessions to keep abreast of Highway legislation.

### **3.4 COMPENSATION**

The Director shall receive a salary as budgeted. He shall also receive full reimbursement of reasonable expenses actually and necessarily incurred in the performance of the duties of his office.

### **3.5 COOPERATION WITH OTHER AGENCIES**

The Director shall cooperate with other appropriate agencies in matters of the Department including but not limited to the following:

- A.** Surveys, plans, specifications and estimates for, and in the construction and maintenance of, flight strips, roads and bridges necessary to provide access to and transportation on the reservation.
- B.** Acquire land necessary for construction of such projects by purchase or condemnation in the manner provided by tribal and federal law.
- C.** Enter into contracts in manner approved by the appropriate federal agency for the construction of any roads and/or bridges.
- D.** Perform such construction and maintenance work by force account, whether paid for in whole by federal funds or in part by federal funds or by tribal funds.

### **3.6 PROTECT HIGHWAY FROM DAMAGE**

Whenever any activities are likely to affect any public road within this reservation, the director is authorized to take such action as necessary to protect such road from damages that may be caused, and to negotiate with any contractor or officer of an agency for the repair of damage or extraordinary maintenance that may be required on such public roads. If the road is under the jurisdiction of the state or county, the director shall strive to obtain the consent of such entity before any agreement is entered into or other action is taken with respect to that particular road.

## **PART 4 HIGHWAY PLANNING DIVISION**

### **4.1 HIGHWAY PLANNING DIVISION**

The Director of the Department of Transportation shall acquire pertinent highway and transportation related information for use in the development and management of the Pine Ridge Transportation Program.

To this end, the Director shall:

- A.** Develop and maintain a transportation plan to guide the Oglala Sioux Tribe in managing and developing the transportation system on the Pine Ridge Reservation in the most efficient manner to serve the transportation needs of the Pine Ridge Reservation.
- B.** Maintain an inventory of the transportation system on the Pine Ridge Reservation for the purpose of obtaining information to permit drafting maps, ownership and rights-of-way status, mileage, condition, classification, surface types and other information as necessary to manage and report on the system.
- C.** Conduct traffic surveys to obtain data for estimates of traffic volumes, estimate of composition of traffic by vehicle type, axle and vehicle weight, and obtain data on the current uses of the road system.



- D. Provide statistical information on road data including traffic, condition of roads, maintenance costs, construction costs and unmet needs, motor vehicle registrations, drivers' licensing, fuel consumption and motor fuel sold on the reservation and other revenues for highway expenditures.
- E. Provide detailed information on the fiscal ability of Oglala Sioux Tribe to provide needed revenues for long range highway expenditures.
- F. Provide detailed information pertaining to the cost of building highway facilities, their life expectancy and to establish construction and maintenance costs as they apply to the local economy.
- G. Develop a methodology for established road construction priorities.
- H. Formulate and publish the annual and five year programs for road improvement on the Pine Ridge Reservation.
- I. Formulate a public relations policy and keep the public informed of the Oglala Sioux Tribal Transportation Program policies and activities.
- J. Develop and test procedures for determining and monitoring a fair and equitable share of the state gasoline tax that should be returned to the Oglala Sioux Tribe. The Director is specifically authorized and directed to propose tribal legislation related to a tribal excise tax upon wholesalers of gasoline, related petroleum products.
- K. Conduct special studies on public transportation program, public participation programs, bicycle path system, walkways along transportation corridors, continuous study of the reservation highway system, updating of highway needs plan, updating of highway cost allocation studies, revenues forecasting, economic studies and coordination with other agencies' planning divisions.
- L. Direct the formulation of operating policies, procedures, regulations, plans and programs to support the goals and objectives of the Department.

## **PART 5 ANNUAL AND FIVE YEAR PROGRAMS**

### **5.1 FIVE YEAR ROAD IMPROVEMENT PROGRAM; PUBLICATION; ADOPTION ESTIMATED EXPENDITURES BY PROJECT; REVISION**

Each year the Director shall review and submit to the Economic Development and Business Committee, an updated transportation improvement plan (TIP) which shall be presented to the Oglala Sioux Tribal Council for approval.

