



MINUTES

**Board of Directors Meeting
Mission Memorial Annex Conference Room
550 South King Street, Honolulu, Hawaii
Thursday, November 29, 2012, 9:30 AM**

PRESENT:	Carrie Okinaga Ivan Lui-Kwan Damien Kim	Glenn Okimoto Robert "Bobby" Bunda Wayne Yoshioka
ALSO IN ATTENDANCE: (Sign-in Sheet and Staff)	Dan Grabauskas Gary Takeuchi Diane Arakaki Joyce Oliveira Bill Brennan Paul Romaine Edwina Tabata Kevin Dayton Maurice Morita	Cindy Matsushita Andrea Tantoco Phyllis Kurio Jan Mulvey Charles Bayne Jeanne Mariani-Belding Toru Hamayasu Paul Migliorato Russell Honma
EXCUSED:	Jiro Sumada Don Horner	Keslie Hui William "Buzz" Hong

I. Call to Order by Chair

Board chair Carrie Okinaga called the meeting to order at 9:30 a.m.

II. Public Testimony on All Agenda Items

Russell Honma provided testimony regarding the importance of providing contracting opportunities to disadvantaged business enterprises.

Ms. Okinaga bid *mahalo* to Star Advertiser reporter Kevin Dayton, whose last day at the newspaper would be that Friday.

III. Approval of Minutes of the November 15, 2012 Board of Directors Meeting

Ms. Okinaga called for approval of the November 15, 2012 minutes of the Board of Directors. Hearing no objections, the minutes were unanimously approved.

IV. Committee Reports

A. Report on the November 29, 2012 Audit/Legal Matters Committee Meeting

Audit/Legal Matters Committee Chair Ivan Lui-Kwan reported that the committee heard a report on the financial audit by Dwayne Takeno of PKF Pacific Hawaii (PKF). He reported that PKF gave HART an unqualified opinion – the highest result possible – as well as valuable recommendations. The committee was recommending that the Board accept the audit report. Mr. Lui-Kwan also stated that the committee heard a litigation update by Deputy Corporation Counsel Gary Takeuchi, in which Mr. Takeuchi advised that there was not much activity to report on pending litigation since the committee’s last meeting on November 15, 2012.

B. Report on the November 29, 2012 Finance Committee Meeting

Pro tempore Finance Committee Chair Robert “Bobby” Bunda reported that the committee had approved HART’s proposed FY 2014 Operating and Capital budgets for transmittal to the Mayor and City Council, following a full Board discussion during its November 15, 2012 meeting. The committee also voted to recommend approval of the Six-year Capital Program by the full Board. He stated that the Operating and Capital Budgets were accompanied by provisos regarding the financial capacity of core systems contractor Ansaldo Honolulu JV and HART’s receipt of the Full Funding Grant Agreement (FFGA). He said that the budgets would be transmitted to the Mayor and City Council for their input.

Ms. Okinaga clarified that the budgets would be transmitted to the Mayor and Council, then return to the HART Board for adoption.

V. FFGA Discussion

HART Executive Director and CEO Dan Grabauskas advised that the Federal Transit Administration (FTA) transmitted the Full Funding Grant Agreement (FFGA) to Congress on November 19, 2012, signaling its intent to award \$1.55 billion to the City and County of Honolulu. The FFGA was undergoing a 30-day Congressional review period, after which it could be signed sometime between December 19 and December 31, 2012. He reported that HART was working with the FTA on the details of the final execution of the FFGA. A resolution to authorize execution of the FFGA would be taken up at the Legislative Matters Committee meeting of the City Council that day. Mr. Grabauskas stated that he and Mr. Lui-Kwan and Mr. Bunda would attend the meeting, along with rail supporters. If approved by the committee, the resolution would then be brought before the full Council on December 5, 2012. Mr. Grabauskas thanked Council Chair Ernie Martin and Transportation Committee Chair Breene Harimoto for their support.

VI. Report on the Financial Audit by PKF Pacific Hawaii LLP

Patrick Oki and Dwayne Takeno, partners of PKF, presented a report on the financial audit, attached hereto as Attachment A. Mr. Takeno indicated that the Audit/Legal Matters Committee conducted a robust discussion of the audit earlier that morning. The Financial Statements and Report of Independent Certified Public Accountants (report) contained PKF's unqualified opinion that HART's financial statements were presented fairly and in accordance with Generally Accepted Accounting Principles (GAAP). He said that page 31 of the report contained a finding related to certain deficiencies in HART's financial statements, which required adjustment. HART management agreed to the finding, issued a response accordingly, and is in the process of corrective action.

Mr. Lui-Kwan asked HART CFO Diane Arakaki to comment. Ms. Arakaki thanked PKF for conducting HART's first financial audit for the period through June 30, 2012. She explained that the finding related to the transfer of funds during the period when the Rapid Transit Division of the Department of Transportation Services (DTS) was transitioning to HART. As an example of the kinds of things that led to the finding, she said that HART had presented \$190 million in General Excise Tax revenue as a "transfer in," as had been done in prior years by DTS. However, with the creation of HART, those monies should have been classified as "intergovernmental revenue." She stressed that the funds were properly accounted for, but misclassified. She did not anticipate such misclassifications to occur the following year. In addressing the finding of the lack of adequate, qualified accounting staff, she said that HART is already in the process of hiring additional staff. She had been hired as CFO, Certified Public Accountant Bruce Sakihama is in the process of being hired, and there are plans to hire one or two more accountants.

In response to the audit recommendations, Ms. Arakaki stated that the action plan being drafted by staff would include a streamlined audit schedule that would include input from PKF, the City's Department of Budget and Fiscal Services, and the City's Auditor, Accuity LLP. She stated that the plan is to begin the audit later, but to compress the total audit time.

Mr. Lui-Kwan thanked PKF for doing a great job in the Audit/Legal Matters Committee meeting. He recommended more discipline in the audit process. However, he also recognized the difficult nature of the undertaking and the fact that it was HART's first audit, and he commended PKF for its professionalism. He emphasized the importance of an independent financial audit in preventing fraud and improper activities.

Ms. Okinaga also thanked PKF and Ms. Arakaki.

Mr. Lui-Kwan made a motion that the Board accept the financial audit by PKF. Mr. Kim seconded the motion. There being no objections, the motion carried unanimously.

VII. Equal Employment Opportunity Policy Ratification

Ms. Okinaga said that draft HART Resolution 2012-4, which was before Board members, related to HART's Equal Employment Opportunity (EEO) Policy. The resolution and policy are attached hereto as Attachment B. Charles Bayne, HART's Civil Rights Officer, stated that the EEO Policy was reviewed and revised during the drafting of the FFGA submission. The EEO Policy and its contents are required by the FTA. He said that the revised policy did not contain any substantive changes. Mr. Grabauskas said that both the EEO and the Disadvantaged Business Enterprise (DBE) Policies are federal requirements. The FTA does not require Board ratification, but such an approval would send a strong message of support.

Mr. Kim moved to approve the EEO Policy, and Mr. Lui-Kwan seconded the motion.

Ms. Okinaga asked whether a main difference was to designate Mr. Bayne as EEO officer. Mr. Bayne confirmed the change, stating that it is an FTA requirement. Mr. Grabauskas concurred. Ms. Okinaga stated that if there are questions about which policies require Board approval, such policies should be brought before the Board, especially if they revise what was previously approved.

There being no objections, the motion carried unanimously.

VIII. Disadvantaged Business Enterprise Policy Ratification

Mr. Bayne stated that the DBE policy was also the result of conversations with the FTA during the drafting of the FFGA submission. A copy of the resolution adopting the policy and the policy itself are attached hereto as Attachment C. He stated that the policy is a standard requirement, and had been reviewed and approved by the FTA. Board member Glenn Okimoto said that the State Department of Transportation (DOT) has the same program. He said that some definitions and goals had been changed, and asked whether the same rules applied to HART as to the DOT. Mr. Bayne confirmed that the same rules apply. He said the DOT's disparity study resulted in a DBE goal for DOT of 52%, while HART's goal is 13%. He stated that the City went through the same DBE process. Board member Wayne Yoshioka said that the City's goal is less than HART's. Mr. Bayne stated that HART expects to meet their goal once construction resumes.

Ms. Okinaga stated that DBE programs are very clearly defined by the federal government. She stated the need for clarity in defining categories of protected individuals. Mr. Bayne stated that the State of Hawaii takes the lead in certifying DBE companies. Ms. Okinaga said that while Hawaii law may be more expansive than federal law, the DBE program is federally mandated. She expressed a need to be clear about the distinctions. Mr. Bayne added that the requirements applicable to HART's DBE policy are specific to FTA funding.

Mr. Lui-Kwan moved for adoption of the DBE policy, and Mr. Yoshioka seconded the motion. All being in favor, the motion carried unanimously. Mr. Yoshioka stated that he

had been working with Mr. Bayne while developing the DTS DBE policy, and commended him for doing an excellent job.

IX. Executive Director's Report

Mr. Grabauskas reported that HART is currently awaiting word on when the FFGA would be signed. He reported that regarding the City Council, HART was working to brief new and current Councilmembers on the rail project and the FFGA. He said he had met with Councilmembers Harimoto, Garcia, Fukunaga, and Kobayashi regarding the FFGA. He thanked member Bunda for attending the meeting with Councilmember Kobayashi. Mr. Grabauskas said he would be appearing before the Legislative Matters Committee, which would hear Resolution 12-322 on the FFGA.

Mr. Grabauskas stated that Ms. Okinaga and Board member William "Buzz" Hong would give a presentation to the Council Transportation Committee that afternoon as well.

He said that he had appeared before the Council Budget Committee the previous day for a discussion on change orders, contingencies, and delay costs. Mr. Grabauskas had reported to the committee that there had been no change in contingencies, and no change in delay costs, which remain at \$7.1 million per month. He had also reported a change order for roadway construction at the Maintenance and Storage Facility, which resulted in a savings of \$500,000.

Mr. Grabauskas stated that he had met with State Senate Majority Leader Galuteria two weeks ago. Senator Galuteria had invited Mr. Grabauskas to update the Senate majority at their retreat on December 17, 2012 at Leeward Community College. He thanked Mr. Bunda for attending the meeting with Senator Galuteria.

Mr. Grabauskas reported that the progress on the Archaeological Inventory Survey (AIS) was excellent, with only ten trenches remaining from the approved AIS plans. Completion was anticipated in mid-December.

He reported that on Halekauwila Street, cantilevered supports had been planned. However, due to the recent 'iwi finds the designers are exploring supports to be single columns in the center of the road.

Mr. Grabauskas said that the cultural monitoring program continues to contribute to better relationships with the Native Hawaiian community, which appreciates the transparency in involving lineal and cultural descendants to monitor the trenching activity. He said that nearly 100 trenches have been monitored by cultural monitors. Staff is working on developing a long-term cultural monitoring program throughout construction. Mr. Grabauskas reported that he attended the second in a series of three meetings in Kaka'ako for lineal and cultural descendants and the public, where there was an opportunity to hear about the archaeological finds, and how interested persons could participate in the process. He reported very positive feedback regarding the cultural monitoring program.

Mr. Lui-Kwan commended Mr. Grabauskas on an outstanding job. He said that the first step is to complete the AIS trenching, the second step is to complete the Cultural Surveys Hawaii report, and the third is to gain approval by the State Historic Preservation Division (SHPD). He asked how HART is doing on steps two and three. Mr. Grabauskas reported that HART is two months ahead of schedule on AIS trenching. He said that the report would take about three to four months to complete. Five archaeological finds, including one complete set of human remains, would add to the complexity of the document. In order to aid SHPD's review process, HART is meeting regularly with the agency and planning to serialize the transmittal of documents to SHPD.

Mr. Grabauskas said that the issue of the Special Management Area permit remains. HART has already engaged in conversations regarding the SMA with the City Council, who must approve the permit. HART is hoping to expedite that process where possible. Based on all this, it still appears there is a period of about nine to twelve months before the project can restart construction activities that have temporarily ceased.

Ms. Okinaga thanked Mr. Grabauskas, HART staff, and the Board. She also thanked Mr. Lui-Kwan for his attendance at City Council meetings.

X. Executive Session

There was no need for executive session.

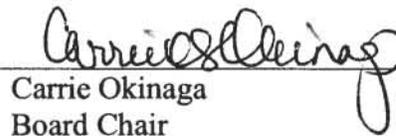
XI. Adjournment

Ms. Okinaga adjourned the meeting at 10:12 a.m.

Respectfully Submitted,


Cindy Matsushita
Board Administrator

Approved:


Carrie Okinaga
Board Chair

12/6/12

Date

ATTACHMENT A

Communications Related to the Audit
2012 Meeting with the Board of Directors
Honolulu Authority for Rapid Transportation
November 2012

Communications Related to the Audit – Responsibilities

Our Responsibilities

- Perform an audit
 - An audit provides reasonable, not absolute assurance
- Form and express an opinion about whether the financial statements prepared by management, with your oversight:
 - Are materially correct
 - Are fairly presented
 - Conform with generally accepted accounting principles
- Communicate significant matters to you

An audit does not relieve you or management of your responsibilities.

Management's Responsibilities

- Preparing and fairly presenting the financial statements
- Establishing and maintaining effective internal control over financial reporting
- Providing us with written representations
 - A copy of the representations will be provided to you

Communications Related to the Audit – Scope and Timing

We Approach Your Audit By...

- Understanding your business and the environment you operate in
- Using that knowledge and understanding to analyze your financial statements
- Determining materiality
- Identifying areas more likely to be materially misstated
- Focusing audit attention and effort on those areas

Materiality

- Magnitude of an omission or misstatement that likely influences a reasonable person's judgment
- Based on relevant financial statement benchmark
 - We believe total assets is the appropriate benchmark for your company
- Financial statement items > materiality are in scope
- Other areas < materiality may be in scope if qualitative factors are present (e.g., related party transactions, fraud risk)

Audit Timeline

Planning and risk assessment	Aug/Sept 2012
Tests to respond to risks	Sept/Oct 2012
Final fieldwork and deliverables	Oct/Nov 2012

Areas of Audit Focus

- Accounts receivable collectability
- Capital Assets

Report of Independent Certified Public Accountants on Financial Statements

Unqualified Opinion

Communications Related to the Audit - Overall Quality of the Company's Accounting Practices

Accounting Policies

- Consistency and appropriateness of accounting policies and their application

Accounting Estimates

- Identification of, and process for making, accounting estimates
 - Allowance for doubtful accounts
 - Construction cost delay estimates

Financial Statement Disclosures

- Clarity and completeness of financial statements and disclosures

Other Related Matters

- Intergovernmental revenues from City and County of Honolulu and Department of Transportation Services and City and County of Honolulu
- Subsequent event disclosures

Communications Related to the Audit – Misstatements Identified During Our Audit

Material, Corrected Misstatements

The following items were not properly presented on the financial statements:

- \$518,674,109 of unrestricted net assets on the statement of net assets.
- \$447,284,490 of net assets of the City's Transit Fund as of June 30, 2011 and \$190,664,993 from the GET country surcharge in the statement of revenues, expenses, and change in net assets, as well as the related effects on the statement of cash flows.
- \$6,189,065 of additional intergovernmental revenues, as well as the related effects on the statement of cash flows.
- \$602,212 of operating expenses consisting of amounts paid to the City for Central Administrative Services Expenses in the statement of revenues, expenses and change in net assets, as well as the related effects on the statement of cash flows.

We also noted the following missing or erroneous disclosures:

- Beginning cash on the statement of cash flows was overstated by \$420,319,695.
- \$303,390,475 of capital contributions was excluded from non-cash investing; capital related financing activities in the statement of cash flows.

Material, Corrected Misstatements (continued)

- Supplementary schedule of funding status on post-retirement health care and life insurance benefits was excluded.
- Disclosure of total future minimum lease payments on HART's leases was understated by approximately \$738,000.

Communications Related to the Audit - Other Significant Findings from the Audit

Significant Difficulties Encountered During the Audit

- No significant difficulties were encountered during the audit.

