

From: Brennan, Bill
To: Kaku, Melvin N; Hamayasu, Toru; Torres, Richard F
Sent: 8/23/2007 1:36:09 PM
Subject: FW: FTA issues notice of rule making for funding HOT lanes.

Redacted

-----Original Message-----

From: Cliff Slater [mailto:cslater@lava.net]
Sent: Thursday, August 23, 2007 10:41 AM
To: info@honolulutraffic.com
Subject: FTA issues notice of rule making for funding HOT lanes.

One of the many areas of disagreement between us and the City has been over the issue of whether HOT lanes can be funded with the FTA's New Starts funds.

The FTA has now issued proposed rulemaking to allow such funding. As is normal in rulemaking there will be a comment period until November 1, and after that we believe the rule will go into effect. The following is an excerpt:

"In addition, for the purposes of funding design and construction of New Starts and Small Starts, FTA proposes to revise the definition of a "fixed guideway" to include projects meeting certain other conditions.

FTA is asking for specific comment, under a section entitled "Additional Discussion Items for Comment" on this revised definition that would include a transportation facility that, by means of pricing and other enhancements, replicates the benefits of "free-flow" conditions for transit users historically achieved by a physically separated right-of-way available solely for transit and high-occupancy vehicles. To make such projects eligible for New Starts or Small Starts funding, FTA proposes to incorporate into the regulatory definition of "fixed guideway system" a provision that deems such a facility, subject to certain limitations, to be "a separate right-of-way reserved for the exclusive use of public transportation." The operation of the new provision would be limited strictly to defining eligibility for discretionary funding under New Starts (49 U.S.C. 5309(d)) and Small Starts (49 U.S.C. 5309(e)), and would not alter the definition of "fixed guideway mile" for purposes of calculating the distribution of funds under formula programs administered by FTA.

The practical effect of amending the definition of "fixed guideway" in this way is that it would allow FTA to fund a portion of the construction of high occupancy toll (HOT) lanes, on which transit vehicles would run, with money from the Section 5309 Capital Investment program. This has the advantage of providing more flexibility to project sponsors with creative ideas for potentially building cost effective transit projects." (emphasis added)

Source: <http://a257.g.akamaitech.net/7/257/2422/01jan20071800/edocket.access.gpo.gov/2007/pdf/E7-14285.pdf>

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