The Transportation Office shall present to the Committee and the full Council for adoption an updated five year transportation improvement plan for the ensuing five fiscal years and file a written report outlining the program and explaining any priority changes made pursuant to this subsection. The five year plan shall include the following:

- A. Detailed information by project, including description, reasons for the project's assigned priority, and estimated costs.
- B. List projects by priority and group in fiscal year with an estimated construction start date.

The Economic Development and Business Committee may make changes in a proposed or adopted five year plan. Any priority changes approved by the EDA Committee shall

be incorporated into the five year plan, prior to submission to the Oglala Sioux Tribal Council for approval.

## **PART 6 REVENUES**

### **6.1 TRIBAL GAS DISTRIBUTOR LICENSE**

It is unlawful for any distributor to import, receive, use, sell or distribute any motor vehicle fuel, or to engage in business within this reservation as a distributor, unless he is the holder of an annual license issued by the Oglala Sioux Revenue Office to engage in such business.

To obtain a license, a distributor shall file with the Tribal Revenue Office an application with such office that shall include the following information:

- A. The name and address under which the distributor will transact business within the reservation.
- B. The location and address of its principal place of business within the Pine Ridge Indian Reservation or the state.
- C. The name and address of the owner and/or partners. If a partnership the names and addresses of the principal owners. If a corporation, it shall also file a certified copy of the certificate of license.

A filing fee of one hundred dollars (\$100.00) shall accompany the application. If an application for a license to transact business as a distributor on this reservation is filed by any person whose license has previously been canceled for cause by the Director of the Oglala Sioux Tribe's Department of Revenue, or if the Director is of the opinion that the application is not filed in good faith, or that the application is filed by some person as subterfuge for a real person in interest whose license or registration has previously been canceled for cause by the Revenue Officer, the Revenue Officer after a hearing of which the applicant has been given ten (10) calendar days written notice, refuse to issue a license to transact business as a distributor on the reservation.

If the application has been accepted for filing and the filing fee paid, the Revenue Office shall issue a license to the distributor to transact business as a distributor on the reservation, subject to cancellation as provided by law.

In addition to the foregoing license requirements, the distributor shall comply with such revenue laws as may presently exist or which may be hereafter enacted into law by the Oglala Sioux Tribe. The distributor shall provide such business and financial records as the Oglala Sioux Tribe shall deem necessary.

### **6.2 HIGHWAY DEPARTMENT REVENUES**

All revenue in the form of charges, reimbursements, or earnings as hereinafter specified, accruing to the Department or any agencies, shall be collected and received by the

Director or his agent, and deposited with the Tribal Finance Office. All such deposits shall be credited to the Tribal Highway and Roads Fund.

Such revenue shall include but not be limited to the following:

1. Overload fees or charges, permit fees, proceeds from sales, and reimbursements from other entities.
2. Service fees and charges for furnishing documents, material, information or performing work at the request, or for the convenience of other entities.
3. Income resulting from ownership of rights or properties.
4. Funds collected pursuant to a reciprocal or other agreements.
5. Other income resulting from authorized activities of the Department and the discharge of its statutory responsibilities.

### **6.3 FEDERAL AID**

Subject to Oglala Sioux Tribal Council approval, the Director is authorized and empowered to make contracts and cooperate with the state and federal government in the construction of roads under the provisions of Public Law No. 156, enacted by congress on July 11, 1916 entitled "An Act to provide that the United States government shall aid the states in the construction of rural post roads, and for other purposes" and is applicable to roads on the reservation.

Subject to Oglala Sioux Tribal Council approval, the Director is also authorized to make contracts and apply for federal aid under the Surface Transportation Efficiency Act of 1991 and any other acts of Congress that relate to reservations.

Such authority shall also extend to other transportation related legislation which the federal government may heretofore or hereafter enact, subject to approval of the Oglala Sioux Tribal Council.

### **6.4 INDIAN RESERVATION ROAD (IRR) PROGRAM**

Subject to Oglala Sioux Tribal Council approval, the Director is authorized to apply for, receive and expend any funds within the limits of legislative appropriations made available by Congress for construction, improvement and maintenance of the tribal highway system under the Indian Reservation Road Program and any other roads or streets not on the said system which qualify for said funding.

## **PART 7 FUNDS**

### **7.1 TRIBAL HIGHWAY AND ROADS FUND CREATED - USE LIMITED**

There is hereby created in the Tribal Treasury a fund to be known as the Tribal Highway and Roads Fund

### **7.2 DISPOSITION OF COMBINED VEHICLE LICENSING FEES**

All proceeds from combined vehicle licensing fees received by the Director for vehicles licensed under this code shall be forwarded to the Tribal Treasury to be distributed into the Tribal Highway and Roads Fund.