Deficiencies in Internal Control over Financial Reporting

- A significant deficiency was communicated to you in our letter dated November 19, 2012



HONOLULU AUTHORITY for RAPID TRANSPORTATION

Daniel A. Grabauskas
EXECUTIVE DIRECTOR AND CEO

BOARD OF DIRECTORS

Carrie K.S. Okinaga, Esq.
CHAIR

Ivan M. Lui-Kwan, Esq.
VICE CHAIR

Robert Bunda
William "Buzz" Hong
Donald G. Horner
Kestlie W.K. Hui
Damien T.K. Kim
Glenn M. Okimoto, Ph.D.
Jiro Sumada
Wayne Y. Yoshioka

November 19, 2012

PKF Pacific Hawaii LLP
1132 Bishop Street, Suite 2500
Honolulu, HI 96813

Dear Sir or Madam:

We are providing this letter in connection with your audit of the statement of net assets, statement of revenues, expenses and change in net assets, and statement of cash flows of Honolulu Authority for Rapid Transportation ("HART") as of June 30, 2012 and for the year then ended, for the purpose of expressing opinions as to whether the basic financial statements present fairly, in all material respects, the financial position, results of operations, and cash flows of HART in conformity with accounting principles generally accepted in the United States of America ("US GAAP"). We confirm that we are responsible for the fair presentation in the basic financial statements of financial position, results of operations, and cash flows, where applicable, in conformity with generally accepted accounting principles. We acknowledge our responsibility for the design and implementation of effective internal control over financial reporting, and programs and controls to prevent and detect fraud. We also confirm that we are responsible for the identification of and compliance with laws, regulations, and provisions of contracts and grant agreements applicable to us.

Certain representations in this letter are described as being limited to matters that are material. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in the light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement.

We confirm, to the best of our knowledge and belief, as of November 19, 2012, the following representations made to you during your audit.

1. The financial statements referred to above are fairly presented in conformity with US GAAP.
2. We have made available to you all:
 - a. Financial records and related data.
 - b. Minutes of the meetings of the elected body and other relevant committees or summaries of actions of recent meetings for which minutes have not yet been prepared.
3. There have been no communications from regulatory agencies concerning noncompliance with or deficiencies in accounting, internal control, or financial reporting practices.
4. There are no material transactions that have not been properly recorded in the accounting records underlying the financial statements.

15. HART has satisfactory title to all owned assets, and there are no liens or encumbrances on such assets nor has any asset or future revenue been pledged as collateral, except as disclosed to you.
16. We have complied with all aspects of grant agreements and other contractual agreements that would have a material effect on the financial statements in the event of noncompliance.
17. With respect to the required supplementary information accompanying the financial statements:
 - a. We acknowledge our responsibility for the presentation of the required supplementary information in accordance with US GAAP.
 - b. We believe the required supplementary information, including its form and content, is measured and fairly presented in accordance with US GAAP.
 - c. We believe the significant assumptions or interpretations underlying the measurement or presentation of the required supplementary information, and the basis for our assumptions and interpretations, are reasonable and appropriate in the circumstances/
18. Receivables recorded in the financial statements represent valid claims against debtors for sales or charges for services provided or other charges arising on or before the balance sheet date and have been appropriately reduced to their estimated net realizable value.
19. We have reviewed capital assets, including certain identifiable intangibles for impairment whenever events or changes in circumstances have indicated that the carrying amount of the assets might not be recoverable and have appropriately recorded the adjustment.
20. Management has followed applicable laws and regulations in adopting, approving, and amending budgets.
21. Components of net assets (invested in capital assets, net of related debt; restricted; and unrestricted), nonspendable fund balance, and restricted, committed, assigned, and unassigned fund balance are properly classified and, if applicable, approved.
22. Arrangements with financial institutions involving compensating balances or other arrangements involving restrictions on cash balances, line of credit, or similar arrangements have been properly disclosed.
23. We believe that the actuarial assumptions and methods used to measure pension and other postemployment benefit liabilities and costs for financial accounting purposes are appropriate in the circumstances.
24. We represent to you the following regarding the financial statements for HART :
 - a. Deposit and investment risks have been properly and fully disclosed.
 - b. Capital assets, including infrastructure assets, are properly capitalized, reported, and if applicable, depreciated.
 - c. All required supplementary information is measured and presented within the prescribed guidelines.
25. We have established and maintained a process to address and track the status of audit findings, conclusions and recommendations. We have provided to you our views on such matters, as well as planned corrective actions to be included in the report. We have also identified and informed you of findings and recommendations from previous audits, attestation engagements or other studies that could

Honolulu Authority for Rapid Transportation
 Summary of Unrecorded Misstatements
 June 30, 2012

JE No.	Account Description	Assets	Liabilities	Equity	Change Net Assets
33	Other Long Term Liabilities Fringe Benefits To pass adjustment for OPEB liability as of June 30, 2012.		\$ 754,000		\$ 754,000
	Total Passed Adjustments	\$ -	\$ 754,000	\$ -	\$ 754,000
	Total Rpt Balance Before PAJES	\$ 1,020,190,614	\$ 57,712,682	\$ 962,396,932	\$ 962,396,932
	Effect on PAJES's on Total Rpt Bal	0%	1%	0%	0%

Financial Statements and Report of Independent Certified
Public Accountants

Honolulu Authority for Rapid Transportation
(a component unit of the City and County of Honolulu)

June 30, 2012

November 29, 2012

To the Directors
Honolulu Authority for Rapid Transportation
City and County of Honolulu

Gentlemen:

We have completed our financial audit of the Honolulu Authority for Rapid Transportation (a component unit of the City and County of Honolulu) ("HART") as of and for the fiscal year ended June 30, 2012. The audit was performed in accordance with our agreement dated April 17, 2012.

Objective of the audit

The primary purpose of our audit was to form an opinion on the fairness of the presentation of HART's financial statements as of and for the fiscal year ended June 30, 2012.

Scope of the audit

Our audit was performed in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. The scope of our audit included an examination of the transactions and accounting records of HART for the fiscal year ended June 30, 2012.

Organization of the report

This report is organized into five parts:

- PART I. FINANCIAL STATEMENTS
- PART II. SUPPLEMENTARY INFORMATION
- PART III. REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS
- PART IV. SCHEDULE OF FINDINGS
- PART V. RESPONSE OF THE AFFECTED AGENCY

At this time, we wish to thank HART's personnel for their cooperation and assistance extended to us. We will be happy to respond to any questions that you may have on this report.

Very truly yours,

PKF PACIFIC HAWAII LLP

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PART I
FINANCIAL STATEMENTS

Report of Independent Certified Public Accountants

To the Directors
Honolulu Authority for Rapid Transportation
City and County of Honolulu

We have audited the accompanying statement of net assets and the related statements of revenues, expenses and change in net assets and cash flows of the Honolulu Authority for Rapid Transportation (a component unit of the City and County of Honolulu) ("HART"), as of and for the year ended June 30, 2012, which collectively comprise HART's basic financial statements as listed in the table of contents. These financial statements are the responsibility of HART's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of HART's internal control over financial reporting. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and the significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to previously present fairly, in all material respects, the financial position of HART, as of June 30, 2012, and the results of its operations and its cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated November 19, 2012 on our consideration of HART's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis on pages 7–11 and schedule of funding progress on page 30 be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States

of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

PKF PACIFIC HAWAII LLP

Honolulu, Hawaii
November 19, 2012

Honolulu Authority for Rapid Transportation
(a component unit of the City and County of Honolulu)

MANAGEMENT'S DISCUSSION AND ANALYSIS

June 30, 2012

The Honolulu Authority for Rapid Transportation ("HART") is a semi-autonomous government unit of the City and County of Honolulu ("City"), which came into being on July 1, 2011 pursuant to a 2010 amendment to the Revised Charter of the City and County of Honolulu ("RCH"). HART consists of a board of directors (Board), executive director, and staff. HART is authorized under the RCH to "develop, operate, maintain and expand the city fixed guideway system..."

The Honolulu Rail Transit Project (the Project) consists of design and construction of a 20-mile, grade-separated fixed rail system from East Kapolei to the Ala Moana Center in Honolulu, Hawaii. The Project begins in East Kapolei, proceeds to the University of Hawaii at West Oahu, then turns east to Pearl Harbor and the Honolulu International Airport, and ends at Kona Street adjacent to the Ala Moana Center. The Project will operate in an exclusive right-of-way and will be elevated except for a 0.6-mile, at-grade section near Leeward Community College. The Project includes 21 transit stations; a Maintenance and Storage Facility; 80 light metro fully automated (driverless) rail vehicles and associated core systems; and four park-and-ride facilities at several locations.

This section presents the management's discussion and analysis of HART's financial condition and activities for the fiscal year ended June 30, 2012. This summary is designed to provide an introduction to the financial statements and the financial condition of HART. This information should be read in conjunction with the financial statements. Prior to July 1, 2011, the financial position and results of operations of the Project were reported as a governmental fund in the City Comprehensive Annual Financial Reports.

Overview of the Financial Statements

The financial statements are presented using the economic resources measurement focus and the accrual basis of accounting, whereby revenues and expenses are recognized in the period earned or incurred.

The basic financial statements include a statement of net assets, a statement of revenues, expenses and change in net assets, a statement of cash flows, and notes to the financial statements. The statement of net assets presents the resources and obligations of HART at June 30, 2012. The statement of revenues, expenses and change in net assets presents the resultant ending net asset balance.

The statement of cash flows present changes in cash and cash equivalents resulting from operating, investing, capital and related financing activities, and non-capital financing activities.

The notes to the financial statements provide required disclosures and other information necessary for the fair presentation of the financial statements. The notes detail information about HART's significant accounting policies, account balances, related party transactions, employee benefit plans, commitments, contingencies, and other significant events. Supplementary information on post-employment benefits is also included.

Honolulu Authority for Rapid Transportation
(a component unit of the City and County of Honolulu)

MANAGEMENT'S DISCUSSION AND ANALYSIS (continued)

June 30, 2012

Financial Highlights

Condensed Statement of Revenues, Expenses and Change in Net Assets

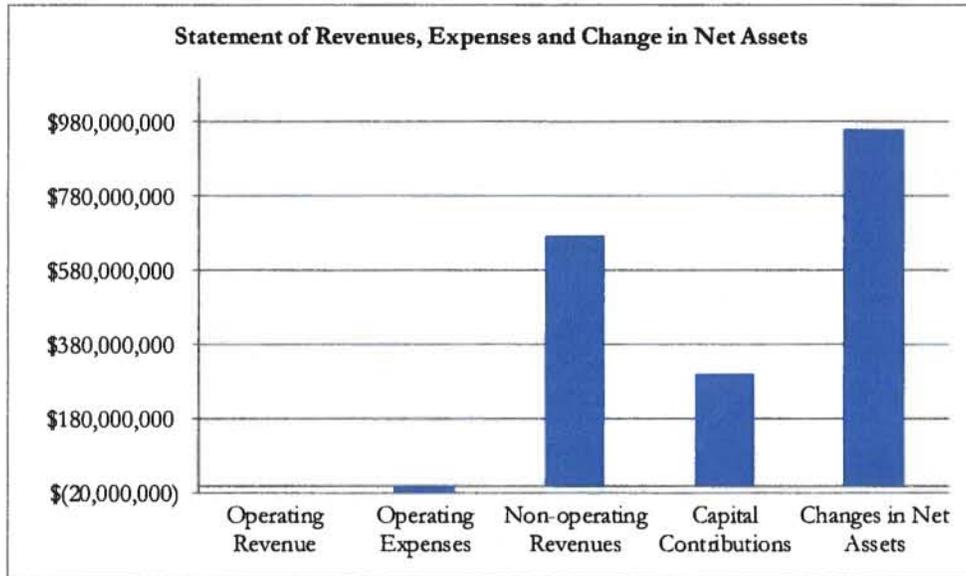
	<u>June 30, 2012</u>
Operating expenses	
Administration and general	\$ 9,248,406
Contractual services	2,501,403
Fringe benefits	3,554,872
Other operating expense	<u>599,752</u>
Total operating expenses	<u>15,904,433</u>
Operating loss	(15,904,433)
Non-operating revenues	
Intergovernmental revenues	631,760,417
Federal grants	42,662,749
Interest income and other	<u>487,724</u>
Total non-operating revenues	<u>674,910,890</u>
Income before contributions	659,006,457
Capital contributions	<u>303,390,475</u>
Change in net assets	962,396,932
Net assets at beginning of year	<u>-</u>
Net assets at end of year	<u><u>\$ 962,396,932</u></u>

Honolulu Authority for Rapid Transportation
(a component unit of the City and County of Honolulu)

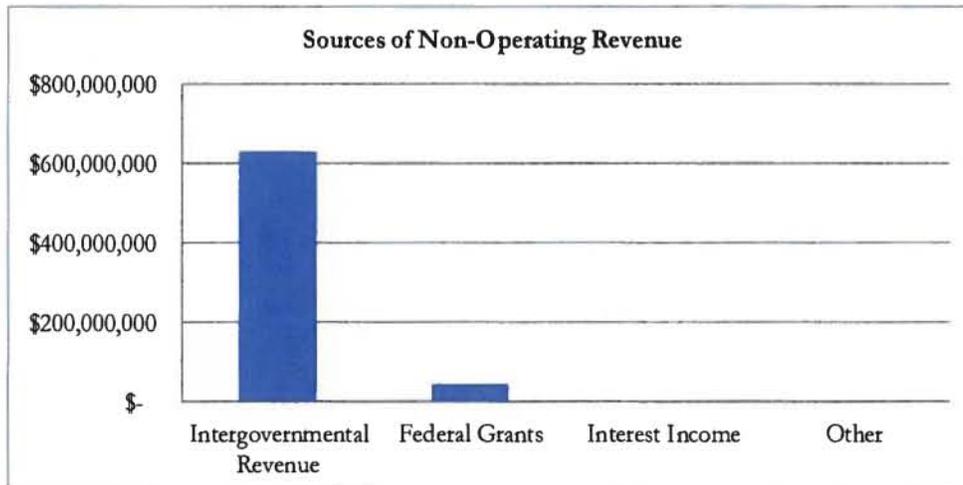
MANAGEMENT'S DISCUSSION AND ANALYSIS (continued)

June 30, 2012

Financial Highlights (continued)



HART's primary non-operating revenue sources are the 0.5% county surcharge on the State of Hawaii's General Excise Tax (GET) and grant assistance from the U.S. Department of Transportation's Federal Transit Administration (FTA). Pursuant to Section 248-2.6 of the Hawaii Revised Statutes, the State Department of Taxation remits 90% of the surcharge to the City on a quarterly basis. During FY 2012, HART recognized \$631,760,417 of intergovernmental revenue, consisting of \$447,284,489 of net assets of the City's Transit Fund as of June 30, 2011, less certain other City liabilities as of June 30, 2011 of \$6,189,065, and \$190,664,993 from the GET county surcharge. HART also received \$42,662,749 in FTA grant assistance. Additional non-operating revenue sources include interest income and property rental income.



Honolulu Authority for Rapid Transportation
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MANAGEMENT'S DISCUSSION AND ANALYSIS (continued)

June 30, 2012

Financial Highlights (continued)

The Project has executed \$2,079,519,564 in contracts since October 2009 to date for the planning, design, and construction of the Project. This amounts to 40.6% of the anticipated cost of the total project.

Condensed Statement of Net Assets

	June 30, 2012
Assets	
Current Assets	
Cash and cash equivalents	\$ 417,956,751
Receivables	48,614,490
Prepaid expenses	4,906,695
Capital assets - net	<u>548,631,678</u>
 Total assets	 <u><u>\$ 1,020,109,614</u></u>
Liabilities	
Current Liabilities	
Current liabilities	\$ 55,089,557
Deferred credits and other liabilities	<u>2,623,125</u>
 Total liabilities	 \$ 57,712,682
Net assets	<u><u>\$ 962,396,932</u></u>
 Total liabilities and net assets	 <u><u>\$ 1,020,109,614</u></u>

Total assets at year-end were \$1,020,109,614. Total liabilities at year-end were \$57,712,682. Net assets increased by \$962,396,932 primarily due to intergovernmental revenues and capital contributions from the City.

The Project will affect an estimated 184 parcels of real property. As of June 30, 2012, HART has acquired title to or use of 19 parcels of real property.

As of June 30, 2012, 2% of the utilities have been relocated. Utility relocations are performed by the respective companies owning the equipment.

