
From: Belizaire, Justine
To: Kurio, Phyllis
CC: Hamayasu, Toru; Simon Zweighaft
Sent: 9/26/2007 2:55:01 PM
Subject: RE: Legal capacity

Hi Phyllis,

Sorry it took so long to get an answer but I wanted to get the response form FTA. Based on my initial discussions with FTA, it appears that it is not necessary to submit a certification of Legal Capacity as part of the application to enter PE unless the method of governance has changed since the last submitted certification.

Hope this answers you question.

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From: Kurio, Phyllis [mailto:pkurio@honolulu.gov]
Sent: Thursday, September 20, 2007 6:55 PM
To: Belizaire, Justine
Cc: Hamayasu, Toru; Simon Zweighaft
Subject: Legal capacity

Hi, Justine. Hope everything's well with you.

FTA's checklist for PE entry has a Legal Capacity requirement under the Administrative Requirements header on the last page. The Legal Capacity reference is FTA C 9300.1A, Chapter 6, which states in part:

Legal Capacity. Before FTA may award a grant for a Capital Program project, FTA must make a finding that the grant applicant has or will have the legal capacity to carry out the project. In making this finding FTA generally relies on the grant applicant's certification that it has or will have the legal capacity to carry out the project. Specifically, the grant applicant must be eligible and authorized under state or local law to request, receive, and spend FTA funds to administer FTA-assisted projects. Officials acting on behalf of the grant applicant must have appropriate authority designated by state or local law or by the governing body of the grant applicant. Although FTA does not routinely require grant applicants to submit an Opinion of Counsel, FTA expects applicants for their first capital program grant to submit an Opinion of Counsel as described below. FTA also retains the discretion to require any grant applicant to submit a legal opinion and other supporting documentation.

The City and County of Honolulu is already an established FTA grantee and submits legal assurances as part of FTA's required annual certifications and assurances. Language of the FY 2007 affirmation:

AR00147351

Is the City still required to submit a certification of Legal Capacity as part of its application to enter PE?

Mahalo nui,

Phyllis