### **7.3 DISPOSITION OF DRIVER LICENSING FEES**

The Department shall forward all drivers' license fees collected under this code with a detailed report to the Tribal Treasurer who shall deposit such moneys into the Tribal Highway and Roads Fund.

## **PART 8 DISTRIBUTION OF TRIBAL HIGHWAY AND ROADS FUND**

### **8.1 DISTRIBUTION OF TRIBAL HIGHWAY AND ROADS FUND**

The Tribal Highway and Roads Fund, created by law shall be used for the following purposes:

1. The costs of carrying out the provisions of driver licensing and related matters.
2. The costs of carrying out the provisions of law related to taxing, titling, and registration of motor vehicles.
3. The cost of maintaining the Tribal Highway System including the purchase and maintenance of equipment.
4. The cost of construction and reconstruction of highways in the amount necessary to match, as required, federal aid granted to the Oglala Sioux Tribe by the federal government for road purposes including purchase and maintenance of equipment.
5. Any funds not allocated under 1 and 2 above may be expended for the construction of Tribal highways without federal aid or may be expended in the construction, improvement, or maintenance of such tribal highways including purchase and maintenance of equipment or administrative or other expenses set forth in Section 2.14 hereinabove.

Nothing herein shall prevent the Oglala Sioux Tribe from retaining a portion of such funds in reserve or escrow for unforeseen contingencies or to accumulate funds for specific future roads projects.

The Director shall keep and maintain complete and accurate records showing that all expenditures have been made in accordance with legislative appropriations and authorizations.

## **PART 9 CONSTRUCTION AND MAINTENANCE OF TRIBAL HIGHWAY SYSTEM**

### **9.1 PREPARATION AND ADOPTION OF STANDARD PLANS AND SPECIFICATIONS**

The Director shall prepare and adopt uniform standard plans and specifications for the establishment, construction, and maintenance of highways and bridges within the reservation. Such plans and specifications may be amended, from time to time, as the Director deems necessary. The Director shall, where feasible, provide shoulders adjacent to the roadway of sufficient size and width to minimize danger to persons walking along the roadway. In areas with heavy pedestrian usage, the Director shall consider the feasibility of constructing a non-Road pathway as set forth in Section 1.5 (Class 4).

### **9.2 AUTHORITY TO CONSTRUCT AND MAINTAIN TRIBAL HIGHWAY SYSTEM**

The Director shall have authority and responsibility for the construction and maintenance of highways which comprise the Tribal Highway System.

### **9.3 CONSTRUCTION PROGRAM**

Each year, the Director shall provide a written report showing the improvements, structures, and construction work that have been requested and the actual work undertaken by the department. Such report shall indicate the estimated quantities and cost of each class, type and nature, with the totals for each project made. The Department upon the basis of reports, shall proceed to adopt a construction program, wherein shall be determined what projects and improvements shall be undertaken by the Department during the ensuing construction season and the order of priority. The Director may amend, revise or reduce such construction program, subject to any limitation imposed on the authority of the Director to do such. The Director shall proceed to advertise for bids for contracts at such time as he may elect, and in the manner set forth in this code.

### **9.4 FORCE ACCOUNT CONSTRUCTION**

When the Director determines that it is in the best interests of the Oglala Sioux Tribe, consistent with law, and with the approval of Economic Development Committee, he may perform any construction project by the force account method

## **9.5 CLOSING OF ROADS**

Whenever, during construction work on any tribal highway or at any other time, it may be necessary to prevent traffic from passing over any portion of such highway, the Department may close such portion of the highway to all traffic by posting in a conspicuous manner, at the ends of the highway so closed, signs warning the public or erecting barricades or other obstructions.

## **9.6 WARNING SIGNS OF ROAD CONSTRUCTION**

Whenever the Department shall perform construction or improvement of any road, bridge, etc. warning signs shall be placed in accordance with the latest standards for construction signage (such as the Manual on Uniform Traffic Control Devices). Nothing contained in this subsection shall make the Director, the Department, or the Oglala Sioux Tribe liable for failure of any contractor to erect such warning signs. The Oglala Sioux Tribe specifically retains its immunity from suit due to its status as a sovereign government.