The design work of the guideway structure continues. The first segment, from Kapolei to Waipahu, is 95% completed. The second segment, from Waipahu to Pearlridge is 90% completed, and design on the third segment is scheduled to begin in FY 2013.

The design work on the maintenance and storage facility is 90% completed.

Honolulu Authority for Rapid Transportation
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MANAGEMENT'S DISCUSSION AND ANALYSIS (continued)

June 30, 2012

Capital Assets and Long-Term Debt

Capital assets of HART include land, infrastructure, buildings and improvements, and equipment and machinery. HART has not issued any long-term bonds. Additional information on HART's capital assets can be found in note D to the financial statements.

Risks

The project faces several risk factors until it is completed. Among the highest risk is cost inflation over the period of construction. As of June 30, 2012, the construction contracts executed have been below HART's estimated costs to construct. It is not certain or clear how the national or local economy will affect this inflation risk going into the future.

Also identified as a risk are environmental factors. HART is conducting early surveys of the areas that may be impacted by the rail construction to mitigate the risk of disturbing burial sites.

On June 29, 2012, HART submitted the City and County of Honolulu's request to the Federal Transit Administration (FTA) for a Full Funding Grant Agreement (FFGA). The maximum Federal New Starts financial contribution under the FFGA is \$1.55 billion for the Honolulu Rail Transit Project. The risk identified for this grant is that the grant may be delayed (for unknown reasons) and that the cash flow for construction may also be adversely affected.

HART is party to various legal proceedings arising in the normal course of business. Further information regarding these legal proceedings can be found in note H to the financial statements.

Request for Information

This financial report is designed to provide a general overview of HART's finances. Questions concerning any of the information provided in this report or requests for additional financial information should be addressed to the Honolulu Authority for Rapid Transportation, 1099 Alakea Street, Suite 1700, Honolulu, Hawaii 96813.

Honolulu Authority for Rapid Transportation
(a component unit of the City and County of Honolulu)

STATEMENT OF NET ASSETS

June 30, 2012

ASSETS

CURRENT ASSETS

Cash and cash equivalents	\$ 417,956,751
Receivables	
Intergovernmental	48,540,693
Other	73,797
Prepaid expenses	<u>4,906,695</u>
Total current assets	471,477,936

Capital assets, net	<u>548,631,678</u>
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TOTAL ASSETS	<u><u>\$1,020,109,614</u></u>
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LIABILITIES AND NET ASSETS

CURRENT LIABILITIES

Accounts payable	\$ 54,835,171
Accrued payroll and other	<u>254,386</u>
Total current liabilities	55,089,557

Deferred credits and other liabilities	<u>2,623,125</u>
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Total liabilities	57,712,682
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NET ASSETS

Invested in capital assets - net of related debt	518,674,109
Unrestricted	<u>443,722,823</u>
Total net assets	<u>962,396,932</u>

TOTAL LIABILITIES AND NET ASSETS	<u><u>\$1,020,109,614</u></u>
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The accompanying notes are an integral part of this statement.

Honolulu Authority for Rapid Transportation
(a component unit of the City and County of Honolulu)

STATEMENT OF REVENUES, EXPENSES AND CHANGE IN NET ASSETS

Year ended June 30, 2012

Operating expenses	
Administration and general	\$ 9,248,406
Maintenance	7,403
Depreciation	18,069
Contractual services	2,501,403
Fringe benefits	3,554,872
Materials and supplies	231,840
Insurance	326,600
Utilities	15,840
	<hr/>
Total operating expenses	15,904,433
	<hr/>
Operating loss	(15,904,433)
Non-operating revenues and expenses	
Intergovernmental revenue	631,760,417
Federal grants	42,662,749
Interest income	240,233
Other	247,491
	<hr/>
Total non-operating revenues	674,910,890
	<hr/>
Income before contributions	659,006,457
Capital contributions	303,390,475
	<hr/>
CHANGE IN NET ASSETS	962,396,932
Net assets at beginning of year	<hr/>
	-
Net assets at end of year	<hr/>
	<u>\$962,396,932</u>

The accompanying notes are an integral part of this statement.

Honolulu Authority for Rapid Transportation
(a component unit of the City and County of Honolulu)

STATEMENT OF CASH FLOWS

Year ended June 30, 2012

Cash flows from operating activities:	
Cash payments to suppliers for goods and services	\$ (8,474,929)
Cash payments to employees	<u>(8,794,366)</u>
Net cash used in operating activities	(17,269,295)
Cash flows for noncapital financing activities:	
Intergovernmental revenue	<u>626,133,498</u>
Net cash provided by noncapital financing activities	626,133,498
Cash flows from capital and related financing activities:	
Acquisition and construction of capital assets	(245,259,272)
Non-operating revenue	<u>54,115,121</u>
Net cash used in capital and related financing activities	(191,144,151)
Cash flows from investing activities	
Interest on cash and cash equivalents	<u>236,699</u>
Net cash provided by investing activities	<u>236,699</u>
NET INCREASE IN CASH AND CASH EQUIVALENTS	417,956,751
Cash and cash equivalents at beginning of year	-
Cash and cash equivalents at end of year	<u><u>\$ 417,956,751</u></u>

The accompanying notes are an integral part of this statement.

Honolulu Authority for Rapid Transportation
(a component unit of the City and County of Honolulu)

STATEMENT OF CASH FLOWS (continued)

Year ended June 30, 2012

Reconciliation of operating loss to net cash used in operating activities:	
Operating loss	\$(15,904,433)
Adjustments to reconcile operating loss to net cash used in operating activities:	
Depreciation	18,069
Changes in assets and liabilities:	
Increase in receivables	(73,797)
Increase in prepaid expenses	(4,906,695)
Increase in accounts payable	720,050
Increase in payroll and other	254,386
Increase in deferred credits and other liabilities	<u>2,623,125</u>
Total adjustments	<u>(1,364,862)</u>
Net cash used in operating activities	<u><u>\$(17,269,295)</u></u>

Non-cash investing, capital and related financing activities:

During the year ended June 30, 2012, HART received capital contributions of \$303,390,475.

The accompanying notes are an integral part of this financial statement.

Honolulu Authority for Rapid Transportation
(a component unit of the City and County of Honolulu)

NOTES TO FINANCIAL STATEMENTS

June 30, 2012

NOTE A - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

1. Operations

The Revised Charter of the City and County of Honolulu authorizes the Honolulu Authority for Rapid Transportation (HART) to develop, operate, maintain and expand the city fixed guideway system. HART is a semi-autonomous government unit of the City and County of Honolulu (City). It is a component unit of the City. HART is in the process of developing the rail transit system and has not begun revenue operations. As of July 1, 2011, the net assets of the City's Transit Fund were recognized as intergovernmental revenues to HART as discussed in note F to the financial statements.

2. Financial Statement Presentation

The accounting policies of HART conform to accounting principles generally accepted in the United States of America as applicable to enterprise activities of governmental units, as promulgated by the Government Accounting Standards Board (GASB). HART applies all applicable Financial Accounting Standards Board (FASB) pronouncements and Accounting Principles Board (APB) opinions issued on or before November 30, 1989, unless those pronouncements conflict with or contradict GASB pronouncements. HART does not apply FASB statements and interpretations issued after November 30, 1989.

3. Basis of Accounting

The accompanying financial statements are presented using the economic resources measurement focus and the accrual basis of accounting. Revenues are recorded when earned and expenses are recorded at the time liabilities are incurred.

The operating revenues of HART are the result of providing services in connection with the delivery of transportation services of the rail system, which is not yet operational. The operating expenses of HART include the cost of services, administrative expenses, and depreciation on capital assets. All revenues and expenses not meeting this definition are reported as nonoperating revenues and expenses.

4. Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent liabilities at the date of the financial statements and the reported amount of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Honolulu Authority for Rapid Transportation
(a component unit of the City and County of Honolulu)

NOTES TO FINANCIAL STATEMENTS (continued)

June 30, 2012

NOTE A - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

5. Cash and Cash Equivalents

HART considers all cash on hand, demand deposits, and short-term investments with original maturities of three months or less from the date of acquisition to be cash and cash equivalents.

6. Revenue Recognition

Revenue sources that are considered susceptible to accrual when earned include a county surcharge on the State of Hawaii's General Excise Tax (GET) and grant assistance from the U.S. Department of Transportation's Federal Transit Administration (FTA). GET revenue is recognized when earned. Revenues on cost reimbursement contracts are recognized when allowable and reimbursable expenses are incurred, and upon meeting the legal and contractual requirements of the funding source. No allowance for doubtful accounts was recorded as of June 30, 2012.

7. Capital Assets

Capital assets are generally those assets with an individual price in excess of \$5,000 for equipment and machinery and \$100,000 for infrastructure, buildings, and structures with a useful life of more than one year. Capital assets are stated at cost and include contributions by governmental agencies at cost or estimated value. Additions, improvements, and other capital outlays that significantly extend the useful life of an asset are capitalized. Other costs related to repairs and maintenance are expensed as incurred.

Assets are depreciated over the individual asset's estimated useful life using the straight-line method. Depreciation on both purchased and contributed assets is charged against operations.

Depreciation on all assets is provided for on the straight-line basis over the following estimated useful lives:

	<u>Years</u>
Infrastructure	50-75
Buildings and improvements	30-50
Equipment and machinery	5-25
Rail vehicles	25-35

8. Net Assets

Net assets comprise the various net earnings (losses) from operating and nonoperating revenues, expenses and contributed capital. Net assets are classified in the following two components: invested in capital assets net of related debt or unrestricted net assets. Invested in capital assets, net of related

Honolulu Authority for Rapid Transportation
(a component unit of the City and County of Honolulu)

NOTES TO FINANCIAL STATEMENTS (continued)

June 30, 2012

NOTE A - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

8. Net Assets (continued)

debt consists of capital assets, net of accumulated depreciation and reduced by outstanding debt that is attributable to the acquisition, construction, or improvement of those assets. Unrestricted net assets consist of all other net assets not included in invested in capital assets net of related debt.

9. Risk Management

HART is exposed to various risks for losses related to torts; theft of or damage to, or destruction of assets; errors or omissions; natural disasters; and injuries to employees. A liability for a claim for a risk of loss is established if the information indicates that it is probable that a liability has been incurred at the date of the financial statements and the amount of the loss is reasonably estimable.

10. Compensated Absences

HART accrues accumulated vacation when earned by the employee. Vacation benefits accrue at a rate of one and three-quarters working days per month. Each employee is allowed to accumulate a maximum of 90 days of accrued vacation as of the end of the calendar year.

Sick leave accumulates at the rate of one and three-quarters working days for each month. Sick leave is taken only in the event of illness and is not convertible to pay; accordingly, sick leave is not accrued in the accompanying financial statements. Employees who retire or leave government service in good standing with 60 or more unused sick leave days are entitled to an additional service credit in the retirement system. At June 30, 2012, accumulated sick leave amounted to \$2,604,787.

11. Deferred Compensation Plan

All full-time employees of HART are eligible to participate in the City and County of Honolulu's Public Employees' Deferred Compensation Program (Plan), adopted pursuant to Internal Revenue Code Section 457. The Plan permits eligible employees to defer a portion of their salary until future years by contributing to a fund managed by a plan administrator. The deferred compensation amounts are not available to employees until termination, retirement, death, or unforeseeable emergency.

A trust fund was established to protect Plan assets from claims of general creditors and from diversion to any uses other than paying benefits to participants and beneficiaries. Deferred compensation plan assets of \$2,168,873 are not reported in the accompanying financial statements at June 30, 2012.

Honolulu Authority for Rapid Transportation
(a component unit of the City and County of Honolulu)

NOTES TO FINANCIAL STATEMENTS (continued)

June 30, 2012

NOTE B - CASH AND CASH EQUIVALENTS

Cash deposited with the City is maintained by the Department of Budget and Fiscal Services of the City. The City maintains a cash and investment pool that is used by all of the City's funds and HART. Information pertaining to credit risk and interest rate risk is available for only the total cash and investment pool, which is disclosed in the City's Comprehensive Annual Financial Report (CAFR) available at the City's website: <http://www1.honolulu.gov/budget/cafr.htm>.

The respective portion of this pool is displayed in the accompanying financial statements and cash and cash equivalents. The Hawaii Revised Statutes provide for the City's Director of Budget and Fiscal Services to deposit the cash with any national or state bank or federally insured financial institution authorized to do business in the State of Hawaii, provided that all deposits are fully insured or collateralized with securities held by the City or its agents in the City's name.

State statutes also authorize the City to invest in obligations of the U.S. Treasury and U.S. agencies, obligations of other states, cities and counties, mutual funds and bank repurchase agreements. Investments in repurchase agreements are primarily U.S. government or federal agency securities. The City does not have a policy relative to interest rate risk.

NOTE C – RECEIVABLES

Receivables as of June 30, 2012 were comprised of the following amounts:

Intergovernmental	
General excise tax	\$ 46,988,786
Federal grants	1,551,907
	<hr/>
	48,540,693
Other	73,797
	<hr/>
Total receivables	<u>\$ 48,614,490</u>

Honolulu Authority for Rapid Transportation
(a component unit of the City and County of Honolulu)

NOTES TO FINANCIAL STATEMENTS (continued)

June 30, 2012

NOTE D - CAPITAL ASSETS

Capital assets activity during 2012 was as follows:

	Balance July 1, 2011	Contributions	Additions	Balance June 30, 2012
Depreciable assets				
Equipment and machinery	\$ -	\$ 75,103	\$ 96,437	\$ 171,540
Total depreciable assets	-	75,103	96,437	171,540
Less accumulated depreciation	-	(25,407)	(18,069)	(43,476)
Total depreciable assets, net	-	49,696	78,368	128,064
Land	-	17,673,908	14,208,106	31,882,014
Construction in progress	-	285,666,871	230,954,729	516,621,600
Capital assets, net	<u>\$ -</u>	<u>\$ 303,390,475</u>	<u>\$ 245,241,203</u>	<u>\$ 548,631,678</u>

NOTE E - COMMITMENTS

Leases

HART leases office space at 1099 Alakea Street for its operations. The future minimum rental payments for operating leases at June 30, 2012 are as follows:

Years ending	
2013	\$ 1,090,500
2014	1,108,900
2015	1,144,900
2016	1,182,100
2017	1,079,200
2018 to 2021	<u>2,532,900</u>
Total Minimum Payments	<u>\$ 8,138,500</u>

Additionally, these leases provide for payment of common area charges. As of June 30, 2012, rent expense was \$1,600,702.

Honolulu Authority for Rapid Transportation
(a component unit of the City and County of Honolulu)

NOTES TO FINANCIAL STATEMENTS (continued)

June 30, 2012

NOTE E – COMMITMENTS (continued)

Other Commitments

HART has net contractual commitments at June 30, 2012 of \$1,346,012,091. These include contracts for construction, design, and professional services.

NOTE F - RELATED PARTY TRANSACTIONS

Intergovernmental Revenues

During the year ended June 30, 2012, the HART recognized intergovernmental revenues of \$631,760,417 which was comprised of \$447,284,489 of net assets of the City's Transit Fund as of June 30, 2011, less certain other City liabilities of \$6,189,065, as well as \$190,664,993 from the GET county surcharge.

Central Administrative Services Expense Fee

HART has an agreement with the City to pay a Central Administrative Services Expense (CASE) fee for treasury, personnel, purchasing, legal, and other services that the City provides to HART on an on-going basis. CASE fees totaled \$602,212 for the year ended June 30, 2012 and is included as part of administration and general expense in the statement of revenues, expenses and change in net assets.

NOTE G - EMPLOYEE BENEFIT PLANS

Defined Benefit Pension Plan

Substantially all employees of HART are members of the Employees' Retirement System of the State of Hawaii (ERS), a cost-sharing multiple-employer defined benefit public employee retirement plan. The ERS provides retirement benefits as well as death and disability benefits and is governed by a Board of Trustees. All contributions, benefits, and eligibility requirements are established by Hawaii Revised Statutes (HRS) Chapter 88 and can be amended by legislative action.

The ERS is composed of a contributory and hybrid contributory retirement plan. Prior to June 30, 1984, the plan consisted of only a contributory option. Effective July 1, 1984, legislation was enacted to create a noncontributory plan for members of the ERS who are also covered under Social Security. Persons employed in positions not covered by Social Security are precluded from the noncontributory plan. The noncontributory plan provides for reduced benefits and covers most eligible employees hired after June 30, 1984. Employees hired before that date were allowed to continue under the contributory plan or to elect the noncontributory plan and receive a refund of employee contributions.

Honolulu Authority for Rapid Transportation
(a component unit of the City and County of Honolulu)

NOTES TO FINANCIAL STATEMENTS (continued)

June 30, 2012

NOTE G - EMPLOYEE BENEFIT PLANS (continued)

Defined Benefit Pension Plan (continued)

All benefits vest after five and ten years of credited service under the contributory and noncontributory plans, respectively. Both plans provide a monthly retirement allowance based on the employee's age, years of credited service, and average final compensation (AFC). The AFC is the average salary earned during the five highest paid years of service, including the vacation payment, if the employee became a member prior to January 1, 1971. The AFC for members hired on or after that date and prior to January 1, 2003, is based on the three highest years of service, excluding the vacation payment. Effective January 1, 2003, the AFC is the highest three calendar years or highest five calendar years plus lump sum vacation payment, or last 36 credited months or last 60 credited months plus lump sum vacation payment.

Most covered employees under the contributory plan are required to contribute 7.8% of their salary. Prior to July 1, 2005, the funding method used to calculate the total employer contribution requirement was the Entry Age Normal Actuarial Cost Method. Under this method, employer contributions to the ERS were comprised of normal cost plus level annual payments required to liquidate the unfunded actuarial liability over the remaining period of 29 years from July 1, 2000. Effective July 1, 2008, employer contribution rates are a fixed percentage of compensation, generally 15% for most covered employees. HART's contribution to the ERS as of June 30, 2012 was \$809,516.

The 2004 State of Hawaii legislative sessions approved a hybrid retirement plan, which took effect on July 1, 2006. Employees who choose to be under this plan are required to contribute 6% of their salary and will receive pensions based on a 2% benefit formula instead of a 1.25% benefit formula under the current noncontributory plan. The hybrid plan does not affect HART's contributions to the ERS.

The ERS issues a Comprehensive Annual Financial Report (CAFR) that includes financial statements and required supplementary information, which may be obtained at the following address: Employees' Retirement System of the State of Hawaii, 201 Merchant Street, Suite 1400, Honolulu, Hawaii 96813.

Post-Retirement Health Care and Life Insurance Benefits

In addition to providing pension benefits, the State of Hawaii Employer-Union Health Benefits Trust Fund (EUTF), an agent multiple-employer plan provides certain health care (medical, prescription, vision, and dental) and life insurance benefits for retired City employees. Act 88 established the EUTF during the 2001 legislative session and is codified in HRS 87A. Contributions are based on negotiated collective bargaining agreements and are limited by State statute to the actual cost of benefit coverage.

For employees hired before July 1, 1996, the City pays 100% of the monthly health care premium for employees retiring with 10 or more years of credited service, and 50% of the monthly premium for employees retiring with fewer than 10 years of credited service.

Honolulu Authority for Rapid Transportation
(a component unit of the City and County of Honolulu)

NOTES TO FINANCIAL STATEMENTS (continued)

June 30, 2012

NOTE G - EMPLOYEE BENEFIT PLANS (continued)

Post-Retirement Health Care and Life Insurance Benefits (continued)

For employees hired after June 30, 1996 and retiring with 25 years or more of service, the City pays the entire health care premium. For employees retiring with at least 15 years of service but fewer than 25 years of service, the City pays 75% of the monthly Medicare or non-Medicare premium. For those retiring with at least 10 years but less than 15 years of service, the City pays 50% of the retired employees' monthly Medicare or non-Medicare premium. For those retiring with less than 10 years of service, the City makes no contributions.

For employees hired after June 30, 2001 and retiring with over 25 years of service, the City will pay 100% of the monthly premium based on the self plan. For those who retire with at least 15 years but fewer than 25 years of service, the City will pay 75% of the retired employees' monthly Medicare or non-Medicare premium based on the self plan. For those retiring with at least 10 years but fewer than 15 years of service, the City pays 50% of the retired employees' monthly Medicare or non-Medicare premium based on the self plan. For those with fewer than 10 years of service, the City makes no contributions.

The City also reimburses 100% of Medicare premium costs for retirees and qualified dependents (through the State), who are at least 65 years of age and have at least 10 years of service.

Annual Other Postemployment Benefits (OPEB) Cost and Net OPEB Obligation

HART implemented Governmental Accounting Standards Board (GASB) Statement No. 45, Accounting and Financial Reporting by Employers for Postemployment Benefits Other than Pensions, prospectively beginning with the fiscal year ended June 30, 2012. HART is required to contribute the annual required contribution (ARC) of the employer, an actuarially determined amount. The ARC represents a level of funding that, if paid on an ongoing basis, is projected to cover normal cost each year and amortize any unfunded actuarial liabilities (or funding excess) over a period not to exceed 30 years. The following table displays the components of the annual OPEB cost, the amount contributed to the plan, the changes to the net OPEB obligation, and the percentage of annual OPEB cost contributed:

Actuarial accrued liability	\$ 1,964,000
Actuarial value of plan assets	<u>-</u>
Unfunded actuarial accrued liability (UAAL)	<u>\$ 1,964,000</u>
Funded ratio	0.0%
Covered payroll (active plan members)	\$ 5,385,000
UAAL as a percentage of covered payroll	36.5%

Honolulu Authority for Rapid Transportation
(a component unit of the City and County of Honolulu)

NOTES TO FINANCIAL STATEMENTS (continued)

June 30, 2012

NOTE G - EMPLOYEE BENEFIT PLANS (continued)

Annual Other Postemployment Benefits (OPEB) Cost and Net OPEB Obligation (continued)

Funded Status and Funding Progress

The following is the schedule of the funded status and funding progress of the plan as of the most recent actuarial valuation date, that is, July 1, 2011:

Annual required contribution	\$ 208,000
Interest on net OPEB obligation	-
Adjustment to annual required contribution	-
	-
Annual OPEB cost	208,000
Contributions made	-
	-
Increase in net OPEB obligation	208,000
Net OPEB obligation at beginning of fiscal year	-
	-
Net OPEB obligation at end of fiscal year	\$ 208,000
Percentage of annual OPEB cost contributed	0%

Actuarial valuations of an ongoing plan involve estimates of the value of reported amounts and assumptions about the probability of occurrence of events far into the future. Examples include assumptions about future employment, mortality, and the healthcare cost trend. Amounts determined regarding the funded status of the plan and the annual required contributions of the employer are subject to continual revision as actual results are compared with past expectations and new estimates are made about the future. The schedule of funding progress, presented as required supplementary information following the notes to the financial statements, presents multiyear trend information that shows whether the actuarial value of plan assets is increasing or decreasing over time relative to the actuarial accrued liabilities for benefits.

Projections of benefits for financial reporting purposes are based on the substantive plan and include the types of benefits provided at the time of each valuation and the historical pattern of sharing of benefit costs between the employer and plan members to that point. The actuarial methods and assumptions used include techniques that are designed to reduce short-term volatility in actuarial accrued liabilities and the actuarial value of assets, consistent with the long-term perspective of the calculations.

Honolulu Authority for Rapid Transportation
(a component unit of the City and County of Honolulu)

NOTES TO FINANCIAL STATEMENTS (continued)

June 30, 2012

NOTE G - EMPLOYEE BENEFIT PLANS (continued)

Annual Other Postemployment Benefits (OPEB) Cost and Net OPEB Obligation (continued)

In the most recent actuarial valuation, dated as of July 1, 2011, the entry age normal actuarial cost method was used. The actuarial assumptions included a discount rate of 7.0%, which was based on EUTF's anticipated asset investment return and the HART's anticipated funding level. Actuarial assumptions also included an annual health cost trend rate of 9.25% for 2012, reduced by decrements to an ultimate rate of 5% after 8 years, expected payroll increases of 3.5% to amortize unfunded liabilities, projected salary increases based on the ERS July 1, 2011 assumptions to determine the actuarial accrued liability, and an inflation rate of 3.0%. The unfunded actuarial accrued liability is being amortized over a 30 year closed period as a level percentage of projected payrolls.

The EUTF issues a stand-alone financial report that includes financial statements and required supplementary information, which may be obtained at the following address: State of Hawaii Employer-Union Health Benefits Trust Fund, 201 Merchant Street, Suite 1520, Honolulu, Hawaii 96813.

NOTE H - LITIGATION AND SUBSEQUENT EVENTS

HART is party to various legal proceedings arising in the normal course of business. The outcome of individual matters is not predictable. However, management believes that the ultimate resolution of all such matters will not have a material adverse effect on HART's financial position, results of operations, or liquidity.

HonoluluTraffic.com, et. al. v. Federal Transit Administration, et. al.

In May 2011, a lawsuit was filed against the Federal Transit Administration (FTA) and the City alleging violations of federal law in approving the City's rail transit project. Among other claims, the allegations were that the defendants improperly studied only the first 20 miles of the project and not the full route, that alternatives to the project were not properly considered, that potential native Hawaiian burial sites were not studied prior to the approval of the project and that defendants failed to comply with the federal Department of Transportation Act.

On November 1, 2012, the United States District Court for the District of Hawaii ruled in favor of the plaintiffs with regard to three matters, and ruled in favor of the defendants in all other respects. The three matters were that the defendants did not adequately analyze above ground traditional cultural properties, they did not adequately support their rejection of an alternative route involving a tunnel underneath Beretania Street and they did not adequately support their determinations regarding the impact of the rail project on Mother Waldron Park. A hearing has been scheduled for December 2012 for this case.

Honolulu Authority for Rapid Transportation
(a component unit of the City and County of Honolulu)

NOTES TO FINANCIAL STATEMENTS (continued)

June 30, 2012

NOTE H – LITIGATION AND SUBSEQUENT EVENTS (continued)

Bombardier v. Department of Budget and Fiscal Services, et. al.

Following the disqualification of its Core Systems Design-Build-Operate Maintain Contract proposal as nonresponsive, Bombardier filed a bid protest with the City Chief Procurement Officer. This bid protest was denied, and Bombardier then appealed to the Office of Administrative Hearings, State Department of Commerce and Consumer Affairs. The Hearings Officer ruled against Bombardier, which then appealed to the First Circuit Court, where the Circuit Court judge affirmed the decision of the Hearings Officer. Bombardier then appealed to the Intermediate Court of Appeals (ICA). On October 17, 2012, the ICA issued a decision affirming the decisions of the Circuit Court and the Hearings Officer in their entirety.

Kaleikini v. Yoshioka et al.

On January 31, 2011, Plaintiff filed a lawsuit in the First Circuit Court, challenging the approval of the Final Environmental Impact Statement (FEIS) as well as other approvals for the City's rail transit project that HART is now responsible for developing, operating, maintaining and expanding. Plaintiff alleged various State law violations but primarily alleged that an archaeological inventory survey (AIS) had not first been completed for the entire 20-mile project alignment, in violation of State law. Instead, the project was proposed to be built in four sections, with an AIS to be completed for each section prior to any construction taking place in that section. The case involves both City and State of Hawaii defendants.

The Circuit Court granted the City defendants' Motion to Dismiss Complaint and/or for Summary Judgment, and denied the Plaintiff's Motion for Preliminary Injunction and Motion for Reconsideration. In doing so, the Circuit Court determined that the phased approach for AIS completion proposed for the rail project met applicable State law requirements.

Plaintiff then filed an appeal in the ICA, where the matter was fully briefed by all parties. The case was then transferred to the Hawaii Supreme Court. Shortly after the transfer, the Plaintiff-Appellant filed a motion for injunctive relief pending appeal, which the court denied. Oral argument before the Hawaii Supreme Court occurred on May 24, 2012.

On August 24, 2012, the Supreme Court of the State of Hawaii in the case of Kaleikini v. Yoshioka et al. vacated the circuit court's judgment in favor of the City and State, ruling that the administrative rules implementing HRS §§ 6E-8 and 6E-42 do not permit the State Historic Preservation Division (SHPD) of the Department of Land and Natural Resources to concur in the rail project absent a complete Archaeological Inventory Survey (AIS) for the entire project. The project had received SHPD approval to conduct separate AISs for each of the four construction phases, with construction proceeding in each phase after completion of the AIS for that phase. The case will now be remanded to the State Circuit Court.

Honolulu Authority for Rapid Transportation
(a component unit of the City and County of Honolulu)

NOTES TO FINANCIAL STATEMENTS (continued)

June 30, 2012

NOTE H – LITIGATION AND SUBSEQUENT EVENTS (continued)

Kaleikini v. Yoshioka et al. (continued)

On September 4, 2012, the City Defendants filed a motion to reconsider, modify and/or clarify the Supreme Court's opinion of August 4, 2012. On September 27, 2012, the Supreme Court denied the motion. On October 5, 2012, the Plaintiffs filed a request for attorney's fees and costs with the Supreme Court. The State and City Defendants filed oppositions to this request, and the request is pending decision of the court.

Based on the Hawaii Supreme Court's decision, ground disturbing construction activities related to the project have been halted pending completion of all AIS work or further court rulings. HART is continuing with property acquisitions, AIS work and other non-ground disturbing construction activities.

Management estimates that the remaining AIS work for the entire 20-mile guideway will be completed in 9 to 12 months.

HART estimates that delay expenses will cost the project approximately \$63-\$84 million.

PART II
SUPPLEMENTARY INFORMATION

Honolulu Authority for Rapid Transportation
(a component unit of the City and County of Honolulu)

SCHEDULE OF FUNDING PROGRESS

June 30, 2012

<u>Actuarial Valuation Date</u>	<u>Actuarial Value of Assets</u>	<u>Actuarial Accrued Liability (AAL)</u>	<u>Unfunded AAL (UAAL)</u>	<u>Funded Ratio</u>	<u>Covered Payroll</u>	<u>UAAL as a Percentage of Covered Payroll</u>
July 1, 2011	-	1,964,000	1,964,000	0%	5,385,000	36.50%

PART III
REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING
AND ON COMPLIANCE AND OTHER MATTERS

Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance With Government Auditing Standards

To the Directors
Honolulu Authority for Rapid Transportation
City and County of Honolulu

We have audited the accompanying statement of net assets and the related statements of revenues, expenses and change in net assets and cash flows of the Honolulu Authority for Rapid Transportation (a component unit of the City and County of Honolulu) ("HART"), as of and for the year ended June 30, 2012, and have issued our report thereon dated November 19, 2012. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

Management of HART is responsible for establishing and maintaining effective internal control over financial reporting. In planning and performing our audit, we considered HART's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of HART's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of HART's internal control over financial reporting.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined previously. However, we identified a deficiency in internal control over financial reporting, described in the accompanying schedule of findings as 2012-01 that we consider to be a significant deficiency in internal control over financial reporting. A significant deficiency is a deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether HART's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit, and accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under Government Auditing Standards.

PKF Pacific Hawaii LLP | 1132 Bishop Street | Suite 2500 | Honolulu | HI 96813-2864
Tel: 808 536 0066 | Fax: 808 523 8590 | www.pkfpacifichawaii.com

To the Directors
Honolulu Authority for Rapid Transportation
City and County of Honolulu

HART's response to the finding identified in our audit is described in the accompanying response of the affected agency. We did not audit HART's response and, accordingly, we express no opinion on it.

This report is intended solely for the information and use of management of HART, and others within the entity, and is not intended to be and should not be used by anyone other than these specified parties.

PKF PACIFIC HAWAII LLP

Honolulu, Hawaii
November 19, 2012

PART IV
SCHEDULE OF FINDINGS

Honolulu Authority for Rapid Transportation
(a component unit of the City and County of Honolulu)

SCHEDULE OF FINDINGS

June 30, 2012

FINDING 2012-01 – FINANCIAL STATEMENT REPORTING

Criteria

Management of HART is responsible for maintaining a complete set of financial records that accurately reflects their financial position and results of their operations in accordance with accounting principles generally accepted in the United States of America (US GAAP).