## **9.7 LIABILITY FOR FAILURE TO ERECT WARNING SIGNS**

Unless otherwise provided in section 9.6 of this Code, any contractor of work or repairs on the Pine Ridge Reservation who shall fail or neglect to erect and maintain suitable warning signs shall be subject to civil action in the Oglala Sioux Tribal Court for damages resulting from said negligence.

## **9.8 AUTHORITY TO ACQUIRE EQUIPMENT**

The Director shall have authority to purchase, lease or otherwise acquire all road material, road machinery, tools, equipment and supplies necessarily for use in constructing, maintaining, and administering and administering the tribal highway system, subject to Procurement Policies of the Oglala Sioux Tribe.

## **9.9 PURCHASE OR ACCEPTANCE OF DONATED ITEMS**

The Director may in his discretion, purchase or accept donated equipment, materials, supplies or other personal property useful to the Department, from the United States government, subject to provisions of Tribal law and its procurement policies.

## **9.10 AUTHORITY TO ACQUIRE BUILDINGS FOR EQUIPMENT**

The Director shall have authority to construct, rent or purchase for the Oglala Sioux Tribe the necessary land and buildings for storage and housing of road materials, road machinery, equipment and tools and office space. These items shall become the property of the Oglala Sioux Tribe unless the rent/lease agreement provides otherwise. Lands shall be placed into trust status whenever possible.

### **9.11 OBSOLETE EQUIPMENT**

The Director shall be authorized to sell, exchange, or otherwise dispose of obsolescent machinery, equipment and material no longer needed for Department purposes. Such equipment shall be sold by negotiation upon the basis of established market value. However, such equipment valued at more than \$3,000.00 shall be sold by public auction or sealed bids to the highest and best bid, reserving the right to reject all bids. Funds derived from the sale of such property shall be credit to the fund from which such purchase was made originally. If acquired at no cost and if subject to no other provision of the law, the funds received shall be deposited into the Tribal Highway and Roads Fund.

### **9.12 TESTING LABORATORY**

The Director shall have the authority to develop and maintain a testing laboratory to carry out the testing requirements of the Department. The Department may, upon request of any entity, make available the testing services of said testing laboratory, and make a reasonable charge thereof.

### **9.13 MANUALS OF METHODS AND PROCEDURES**

The Director shall maintain a library of manuals, on methods, specifications, and procedures for road construction at the Department Office. Where manuals and procedures of other federal or state programs or professional organizations may be used when they are suitable and available the Director may, to the extent practicable, prepare, print, and distribute manuals of standard and uniform methods for any of the activities, divisions, or work of the Department, or for general road and bridge construction, design, land acquisition, traffic control, maintenance, marking and other purposes.

### **9.14 RESEARCH ON HIGHWAY DEVELOPMENT**

The Director shall have the authority to gather, investigate and compile information concerning the use, construction and maintenance of highways, the practices and methods of efficient highway organization, financing, and other information, data and statistics of the Oglala Sioux Tribe as deemed necessary. The Director with the approval of the Oglala Sioux Tribal Council shall have the authority to enter into agreements with the federal government, the State of South Dakota, other Indian Tribes, or research organizations to carry on research and test projects involving development and to expend highway funds for this purpose. The Director shall disseminate such information with recommendations as necessary.

## **9.15 TRAFFIC SURVEYS**

The Director shall have the authority to conduct traffic surveys including data to measure existing and future street and highway traffic characteristics such as, origin, destination, volumes, speeds, accidents, congestion, parking, pedestrian use of streets and the economic loss caused by inferior traffic facilities, including the preparation of traffic plans and recommendations.

## **9.16 PREPARATION OF ROAD MAPS**

The Director shall develop and maintain road maps of the reservation highway system. Maps may be available for general distribution at reasonable cost.

## **9.17 HIGHWAY DEPARTMENT RADIO NET**

The Department is authorized but not required to purchase and maintain a department radio communication network out of the fund designated as tribal highway maintenance fund.

## **9.18 ENCROACHMENTS ON HIGHWAY RIGHTS OF WAY**

No right-of-way for tribal highways shall be encroached upon by erecting any structure, or placing personal property other than a temporary parking for a motor vehicle. Any encroachment may be removed and the cost thereof shall be paid by the person responsible for the encroachment. Property left upon highway right of way for over 72 hours where the owner cannot be determined after reasonable effort, shall be deemed abandoned and removed and stored for 30 days and if not claimed may be disposed of.