Condition

During our audit we received 29 post-closing adjustments to the trial balance from management. These adjustments were recorded to reflect the correction of certain assets, liabilities, revenues and expenses. In addition, the following items were not properly presented on the financial statements:

- \$518,674,109 of unrestricted net assets on the statement of net assets.
- \$447,284,490 of net assets of the City's Transit Fund as of June 30, 2011 and \$190,664,993 from the GET county surcharge in the statement of revenues, expenses, and change in net assets, as well as the related effects on the statement of cash flows.
- \$6,189,065 of additional intergovernmental revenues, as well as the related effects on the statement of cash flows.
- \$602,212 of operating expenses consisting of amounts paid to the City for Central Administrative Services Expenses in the statement of revenues, expenses and change in net assets, as well as the related effects on the statement of cash flows.

During our audit we also noted the following missing or erroneous disclosures:

- Beginning cash on the statement of cash flows was overstated by \$420,319,695.
- \$303,390,475 of capital contributions was excluded from non-cash investing, capital related financing activities in the statement of cash flows.
- Supplementary schedule of funding status on post-retirement health care and life insurance benefits was excluded.
- Disclosure of total future minimum lease payments on HART's leases was understated by approximately \$738,000.

Cause

The above finding was caused primarily by lack of sufficient staff resources allocated to preparing for the audit and the detailed review of the information prepared.

Effect

Post-closing adjustments causes delays in the audit timing and increases the cost of the audit process. As a result of our audit procedures, adjustments and disclosures for the conditions noted in the previous section were proposed and accepted by management, to present HART's financial statements and related notes in accordance with US GAAP.

Honolulu Authority for Rapid Transportation
(a component unit of the City and County of Honolulu)

SCHEDULE OF FINDINGS

June 30, 2012

Recommendation

We recommend that management of HART consider the amount of resources needed in order to satisfy its external reporting requirements. In addition, we recommend that HART implement a more formal review process for financial reporting, which would include a detail review of the financial statements and related financial statement disclosures to ensure that the financial statements are prepared in accordance with accounting principles generally accepted in the United States of America. This review would also include the completion of a US GAAP disclosure checklist.

In addition, accounting tasks such as monthly reconciliations play a key role in proving the accuracy of accounting data and information included in interim financial statements. Therefore, in order to provide more accurate and timely accounting information, we recommend that HART consider establishing more effective review and reconciliation policies and procedures as a customary part of the accounting process. This would involve monthly reconciliations of accounts, making adjustments throughout the year that have typically been made at year-end only, and performing more frequent reviews of the general ledger throughout the year, including making any necessary adjustments.

ATTACHMENT B

Honolulu Authority for Rapid Transportation

RESOLUTION NO. 2012 – 4

REVISING THE EQUAL EMPLOYMENT OPPORTUNITY POLICY OF THE BOARD OF DIRECTORS OF THE HONOLULU AUTHORITY FOR RAPID TRANSPORTATION

WHEREAS, the Honolulu Authority for Rapid Transportation (HART) has been established pursuant to Article XVII of the Revised Charter of the City and County of Honolulu 1973, as amended (Charter); and

WHEREAS, Federal Transit Laws, 49 U.S.C. § 5332 (b), provide that “a person may not be excluded from participating in, denied a benefit of, or discriminated against under, a project, program, or activity receiving financial assistance under this chapter because of race, color, creed, national origin, sex, or age”; and

WHEREAS, under Federal law, agencies employing more than fifty employees and requesting or receiving capital or operating assistance in excess of \$1 million are required to prepare and implement a formal equal employment opportunity program; and

WHEREAS, HART currently employs more than fifty employees and has requested or received more than \$1 million in capital or operating assistance; and

WHEREAS, on July 21, 2011, the Board approved Resolution 2011-7, establishing the Equal Employment Opportunity Policy of the Board of Directors of the Honolulu Authority for Rapid Transportation; and

WHEREAS, the Federal Transit Administration has recommended certain revisions be made to the Equal Employment Opportunity Policy as part of HART’s submission for its Full Funding Grant Agreement; and

WHEREAS, HART continues to be committed to the principles of affirmative action and equal employment opportunity;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of HART as follows:

1. That the revised Equal Employment Opportunity Policy, shown in Exhibit A attached hereto and made a part hereof by reference, be and hereby is, ratified as the policy of HART; and
2. That the Executive Director is authorized to implement the policy described in Exhibit A and to ensure that Authority staff and contractors, as appropriate, adhere to this policy; and
3. That this Resolution shall take effect immediately upon its adoption.

ADOPTED by the Board of the Honolulu Authority for Rapid Transportation on

_____.

Exhibit A – Equal Employment Opportunity Policy of the Honolulu Authority for Rapid Transportation

Board Chair

ATTEST:

Board Administrator

DRAFT

HART

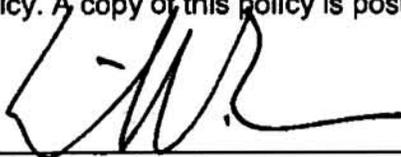
HONOLULU AUTHORITY for RAPID TRANSPORTATION

Equal Employment Opportunity Program

Policy Statement

1. The Honolulu Authority for Rapid Transportation (HART) is an Equal Employment Opportunity (EEO) employer. HART affirms its commitment to treat all applicants for employment and employees without regard to race, religion, creed, color, national origin, sex, age, disability, veteran status, marital status or any other class protected by local, state, or federal law. HART and its employees are prohibited to discriminate against an applicant for employment or employee on the basis of race, color, religion, creed, sex, age, national origin, or any other basis protected by local, state, or federal law, or to be excluded from participation in, or denied the benefits of, or be subject to discrimination under any project, program, or activity funded in whole or in part through federal financial assistance.
2. This policy extends to all areas of employment including recruitment, selection and placement, compensation, promotion, transfer, discipline, demotion, lay-off, termination, training, daily working conditions, benefits and all other terms and conditions of employment.
3. The HART is thoroughly committed to an affirmative action program that includes goals and timetables.
4. The responsibility for the implementation and day to day management of the HART EEO Program is assigned to the HART EEO Officer, Charles Bayne. All HART managers and supervisors share in the responsibility of ensuring compliance is achieved through understanding, communicating, and active involvement in the support of this policy. Performance evaluations of managers and supervisors shall include evaluating the success of the EEO program in the same manner as performance on other goals.
5. Applicants and employees have the right to file complaints alleging discrimination with the HART EEO Office, the City and County of Honolulu's Equal Opportunity Office, the Hawaii Civil Rights Commission, the Equal Employment Opportunity Commission (EEOC) and the Federal Transit Administration's Office of Civil Rights.
6. Achievement of the HART EEO goals will benefit recipients, subrecipients and contractors through fuller utilization and development of previously underutilized human resources.

This policy will be updated a minimum of every three years. All new hires will receive a copy of the HART EEO Policy. A copy of this policy is posted on the HART's website.



Daniel A. Grabauskas
Executive Director and CEO

HART

HONOLULU AUTHORITY for RAPID TRANSPORTATION

EQUAL EMPLOYMENT OPPORTUNITY PROGRAM

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HONOLULU AUTHORITY for RAPID TRANSPORTATION

INTRODUCTION

The Honolulu Authority for Rapid Transportation (HART) has established a Equal Employment Opportunity (EEO) program in accordance with the provisions of Section 19 of the Urban Mass Transportation Act of 1964 (UMT Act). HART has received federal financial assistance from FTA, and as a condition of receiving this assistance, HART has signed an assurance with the FTA that it will comply with all the provisions of Section 19 of the UMT Act.

EEO PROGRAM

Section I – Purpose

General – No person in the United States shall, on the grounds of race, color, creed, national origin, sex, disability, or age, be excluded from participation in, or denied the benefits of, or be subject to discrimination under any project, program, or activity funded in whole or in part through federal assistance under Section 19 of the 1964 Urban Mass Transportation Act (UMTA).

Compliance: The HART Executive Director shall ensure compliance with the General purpose of this policy.

Section II – Objectives

This policy's objectives are:

1. To ensure that the Honolulu Authority for Rapid Transportation will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, disability, or age.
2. To ensure that the Honolulu Authority for Rapid Transportation will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to race, color, creed, national origin, sex, disability, or age. Such action shall include, but not be limited to: hiring, promotion or upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, disciplinary actions, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Honolulu Authority for Rapid Transportation shall also include a written, affirmative action plan designed to achieve full utilization of minorities and women in all aspects of the workforce.
3. To ensure that the Honolulu Authority for Rapid Transportation makes available to employees and applicants for employment, notices setting forth the Honolulu Authority for Rapid Transportation's EEO policy. In addition applicants/employees will be notified of the Honolulu Authority for Rapid Transportation's procedures for filing complaints of discrimination internally, as well as externally with the City and County of Honolulu's Equal Opportunity Office, The Hawaii Civil Rights Commission, the Equal Employment Opportunity Commission (EEOC), and/or the Federal Transit Administration Office of Civil Rights.

Section III – Definitions

For purposes of this policy, the following definitions will be used:

1. **Affected Class:** Any employee group (for example, minorities and women) that has suffered, and continues to suffer, the effects of unlawful discrimination.
2. **Affirmative Action:** The methods and measures taken to correct imbalances in the work force and eliminate the effects of past discrimination employment practices.
3. **Affirmative Action Plan:** Means a written, detailed, results oriented set of procedures designed to achieve prompt and full utilization of minorities and women at all levels and in all parts of the recipient's workforce.
4. **Applicant Flow Record:** Written, objective measure used to analyze and monitor the recruiting efforts in an employer's Affirmative Action Plan. This record shows each job applicant's name, race, national origin, sex, referral source, data of application, position applied for, whether the job applied for (or any other job) was offered or why it wasn't.
5. **Availability (Workforce):** Availability is an estimate of the number of qualified minorities and/or women available for employment in a given job group. Availability is determined to establish a benchmark against which the demographic composition of the workforce can be compared in order to determine whether barriers to equal employment opportunity may exist by job groups.
6. **Balanced and Representative Work Force:** A work force whose composition at all levels approximates the composition of the relevant civilian labor force in terms of race, sex, and ethnicity.
7. **Compliance:** Refers to a condition in which the FTA will find Honolulu Authority for Rapid Transportation has met the requirements in circular UMTA C 4704.1, and there is no indication or evidence of discrimination on the basis of race, color, creed, national origin, sex, disability, or age.
8. **Concentration:** Means a higher representation of a particular group (e.g., Blacks, Hispanics, women, etc.) in a job category or department as compared to their representation in the relevant labor market.
9. **Contractor:** Means any entity or organization that has entered into a federally funded contract with Honolulu Authority for Rapid Transportation.
10. **Discrimination:** Refers to any act, or any failure to act, that has the purpose or effect of limiting, excluding, or denying a person employment opportunity because of race, color, creed, national origin, sex, disability, or age.
11. **Disparate Treatment:** Discrimination within the meaning of Title VII of the Civil Rights Act of 1964 that occurs when an employer or other person subject to the Act intentionally excludes individuals from an employment opportunity on the basis of race, color, religion, sex or national origin. Evidence of exclusion need not be

embodied in an employer's employment policies or practices. However, whenever similarly situated individuals of a different race, color, religion, or national origin group are accorded disparate treatment in the context of a similar employment situation, it is reasonable to infer (absent other evidence) that discrimination has occurred. The presence of a discriminatory motive can be inferred from the fact there were differences in treatment.

12. **DTS:** The Department of Transportation Services

13. **EEOC:** The Equal Employment Opportunity Commission.

14. **Equal Employment Opportunity:** The availability of employment and advancement of all people on the basis of merit, capability, and potential, and with out regard to race, color, national origin, sex, religion or age. A concept which addresses Equal Opportunity for all persons in employment which includes recruitment, application processing, hiring, job placement, compensation, promotion, transfer, and termination.

15. **Equal Employment Opportunity Job Descriptions:** The plan utilizes job categories as defined by the EEOC to organize HART jobs. EEO Job categories, also known as job groups, are a means to separate various occupations into groups based upon job title, skill and knowledge, requirements, and level of responsibility involved. The category titles used within this plan are, Executive/Senior Level Officials and Managers, First/Mid Level Officials and Managers, Professionals, Technicians, Sales Workers, Administrative Support Workers, Craft Workers, Operatives, Laborers and Helpers, and Service Workers.

16. **Equal Opportunity:** A system of practices under which individuals are not excluded from any opportunity or benefits because of their sex, disability, age, religion, race, color, national origin, or ancestry.

17. **FTA:** Federal Transit Administration.

18. **Goals:** As part of an affirmative action program, goals to eliminate employment discrimination and effects of past discrimination are required. Goals are specific, temporary and flexible.

19. **Good Faith Efforts:** Refers to those actions taken to achieve the objectives of the EEO Program. These actions may include, but are not limited to, the establishment and conduct of processes to implement specific provisions of this policy.

20. **HART:** Honolulu Authority for Rapid Transportation.

21. **Intent Versus Effect:** In EEO law, corporate or personal intentions have no bearing on discrimination. What does count is the effect of what is being done. If discrimination has occurred, the intention not to discriminate is of no value in defending one's position.

22. **Job Group:** Aggregate job titles with similar work content, compensation and opportunities for advancement. Job groups are also associated with job categories also known as EEO categories.
23. **Job-Relatedness:** According to EEO court decisions, any criterion employed to determine whether a person will be hired, fired, transferred, promoted, given a salary increase, and so forth, must be directly related to job performance.
24. **Minority or Minority Group Persons includes the following:**
- a. **Hispanic or Latino:** A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.
 - b. **Black or African American (not Hispanic or Latino):** A person having origins in any of the Black racial groups of Africa;
 - c. **Asian (not Hispanic or Latino):** A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, including for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand and Vietnam.
 - d. **Native Hawaiian or Other Pacific Islander (not Hispanic or Latino):** A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
 - e. **American Indian or Alaskan Native (not Hispanic or Latino):** A person having origins in any of the original people of North and South America (including Central America), and who maintain cultural identification through tribal affiliation or community attachment.
25. **National Origin:** Means the particular Nation where a person was born or where the person's parents or ancestors were born.
26. **Noncompliance:** Means a failure to meet the requirements of FTA Circular UMTA C 4704.1 and guidance issued pursuant to the circular or failure to implement an approved EEO program.
27. **Occupational Parity:** The representation of women and minorities in particular occupational categories in the recruiting area. This has generally been accepted as a primary basis for defining affirmative action goals and underutilization.
28. **Parity:** Statistical parity is the objective of affirmative action efforts. Parity is achieved when the percentage of women and minorities in an organization's work force matches the percentage of protected class members available in the labor force.
29. **Placement Goals:** Placement goals serve as objectives reasonably attainable by means of applying every good faith effort to make all aspects of the entire affirmative action program work. Placement goals also are used to measure progress toward achieving equal employment opportunity.
30. **Present Effect of Past Practices:** The concept of present effects of past practices means that employers are liable today for events and decisions of the past. Because past discriminatory practices prevented women and minorities from

acquiring the necessary experience or skills to be promoted or do certain jobs, they are considered to be suffering the present effects of past discrimination.

31. **Probable Noncompliance:** Refers to a condition in which the FTA has found that the Honolulu Authority for Rapid Transportation does not fully satisfy these requirements and has requested the Honolulu Authority for Rapid Transportation to take remedial or corrective actions to achieve compliance or has initiated an enforcement action against Honolulu Authority for Rapid Transportation.
32. **Problem Area(s):** The identified cause of job group underrepresentation found within a job group.
33. **Promotion:** The movement of an employee to a position and title having a higher maximum salary range than the position previously held.
34. **Retaliation:** To take adverse employment action against an individual because they have exercised their rights protected under law by complaining in good faith about discrimination, harassment, and/or retaliation, or assisted or participated in an investigation of such allegations.
35. **Selection Process:** Steps involved in employment or promotion decisions. Generally includes initial screening interviews; filling out applications; tests for employment; background and/or reference checks; actual interview for employment; and decision whether or not to hire or promote the individual.
36. **Subcontractor:** Means any entity or organization that has entered into a subcontract relating to a federally funded contract with a contractor to provide a service in connection with a program or activity initiated by the Honolulu Authority for Rapid Transportation.
37. **Timetables:** The time frame (in years) set for attaining measurable goals in an affirmative action program.
38. **Transit-related employee:** Is an employee of the Honolulu Authority for Rapid Transportation who is involved in any aspect of an agency's mass transit operation funded by the FTA.
39. **UMTA Activity:** Means any program of assistance authorized by sections of the UMT Act; the Federal Aid Urban Systems Program, 23 U.S.C. 142(a)(2); and the Interstate Transfer Program 23 U.S.C. 103(4)(e).
40. **Underutilization:** Refers to a condition where there are fewer minorities and/or women in a particular job category or department than would reasonably be expected based on their presence in the relevant labor force.
41. **Workforce:** The total of all regular authorized positions within a department. Such positions include only regular full-time and part-time positions, excluding those specifically exempted by the appointing authority.

Section IV – Coverage

1. **General** – All programs administered by the FTA are subject to Section 19 of the UMT Act. These include the assistance programs authorized by the UMT Act, 23 U.S.C. 142(a)(2), and 23 U.S.C. 103(e)(4). These programs are also covered by the implementing regulations 28 CFR Part 42, Subpart F and 49 CFR Part 21. In addition, all recipients are required to comply with Part II, Section 110(a) of the FTA Standard Grant Contract. These obligations are to be re-delegated to any contractor/subcontractor in a federally funded contract.
2. **Threshold Requirements.** The Honolulu Authority for Rapid Transportation is required to comply with program requirements as outlined in this policy if it meets the following thresholds:
 - a. Employs 50 or more transit-related employees; and,
 - b. Requests and receives capital or operating assistance under Sections 2, 4(i), or 9 of the UMT Act; assistance under 23 U.S.C. 142(a)(2) or 23 U.S.C. 103(e)(4), or any combination thereof, in excess of \$1 million in the previous Federal fiscal year; or requests or receives planning assistance under Sections 8 and/or 9 in excess of \$250,000 in the previous Federal fiscal year.

The Honolulu Authority for Rapid Transportation exceeds both thresholds, (a) and the first part of (b).

3. **Frequency of Update** – The Honolulu Authority for Rapid Transportation shall submit to the FTA an updated EEO submission on a triennial basis or as major changes occur in the workforce or employment conditions. At the discretion of the FTA Office of Civil Rights, less information may be requested where the Honolulu Authority for Rapid Transportation's previously submitted EEO program has not changed significantly.
4. **Other Information** - The FTA Area Civil Rights Officer may request information, in addition to that required by this policy, from the Honolulu Authority for Rapid Transportation or its subrecipients to resolve questions concerning EEO compliance. In certain instances, less information will suffice. In cases in which additional information is needed, this request will be made in writing to the Honolulu Authority for Rapid Transportation. Failure to submit information requested by the FTA may delay completion of a compliance review or delay the further consideration of a pending grant application(s). Failure by the Honolulu Authority for Rapid Transportation to comply with the terms of this policy may result in the finding by the FTA of noncompliance with Section 19 and Section 110(a) of the FTA Standard Grant Contract and the imposition of appropriate sanctions.

Chapter II – EEO Program Components

Overview - While Section 19 prohibits discrimination on the basis of “race, color, creed, national origin, sex, or age, this program primarily addresses and prescribes specific affirmative programmatic components to assure nondiscrimination by the Honolulu Authority for Rapid Transportation and its qualifying contractors on the basis of race,

national origin, and sex. Circular UMTA C 4704.1 requires recipients and contractors to comply with prohibitions against discrimination on the basis of age established in the Age Discrimination in Employment Act of 1967, as amended, and prohibitions against discrimination on the basis of creed, as set out in EEOC guidelines interpreting Title VI of the Civil Rights Act of 1964. It also incorporates by reference requirements for compliance with prohibitions against discrimination on the basis of disability established in DOT regulations implementing the Rehabilitation Act of 1973, as amended, 49 CFR Part 27.

Program Requirements

Section I - Policy Statement

1. The Honolulu Authority for Rapid Transportation (HART) is an Equal Employment Opportunity (EEO) employer. HART affirms its commitment to treat all applicants for employment and employees without regard to race, religion, creed, color, national origin, sex, age, disability, veteran status, marital status or any other class protected by local, state, or federal law. HART and its employees are prohibited to discriminate against an applicant for employment or employee on the basis of race, color, religion, creed, sex, age, national origin, or any other basis protected by local, state, or federal law, or to be excluded from participation in, or denied the benefits of, or be subject to discrimination under any project, program, or activity funded in whole or in part through federal financial assistance.
2. This policy extends to all areas of employment including recruitment, selection and placement, compensation, promotion, transfer, discipline, demotion, lay-off, termination, training, daily working conditions, benefits and all other terms and conditions of employment.
3. The HART is thoroughly committed to an affirmative action program that includes goals and timetables.
4. The responsibility for the implementation and day to day management of the HART EEO Program is assigned to the HART EEO Officer, Charles Bayne. All HART managers and supervisors share in the responsibility of ensuring compliance is achieved through understanding, communicating, and active involvement in the support of this policy. Performance evaluations of managers and supervisors shall include evaluating the success of the EEO program in the same manner as performance on other goals.
5. Applicants and employees have the right to file complaints alleging discrimination with the HART EEO Office, the City and County of Honolulu's Equal Opportunity Office, the Hawaii Civil Rights Commission, the Equal Employment Opportunity Commission (EEOC) and the Federal Transit Administration's Office of Civil Rights.
6. Achievement of the HART EEO goals will benefit recipients, subrecipients and contractors through fuller utilization and development of previously underutilized human resources.

This policy will be updated a minimum of every three years. All new hires will receive a copy of the HART EEO Policy. A copy of this policy is posted on the HART's website.

Section II – Dissemination

Internal Dissemination

A successful Equal Employment Opportunity Plan requires effective communication. HART's Equal Employment Opportunity (EEO) Policy and Affirmative Action (AA) Plan will be disseminated to deputy directors, deputy project officers, department directors and managers, HR service delivery managers and department human resources staff.

Management meetings held at least once a year to discuss the HART EEO program and its implementation. Meetings with minority and female employees for input on the HART EEO Program will be held twice a year in June and December.

Employees will have access to the full text of the EEO Plan upon request and shall be informed of this right. Any employees who are involved in organization and/or community groups which have special contacts with minorities and women's groups are encouraged to report to the EEO Officer of HART about the existence of such groups. Information collected about these groups will be passed on to other employees at staff meetings and employee notifications. A copy of the EEO Policy will be included in employee handbooks, reports, manuals and union contracts as appropriate.

EEO-related posters will be posted on all employee bulletin boards along with a copy of the EEO Policy Statement.

The policy, purpose and overall goals of the HART EEO Plan will be communicated to new employees as part of their new employee orientation.

External Dissemination

The EEO Policy as well as appropriate elements of the program will be available to external organizations.

Copies of the EEO Program will be provided to appropriate federal agencies upon request for regulatory compliance purposes.

The EEO Policy will be available to individuals and organizations that represent persons of color, women, veterans and persons with disabilities.

HART will ensure it presents itself as an equal employment opportunity employer by including statements to that effect in all job announcements and advertisements.

The EEO Policy will be made accessible to the public by making hard copies available and posting electronic copies on the HART website.

The EEO Policy will be provided to the labor unions, public and private employment agencies, education institutions, minority and women organizations and civil rights organization.

The EEO Policy will be provided to appropriate media (particularly those serving specific groups, i.e. minority groups, women and disabled).

Section III – Administration

1. The HART Executive Director shall be the HART EEO Director and the ultimate authority and responsibility for the implementation of the HART EEO Program. The HART EEO Director shall delegate duties to achieve the policy goals as necessary and have the following duties:
 - a. The HART EEO Director shall have the final authority and responsibility for compliance with the HART EEO Program.
 - b. The HART EEO Director shall delegate to the HART EEO Officer the responsibility for coordinating the overall administration of the HART EEO Program.
2. The HART EEO Officer shall have the following duties:
 - a. Shall develop and recommend an EEO policy and program, including internal and external communication procedures, setting goals and timetables.
 - b. Shall design, implement and monitor an internal audit and reporting system to measure program effectiveness and to determine where progress has been made and where further action is needed.
 - c. Implement, monitor, and ensure the Honolulu Authority for Rapid Transportation's compliance with EEO regulations in the day-to-day administration and reporting requirements of the Honolulu Authority for Rapid Transportation's EEO Program.
 - d. Shall be responsible for checking and signing all related reports, concurring on all hires, and processing employment discrimination complaints.
 - e. Ensure that all supervisors and managers are aware of the details of the HART EEO Program.
 - f. Report to the HART EEO Director on a minimum of once a year, on the progress, accomplishments and goals of the program.
 - g. Collect and analyze employment data, identify problem areas, set goals and timetables, and develop programs to achieve goals.
 - h. Periodically meet with minority and female employees to obtain suggestions on EEO program implementation.
 - i. Measure program effectiveness and to determine where progress has been made and where further action is needed.

- j. Conduct an annual utilization analysis to identify job categories where there is an underutilization and/or concentration of minorities and women in relation to their availability in the relevant labor market.
 - k. Process, record, and disseminate EEO complaints received.
 - l. Develop, monitor, disseminate and ensure public information is available for the Honolulu Authority for Rapid Transportation's EEO Program.
 - m. Create training programs on the HART EEO program and related statutes for the Honolulu Authority for Rapid Transportation employees as needed.
 - n. Identify and propose ways to eliminate discrimination when found to exist.
 - o. Serves as liaison between the Honolulu Authority for Rapid Transportation, Federal State, and local governments, regulatory agencies, minority and women's organizations, and other community groups as required.
 - p. Assists in recruiting minority and women applicants and establishing outreach sources for use the hiring process.
 - q. Monitor changes in EEO law and rules and assure that current legal information affecting affirmative action is disseminated to responsible officials and suggest changes to the Honolulu Authority for Rapid Transportation's EEO policy as necessary to maintain compliance.
3. The supervisors are responsible for managing and implementing all aspects of the HART EEO Program and shall be delegated to perform the administrative, day-to-day, functions of the HART EEO Program and have the following duties:
- a. Shall have the responsibility of ensuring that the Honolulu Authority for Rapid Transportation's EEO policies and program, as outlined in this EEO Program Policy are carried out.
 - b. Assist in identifying problem areas and establishing the Honolulu Authority for Rapid Transportation's goals and objectives.
 - c. Participate actively in periodic audits of all aspects of employment in order to identify and to remove barriers obstructing the achievement of specified goals and objectives.
 - e. Review the qualifications of all employees to assure that minorities and women are given full employment opportunities for transfers, promotions, training, salary increases, and other forms of compensation.
 - f. Participate in the review and/or investigation of complaints alleging discrimination.

- g. Be actively involved with local minority organizations, women's and disabled groups, community action organizations and community service programs designed to promote EEO.
- h. Hold regular discussions with other managers, supervisors, and employees to assure the agency's policies and procedures are being followed.
- i. Conduct and support career counseling for all employees.
- j. Participate in periodic audits to ensure that each agency unit is in compliance (e.g. EEO posters are properly displayed on all employee bulletin boards).

Section IV – Organizational Chart

Please see appendix B

Section V – Utilization Analysis, Goals & Timetables

While this is HART's first Equal Employment Opportunity report, our EEO efforts since inception have been notably successful. As of November 8, 2011 HART has recruited and hired 89 individuals. Of this amount 38 employees or 48% were female and 60 employees or 76% were of minority group status.

HART's Equal Employment Opportunity (EEO) efforts have been successful, however, more work is needed.

We were able to divide the 89 positions into three job groups, officials and managers (13 individuals), professionals (59 individuals) and administrative support workers (17 individuals).

The first group, officials and managers consisted of 13 individuals; 4 white males, 4 Asian males, 1 2+ male, 1 white female and 3 Asian females. Considering the availability evidenced by the 2000 census for the Honolulu MSA there was underutilization. Underutilization is defined as having fewer minorities or women in a particular job group than would reasonably be expected by their availability. There were no Blacks, Hispanics, Native Hawaiian/Pacific Islanders and American Indian/Alaskan Natives represented. There was obvious underrepresentation in these groups. There was underrepresentation of females as evidenced by a 30.8% representation and a 41.6% availability.

HART's goal over the next year for this group is to actively recruit from the outside and/or train, transfer and promote from within members of the underutilized minorities and women to fill available positions. Specifically by July 1, 2014, we hope to encourage enough minorities and women to apply for open positions that we will be able to hire at least one individual from the following groups Black, Hispanic, Native Hawaiian/Pacific Islander, American Indian/Alaskan Native and female of any race or ethnic group. The recruiting effort will make sure individuals from these underutilized groups have every opportunity to apply. Judging from past experiences it is our opinion that there is a 85% chance that this individual will be hired from outside sources and a 15% chance that this individual will be promoted from within.

The second group, professionals consisted of 59 individuals; 7 white males, 1 Black male, 1 Hispanic male, 16 Asian males, 3 Native Hawaiian/Pacific Islander males, 2 2+ males, 6 white females, 2 Hispanic females, 19 Asian females, 1 Native Hawaiian/Pacific Islander female and 1 2+ female. Considering the availability evidenced by the 2000 census for the Honolulu MSA there was underutilization. Underutilization is defined as having fewer minorities or women in a particular job group than would reasonably be expected by their availability. There were no American Indian/Alaskan Natives represented. There was obvious underrepresentation in this group.

HART's goal over the next year for this group is to actively recruit from the outside and/or train, transfer and promote from within members of the underutilized minorities and women to fill available positions. Specifically by July 1, 2014, we hope to encourage enough minorities and women to apply for open positions that we will be able hire at least one American Indian/Alaskan Native. The recruiting effort will make sure individuals from this underutilized group have every opportunity to apply. Since we have no American Indian/Alaskan Natives on staff, this individual will be hired from outside sources.

The third group, administrative support workers consisted of 17 individuals; 1 white male, 2 Asian males, 1 Native Hawaiian/Pacific Islander male, 1 2+ male, 2 white females, 1 Hispanic female, 6 Asian females, 1 Native Hawaiian/Pacific Islander female and 2 2+ females. Considering the availability evidenced by the 2000 census for the Honolulu MSA there was underutilization. Underutilization is defined as having fewer minorities or women in a particular job group than would reasonably be expected by their availability. There were no Blacks and American Indian/Alaskan Natives represented. There was obvious underrepresentation in these groups.

HART's goal over the next year for this group is to actively recruit from the outside and/or train, transfer and promote from within members of the underutilized minorities and women to fill available positions. Specifically by July 1, 2014, we hope to encourage enough minorities and women to apply for open positions that we will be able hire at least at least one individual from the following groups Black and American Indian/Alaskan Native. The recruiting effort will make sure individuals from these underutilized groups have every opportunity to apply. Do to the nature of the work and available staff it is our opinion that 100% of these individuals will be hired from outside sources.

It is a critical success factor that HART employs staff with the requisite knowledge, skills, and abilities in the appropriate positions when needed. HART is supplementing its staff during all phases of project development through a contract with a third party Project Management Consultant (PMC). The PMC approach permits the immediate mobilization of an experienced project management team and additional staff as needed while HART recruits and trains appropriately qualified employees. Flexibility with respect to the organizational structure, staffing assignment adjustments and adaptations is a key factor during this rapid growth phase of the project.

HART is a matrix organization with civil service and contract staff from the City and County of Honolulu, the Project Management Consultant and direct support provided by departments within the City that have centralized functions. Consultants will be utilized

on the project when HART does not possess the necessary qualifications for specific focus areas or the services are of an urgent or temporary nature.

Day-to-day management of the project staff is the responsibility of the project manager and designated functional managers. Performance evaluations, performance issues and recognition, promotions and disciplinary actions are the responsibility of the HART staff respective organizational chain of command. Consultant staff will be phased out as HART employees are hired to replace them. The HART organization structure is set up to allow for shadowing of consultant staff by HART employees who will then be able to perform the duties of the consultant. The ultimate goal is for the subordinates to acquire the requisite skills and experience through on the job activities to create promotional opportunities and facilitate the quick replacement of the consultants.

HART has no control over who the third party Project Management Consultant sends to temporarily fill the positions and provide the necessary skill set. The consultants are not considered HART transit employees and their individual data is not reflected in the Present Staffing Report, the Job Group Analysis Report, the Utilization Analysis Report and the Annual Goals Report.