## **PART 10 ROAD MAINTENANCE**

### **10.1 DISTRIBUTION OF MAINTENANCE FUNDS**

Road maintenance funds will be utilized in accordance with the annual road maintenance program developed by the Director and approved by the EDA and the Oglala Sioux Tribal Council.

### **10.2 ROAD MAINTENANCE PRIORITY PROGRAM**

Road maintenance priorities will be established by the Director and approved by EDA before submission to the Tribal Council for approval.



## **PART 11 ACCEPTANCE OF JURISDICTION**

### **11.1 IMPLIED CONSENT**

Any person, corporation or other entity which utilizes any portion of the Oglala Sioux Tribal Highway System by his usage gives his implied consent to the jurisdiction of the Oglala Sioux Tribe in the same manner as if he had given his consent to jurisdiction in explicit manner.

### **11.2 STATUS**

To assure public safety and orderly enforcement of laws, the implied consent provided in Section 11.1 hereinabove shall apply to all users of the Tribal Highway System without distinction regarding Tribal membership, residency, or status as a non-Indian.

### **11.3 SIGNAGE**

The Oglala Sioux Tribe Department of Transportation shall post signs at conspicuous places along the Tribal Highway System providing notice that any person, corporation, or entity by their use of the Tribal Highway System give their implied consent to jurisdiction of the Oglala Sioux tribe and the civil or criminal provisions thereof.

### **11.4 BOND**

Any person, corporation, or entity not resident on the Pine Ridge Indian Reservation may be required to post bond with the Tribal Court prior to release of their person or vehicle to assure presence at proceedings of the Tribal Court.

## **PART 12 TEMPORARY ROADBLOCKS**

### **12.1 DEFINITION**

For the purpose of this Section, a temporary roadblock means any structure, device, or means used by any agents or officers of an authorized law enforcement agency for the purpose of controlling traffic through a point on a highway, road, street, whereby all vehicles may be slowed or stopped. Roadblocks may be created only for those purposes permitted by tribal law.

### **12.2 AUTHORITY TO ESTABLISH ROADBLOCKS**

Only those law enforcement agencies duly authorized by the Oglala Sioux Tribal Council may establish temporary roadblocks upon the highways, streets, and roads within the reservation for the purpose of apprehending persons wanted for violation of laws, and using the highways, roads, or streets within the reservation for the purpose to escape.

### **12.3 MINIMUM EQUIREMENTS**

For the purpose of warning and protecting the traveling public the minimum requirements to meet by such law enforcement agents and officers establishing temporary roadblocks.

1. The temporary roadblock must be established at a point on the highway clearly visible at a distance of not less than three-hundred feet (91.44 meters) in either direction.
2. At the point of the temporary roadblock at least one red light must be placed at the side of the highway displaying an intermittent or flashing beam of light, clearly visible to oncoming traffic at a distance of not less than three-hundred feet (91.44 meters) under normal conditions.

#### **12.4 EXISTING LAW PRESERVED**

Nothing in this section shall be deemed to limit or encroach upon the existing authority of tribal law enforcement agents and officers in the performance of their respective duties involving traffic control and criminal apprehension.

#### **12.5 PENALTY**

Any person who shall proceed or travel through a roadblock without subjecting himself to the traffic control so established shall be subject to penalty in the Oglala Sioux Tribal Court.

### **PART 13 - MISCELLANEOUS PROVISIONS**

#### **13.1 LITTERING HIGHWAYS**

No person, firm, corporation, or any other entity shall throw or deposit any garbage, glass, bottles, cans, boxes or rubbish of any kind upon any public highway on the reservation. Any person, firm, corporation or entity violating this provision shall be subject to penalty in the Oglala Sioux Tribal Court.

#### **13.2 DAMAGE TO TRAFFIC CONTROL DEVICES**

No person shall remove, damage or destroy any traffic control signs or markings erected or placed upon any highway by any contractor or subcontractor.

#### **13.3 ERECTION AND MAINTENANCE OF TRAFFIC CONTROL SIGNS**

The Director shall have the authority to erect and maintain guardrails, stretch wires and other devices on all highways on the tribal highway system in the interest of public safety.