HART is strongly committed to equal opportunity for employees and sub-consultants of professional services consultants doing business with HART. HART encourages its consultants to share this commitment. Prime consultants are encouraged to take positive steps to diversify and expand their sub-consultant solicitation base and to offer consulting opportunities to all eligible sub-consultants.

There are two types of employment status in the HART organization. We have permanent City Civil Service employees and Personal Services Contract employees. The main difference between a permanent Civil Service employee and a Personal Services Contract employee is that Personal Services Contract employees are considered temporary. Personal Services Contracts may be written for up to 12 months per contract, they coincide with the fiscal year, and they are renewable each new fiscal year. Personal Services Contract employees enjoy all of the same benefits as permanent Civil Service Employees and their cumulative time on consecutive contracts is attributable to retirement and pay benefits. When an employee transitions from a Personal Services Contract to permanent Civil Service position, all of their time on contract counts towards retirement benefits.

HART believes that disseminating employment opportunity information is critical in the effort to fully utilize minorities and women in all aspects of our workforce. HART will be compiling an ongoing comprehensive list of minority business and social associations, women business and professional organizations, unions, veteran centers, civil rights organizations, employment agencies and recruiters, high school, college and university alumni organizations, high school, college and university placement offices and regional business and community associations. This will be a "living list" and there will be a constant proactive effort to add entries. HART will continue to search out minority and women points of contact and centers of influence and encourage and assist them to further disseminate HART employment information to ensure as many as possible minority and women candidates are participating.

As additional talent is needed, HART's intention is to actively recruit from the available minority and women civilian work force for all positions. An accurate position description will be posted on the HART website (www.honolulustransit.org) for the Personal Services Contract positions and on the City website (<http://agency.governmentjobs.com/honolulu/default.cfm?action=jobs>) for the permanent Civil Service positions. A synopsis of available employment opportunities will be distributed to all entries on the previously mentioned list. They will be directed to the above mentioned websites. Interested applicants will be encouraged to apply directly to HART or the City as appropriate. It will be made clear that HART is available to provide what ever reasonable assistance is needed to overcome obstacles the minority and/or women individuals may encounter during the application and hiring process.

HART will continue its proactive approach to recruiting by attending and sponsoring job fairs, posting openings on the appropriate websites, and disseminating employment related information to all entries on our list. HART will make it clear that we are an equal opportunity employer and will not discriminate against any applicant for employment because of race, color, creed, national origin, sex, disability, or age. HART will actively solicit and encourage female and minority individuals to apply for open positions and to submit documents in anticipation of future hiring needs.

Section VI – Non-Compliance & Remedial Action Procedures

In the event that the Honolulu Authority for Rapid Transportation is found to be in non-compliance or probable non-compliance with Section 19 of the Urban Mass Transportation Act of 1964 (UMT Act) or where the FTA has found evidence of discrimination prohibited under Section 19 and remedial action is required, the following procedures will be followed:

1. Upon receipt of a non-compliance, probable non-compliance, or discrimination finding, the Honolulu Authority for Rapid Transportation will formulate and submit a Remedial Action Plan for correcting the deficiencies cited in the Letter of Finding.
2. Within 30 days of the receipt of the FTA Letter of Finding, the Honolulu Authority for Rapid Transportation will submit a Remedial Action plan, and if necessary, sufficient reasons and justification for the FTA to reconsider any of its findings or recommendations. The Remedial Action Plan shall:
 - a. List all corrective actions accepted by the Honolulu Authority for Rapid Transportation or its contractors;
 - b. Describe how the corrective actions will be implemented;
 - c. Include a written assurance that the Honolulu Authority for Rapid Transportation will implement the accepted corrective action(s) and has the capability to implement the accepted corrective actions(s) in the manner discussed in the plan; and,
 - d. All requests for reconsideration shall:
 - i. State which of the findings or recommendations the Honolulu Authority for Rapid Transportation requests the FTA to reconsider;

- ii. Provide a justification for the request to reconsider, including any evidence or information supporting such a request; and,
 - iii. Include a written assurance that on the basis of the requested reconsideration, the Honolulu Authority for Rapid Transportation will be in compliance.
3. Within an additional 30 days, the FTA will review and submit the Final Remedial Action Plan to the Honolulu Authority for Rapid Transportation.
 - a. The Honolulu Authority for Rapid Transportation will review and consent or respond to this plan within 15 days of receipt.
 - b. If the Honolulu Authority for Rapid Transportation does not agree with the Final Remedial Action Plan, it will submit a written statement of its reasons for not agreeing to the remedial action contained in the plan.

Section VII - Monitoring and Reporting System

HART has in place an effective internal EEO monitoring and reporting system. EEO progress is reviewed semi-annually among HART management. This process allows HART to take corrective action in its EEO practices throughout the year, if necessary.

An inaccurate job description can have enormous impact on minority and female applicants. In order to ensure that there is no disparate impact within HART, the EEO Officer will periodically review classification plans to ensure that positions are allocated the appropriate classification. The EEO Officer will review all job descriptions before the position is posted.

The EEO Officer will work to provide that:

- ❖ All qualification requirements are closely job related;
- ❖ Jobs are restructured to establish entry level and trainee positions to facilitate progression within occupational areas;
- ❖ Career counseling and career guidance are available to all employees;
- ❖ Career development plans are created for lower grade employees who are underutilized or who demonstrate potential for advancement;
- ❖ There is wide publication of upward mobility programs and opportunities within each work unit and within the total organizational structure.

In order to ensure fair and equal treatment of all races and genders it is necessary that all programs for the filling of HART positions be done in a fair and nondiscriminatory manner. To achieve this goal the EEO Officer will work closely with the City and County of Honolulu Human Resources Department, HART personnel offices, minority and female community organizations, and other organizations. In addition HART will ensure that all hiring announcements and literature promote an environment of inclusion to all applicants.

To implement these goals the EEO Officer will review and monitor HART recruitment and placement procedures to ensure that no discriminatory practice exists. The EEO Officer will also work closely with management and HART personnel officers to review

and validate any written tests and selection devices to ensure that they comply with EEO/AA laws and regulations. A thorough analysis of the applicant flow, selection, rejection, and appointment process will be done on a continual basis. After hiring the EEO Officer will ensure that the assignment on work is done on a nondiscriminatory basis.

All promotions should be done in a fair and nondiscriminatory manner and should provide for equal opportunity for all persons based on merit and without regard to race, color, religion, sex or national origin. The EEO Officer will work with the Director of HART to establish an agency-wide merit promotion program. The Merit Promotion Program will include the placement, promotion, transfer, reassignment and other movement of competitive service employees.

The underlying principle of Merit Promotion Programs will be the identification, qualification evaluation, and selection of candidates which will be made without regard to political, religious, labor organization affiliation, marital status, race, color, sex, national origin, non-disqualifying physical or mental handicap, or age and shall be based solely on job-related criteria in accordance with legitimate position requirements.

The EEO Officer will:

- ❖ Oversee and review the effectiveness of the Merit Promotional Program;
- ❖ Establish a skills bank to match employee's skills with available job advancement opportunities;
- ❖ Evaluate promotion criteria and eliminate factors which may lead to non selection of employees or applicants, in particular minorities and females;
- ❖ Require a written justification from selecting officials when a well qualified person is not selected for upgrading or promotion;
- ❖ Review all job postings and encourage all employees to apply for jobs which the employee believes they are qualified;
- ❖ Publicize the program by highlighting advancement of minorities and females to key jobs by periodic e-mail newsletters;
- ❖ Encourage employees to improve their performance to develop their knowledge, skills, and abilities;
- ❖ Ensure the maximum utilization of employees in positions for which they are best qualified.

Proper implementation of an effective EEO policy requires a detailed training program for employees, supervisors, and management.

The EEO Officer will:

- ❖ Provide EEO seminars covering the AAP, the overall EEO program and the administration of the polices and procedures therein, and on Federal, State and local laws relating to the EEO;
- ❖ Provide regular training in proper interviewing techniques to employees that are selected to sit on an interview selection committee;
- ❖ Provide regular training to employees on nondiscrimination in the workplace;
- ❖ Provide regular training and education programs to employees designed to provide opportunities for employees to advance in relation to the present and projected manpower needs of the agency and the employees' career goals;

- ❖ Ensure that all training programs are provided on an equal basis to all eligible HART employees.

Discrimination does not always occur through purposeful action. Many times the discrimination is the unintentional byproduct of a faulty system. In order to ensure that there is no disparate effect on minority or gender groups the EEO Officer will ensure that all practices, even seeming neutral practices, are reexamined to look for possible disparate effect on minority and females.

The EEO Officer will:

- ❖ Ensure that the standards for deciding when a person is terminated, demoted, disciplined, laid off or recalled is the same for all employees, including minorities and females;
- ❖ Review all decisions to discipline, lay off, discharge, or downgrade before they become final;
- ❖ Ensure that no punitive action is taken against an employee filing a discrimination complaint and educate supervisors and managers that retaliation against employees for filing a complaint is illegal;
- ❖ Conduct exit interviews with all employees who leave the employment of HART.

The EEO Officer will keep the following records to monitor the EEO program:

- ❖ On all terminations, including layoffs and discharges, indicate total number, name, employment date, termination date, recall rights, sex, racial/ethnic identification (by job category), and reason for employment action;
- ❖ On all demotions: include total number, name, demotion date, sex, racial/ethnic identification (by job category), and reason for demotion;
- ❖ On all recalls: indicate total number, name, recall date, sex, and racial/ethnic identification (by job category).

The EEO Officer will also:

- ❖ Assure that information on EEO counseling and grievance procedures is easily available to all employees;
- ❖ Inform employees that they have the right for a complaint alleging discrimination of race, color, religion, sex or national origin to be heard before and impartial body;
- ❖ Create a unified system for processing grievances and appeals (i.e. disciplinary actions, adverse actions, adverse action appeals, etc.);
- ❖ Create a system to rate the performance of managers and supervisors in their performance of the EEO program responsibilities assigned to them;
- ❖ Review and monitor the performance evaluation system periodically to determine its objectivity and effectiveness;
- ❖ Ensure the equal availability of employee benefits to all employees.

Section VIII - Discrimination Complaints

Any person who believes that he or she, individually, or as a member of any specific class of persons, has been subjected to discrimination on the basis of race, color,

creed, national origin, sex, disability, or age may file a written complaint with the FTA or the Secretary of Transportation. A complaint must be filed within 180 days after the date of the alleged discrimination, unless the time for filing is extended by the Secretary. FTA recommends that EEO complaints be initially filed with the Honolulu Authority for Rapid Transportation for resolution. In those cases where the complainant is dissatisfied with the resolution by the Honolulu Authority for Rapid Transportation, or the case is not being resolved in a timely manner, the same complaint may be submitted to the FTA, the Secretary, EEOC, or a State agency for investigation.

Unless otherwise permitted, the final determination of all EEO complaints affecting programs administered by the FTA will be made by the Office of the Secretary, DOT.

SUBMISSION OF COMPLAINTS

1. Filing Complaints of Discrimination.

- a. Complainants may submit written complaints to the HART EEO Office, the City and County of Honolulu's Equal Opportunity Office, the Hawaii Civil Rights Commission, the Equal Employment Opportunity Commission (EEOC) and the Federal Transit Administration's Office of Civil Rights.
- b. In cases where the complainant is unable or incapable of providing a written statement, but wished the Honolulu Authority for Rapid Transportation to investigate alleged discrimination, a verbal complaint of discrimination may be made to the HART EEO Office. The complainant will be interviewed by a civil rights official authorized to receive complaints. If necessary, the civil rights official may assist the person in converting verbal complaints to writing.

2. Complaint Format.

- a. All complaints must be in writing and signed by the complainant or his/her representative before action can be taken. Complaints shall state, as fully as possible, the facts and circumstances surrounding the alleged discrimination. The Honolulu Authority for Rapid Transportation has developed a Discrimination Complaint Form for this purpose to assist in the process. It can be obtained at the Honolulu Authority for Rapid Transportation offices located at 1099 Alakea Street, 17th Floor, Honolulu 96813
- b. The EEO Office will provide the complainant or his/her representative with a written acknowledgement that the complaint was received, within ten (10) working days from the date it was received. Concurrently, the Honolulu Authority for Rapid Transportation will transmit the complaint to FTA and the Departmental Office of Civil Rights.

3. Request for Additional Information from Complainant and/or Respondent.

- a. In the event that the complainant or respondent has not submitted sufficient information to make a determination of jurisdiction or investigative merit, the Honolulu Authority for Rapid Transportation may request additional information from either party.

- b. This request shall be made by registered mail within 15-working days of the receipt of the complaint by the Honolulu Authority for Rapid Transportation and will require that the party submit the information within 60-working days from the date of the original request.
 - c. Failure of the complainant to submit additional information within the designated timeframe may be considered good cause for a determination of no investigative merit.
4. **Notification of Disposition.** The EEO Officer shall notify the party charged and primary recipient (if not the respondent) of the disposition within five (5) days by registered letter the decision to investigate or not investigate the complaint:
- a. If the decision is to investigate, the notification shall state the jurisdiction, inform the parties that an investigation will take place, and request any additional information needed to assist the investigator in preparing for the investigation.
 - b. If the decision is to not investigate, the notification shall specifically state the reason for the decision.
5. **Referral to Other Agencies.** In the event that the Honolulu Authority for Rapid Transportation lacks the jurisdiction, the complaint will be referred to other State or Federal agencies, informing the parties of the action.
6. **Complaint Investigation.**
- a. Honolulu Authority for Rapid Transportation Investigation. The Honolulu Authority for Rapid Transportation may elect to conduct its own investigation of the complaint. The investigation may be conducted by “desk audit” or an “onsite” investigation.
 - b. Referral of Complaint to the FTA. Cases determined by the Honolulu Authority for Rapid Transportation to have investigative merit may be sent back to the FTA to conduct an “onsite” investigation or may be recommended for a comprehensive EEO review of the recipient.
 - c. Priority Complaints. All incoming complaints shall be examined to determine if the discrimination alleged would be irremediable if not dealt with promptly. If such a determination is made, the complaint shall be given priority status. The processing, investigation, and determination of such complaints shall be accelerated to advance significantly the normal completion date of the process.
 - d. Investigator’s Preparation. Before beginning the investigation, the investigator shall send a letter of introduction, establishing the times and dates for the investigation and interviews. This preparation shall be completed within 30 working days after the assignment has been given to the investigator, contingent upon the investigator’s workload and resources.

7. **Investigative Report.** A written report will be prepared by the responsible investigator at the conclusion of the investigation. This report will be reviewed by the Executive Director for thoroughness. The investigative report will include the following:

- a. Summary of the complaint, including a statement of the issues raised by the complainant and the Honolulu Authority for Rapid Transportation's reply to each of the allegations;
- b. Citations of relevant Federal, State, and local laws, rules, regulations, and guidelines, etc,
- c. Description of the investigation, including a list of the persons contacted by the investigator and a summary of the interviews conducted; and,
- d. A statement of the investigator's findings and recommendations.

8. **Disposition of Complaints.**

- a. Approval and Notice of Disposition. The Honolulu Authority for Rapid Transportation will approve or disapprove the findings and recommendations made by the investigator in the investigative report. The consequent disposition of the complaint will be communicated to the complainant and recipient by letter. In addition, a rationale supporting the disposition made and any recommendations to any party will be included in the letter.
- b. Informal Resolution. If the Notice of Disposition is issued and finds Honolulu Authority for Rapid Transportation in noncompliance, the Honolulu Authority for Rapid Transportation is required to initiate voluntary remedial actions agreeable to the Office of Civil Rights.
- c. Enforcement Procedure. In cases in which all required means of remedial action have failed to bring the recipient into compliance, enforcement procedures will be initiated by the Departmental Office of Civil Rights in conjunction with the FTA.
- d. Request for Reconsideration. The Honolulu Authority for Rapid Transportation may request reconsideration findings within 30 days of the Notice of Disposition. This request should include any additional information or analysis the Honolulu Authority for Rapid Transportation considers relevant. The Office of Civil Rights will inform the recipient of its decision to accept or reject the request within 30 days after its receipt. In cases in which a request for reconsideration is approved, the responsible investigator will reopen the investigation and proceed to process the complaint in the same manner described above.

Any violations of this policy may result in disciplinary action, up to and including termination. All applicants and employees should follow the above procedures in dealing with possible discrimination. Applicants and employees also have other legal rights, established by law, for investigation of any discriminatory allegations through the Washington Human Rights Commission, Federal Office of Equal Employment

Opportunity, U.S. Department of Transportation, and/or Office of Federal Contract Compliance Programs.

Laws Enforced by the EEOC.

- Title VII of the Civil Rights Act
- Equal Pay Act of 1963
- Age Discrimination in Employment Act of 1967 (ADEA)
- Rehabilitation Act of 1973, Sections 501 and 505
- Titles I and V of the Americans with Disabilities Act of 1990 (ADA)
- Civil Rights Act of 1991

Filing an Appeal with the EEOC.

A dissatisfied complainant may appeal to EEOC, the Honolulu Authority for Rapid Transportation's final action within 30 days of receipt. The Honolulu Authority for Rapid Transportation may appeal a decision by an EEOC administrative judge within 40 days of receiving the administrative judge's decision.

On class complaints, a class agent may appeal the Honolulu Authority for Rapid Transportation's final decision on the merits of the class complaint within 30 days from receipt, or a class member may appeal the final decision on his or her claim for individual relief within 30 days from receipt of the final decision.

If the complaint is a "mixed case," the complainant may appeal the Honolulu Authority for Rapid Transportation's final decision to City Council or ask the Council for a hearing. Once the Council issues its decision on the complaint, the complainant may petition EEOC for review of the Council decision concerning the claim(s) of discrimination.

Directory of Contacts for filing complaints:

Charles L. Bayne, EEO Officer	808-768-6223
Honolulu Authority for Rapid Transportation	808-768-1360 (F)
1099 Alakea Street, 17 th Floor	
Honolulu, HI 96813	

Hawaii Civil Rights Commission	808-586-8636
830 Punchbowl Street, Room 411	808-586-8655 (F)
Honolulu, HI 96813	808-586-8692 (TTY)

Equal Opportunity Officer	808-768-8505
City and County of Honolulu	808-768-8490 (F)
Department of Human Resources, Equal Opportunity Office	
650 South King Street, 10 th Floor	
Honolulu, HI 96813	

US Department of Health & Human Services	415-437-8310
Office for Civil Rights	415-437-8329 (F)
90 7 th Street, Suite 4-100	415-437-8311 (TDD)
San Francisco, CA 94103	

Federal Transit Administration, Region 9
Office of Civil Rights
201 Mission Street, Suite 1650
San Francisco, CA 94105-1839

415-744-3133
415-744-2726 (F)

(REV 11/2/12)



HONOLULU AUTHORITY for RAPID TRANSPORTATION

Equal Employment Opportunity Program

Policy Statement

1. The Honolulu Authority for Rapid Transportation (HART) is an Equal Employment Opportunity (EEO) employer. HART affirms its commitment to treat all applicants for employment and employees without regard to race, religion, creed, color, national origin, sex, age, disability, veteran status, marital status or any other class protected by local, state, or federal law. HART and its employees are prohibited to discriminate against an applicant for employment or employee on the basis of race, color, religion, creed, sex, age, national origin, or any other basis protected by local, state, or federal law, or to be excluded from participation in, or denied the benefits of, or be subject to discrimination under any project, program, or activity funded in whole or in part through federal financial assistance.
2. This policy extends to all areas of employment including recruitment, selection and placement, compensation, promotion, transfer, discipline, demotion, lay-off, termination, training, daily working conditions, benefits and all other terms and conditions of employment.
3. The HART is thoroughly committed to an affirmative action program that includes goals and timetables.
4. The responsibility for the implementation and day to day management of the HART EEO Program is assigned to the HART EEO Officer, Charles Bayne. All HART managers and supervisors share in the responsibility of ensuring compliance is achieved through understanding, communicating, and active involvement in the support of this policy. Performance evaluations of managers and supervisors shall include evaluating the success of the EEO program in the same manner as performance on other goals.
5. Applicants and employees have the right to file complaints alleging discrimination with the HART EEO Office, the City and County of Honolulu's Equal Opportunity Office, the Hawaii Civil Rights Commission, the Equal Employment Opportunity Commission (EEOC) and the Federal Transit Administration's Office of Civil Rights.
6. Achievement of the HART EEO goals will benefit recipients, subrecipients and contractors through fuller utilization and development of previously underutilized human resources.

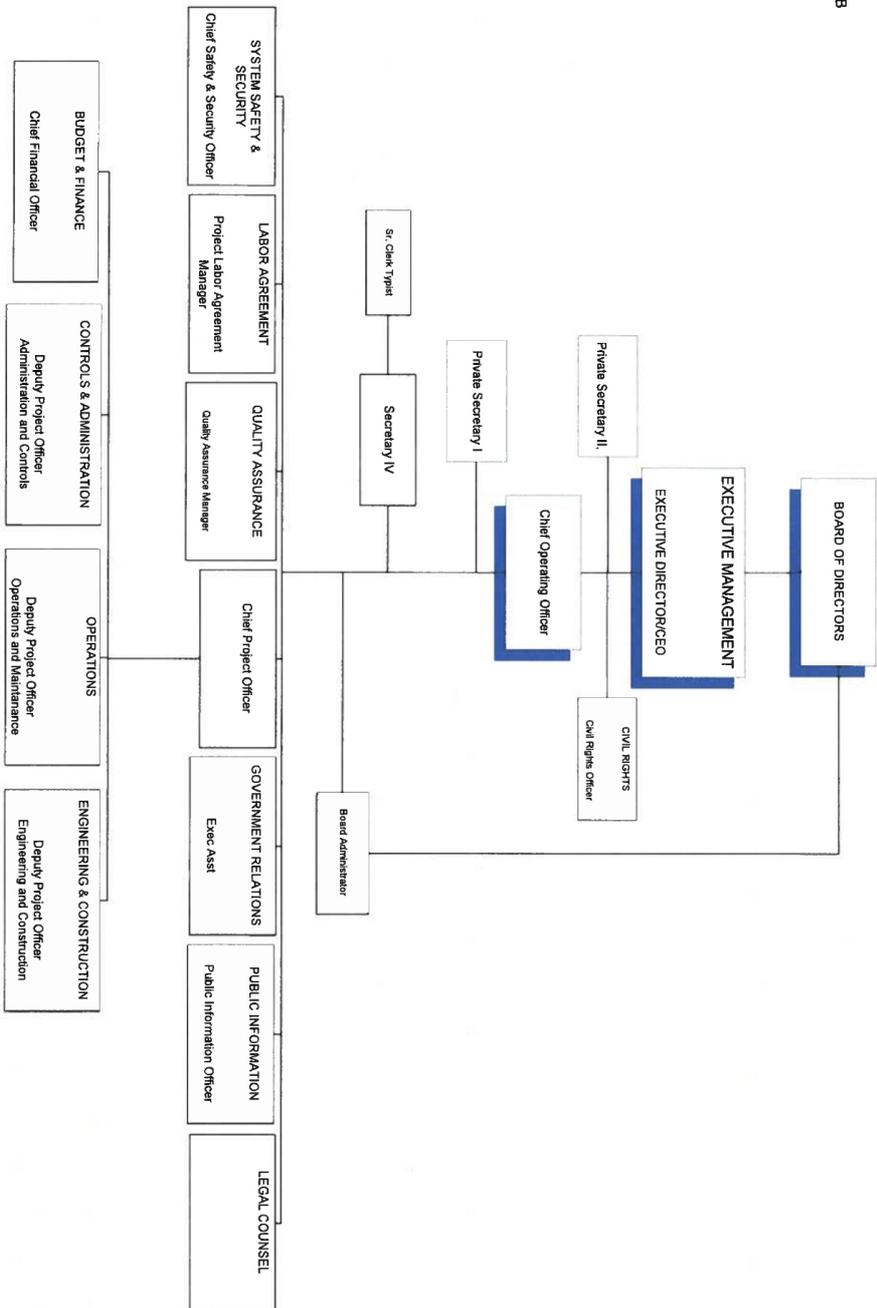
This policy will be updated a minimum of every three years. All new hires will receive a copy of the HART EEO Policy. A copy of this policy is posted on the HART's website.

Daniel A. Grabauskas
Executive Director and CEO

Appendix A

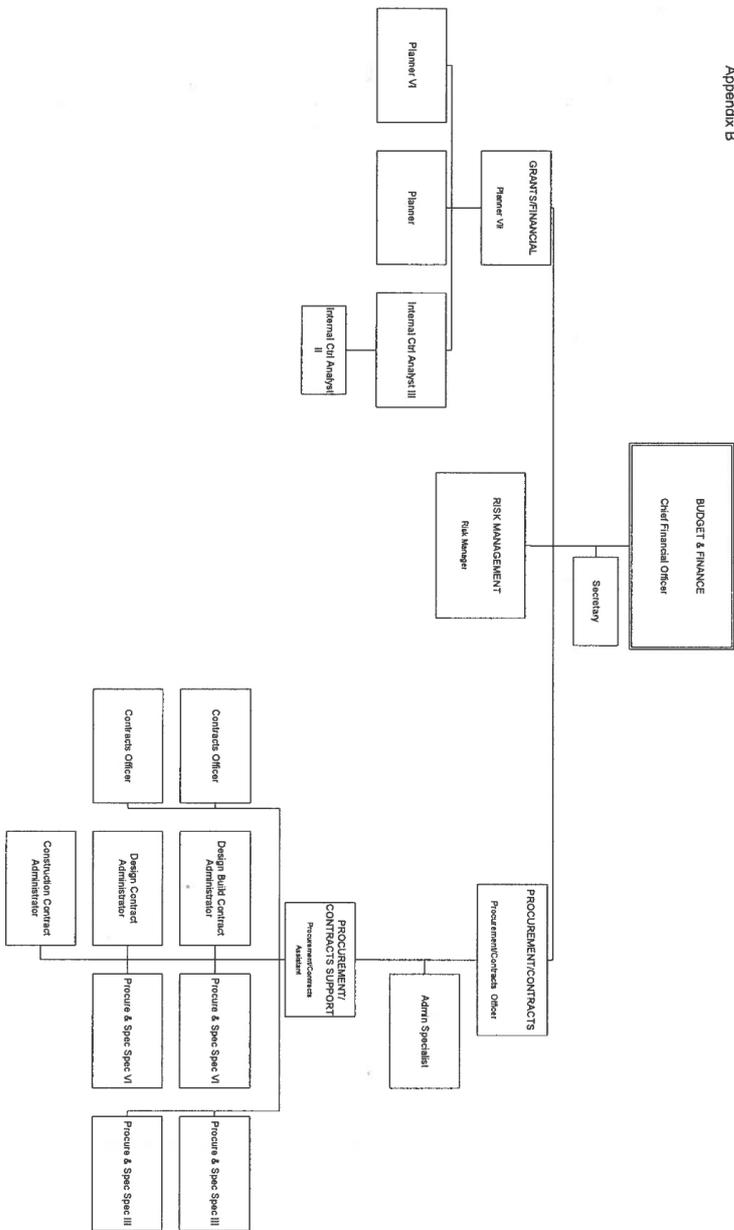
Honolulu Authority for Rapid Transportation

Appendix B

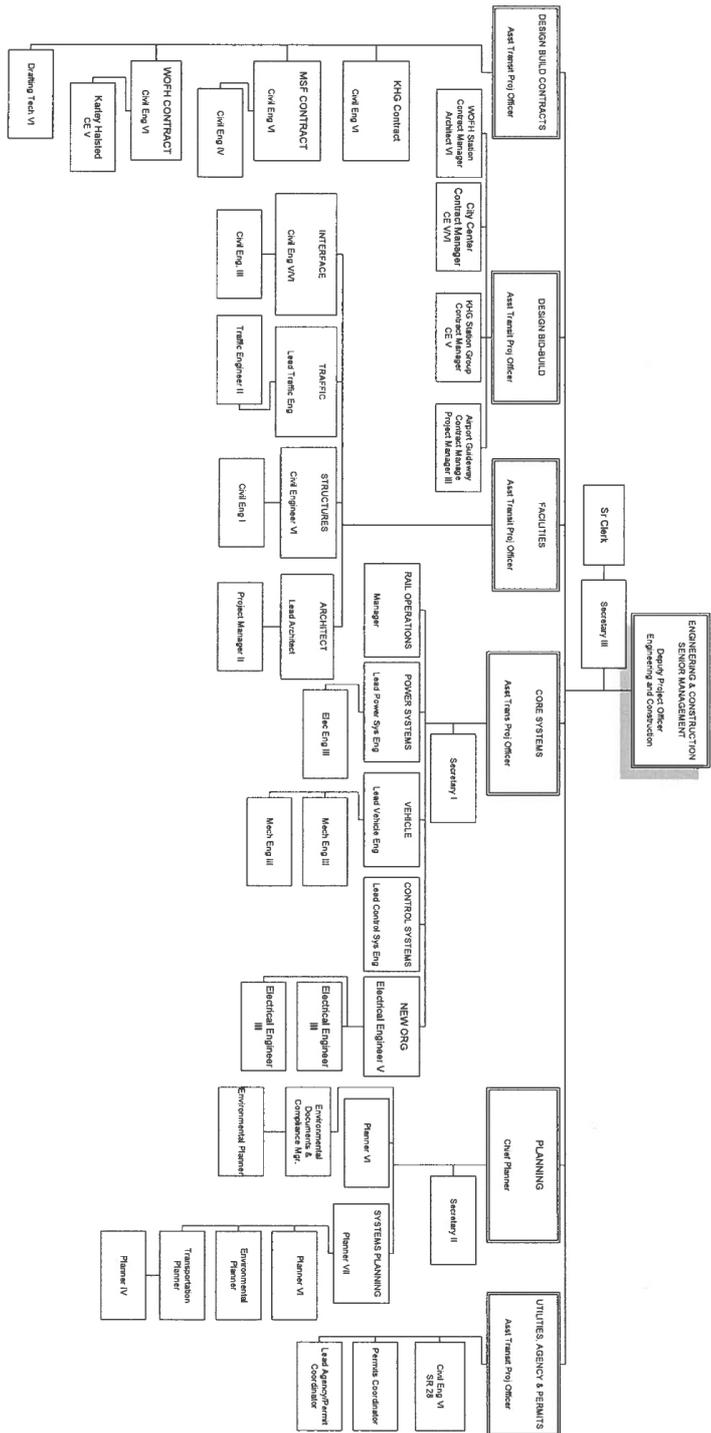


Honolulu Authority for Rapid Transportation
Budget and Finance

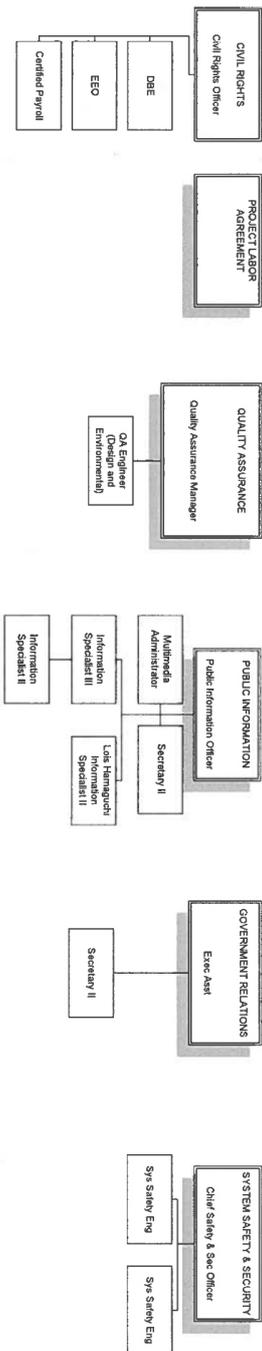
Appendix B



Honolulu Authority for Rapid Transportation
Engineering and Construction



Honolulu Authority for Rapid Transportation
Civil Rights, Labor Relations, Quality Assurance, Public Information, Government Relations, and System Safety & Security



HART PRESENT STAFFING

(REV 3/6/12)

As of 3/6/12

JOB CAT	TOT EMP	MALE								FEMALE								TOT MIN
		WHITE	BLACK	HISP	ASIAN	NHPI	AIAN	2+	TOT MALE	WHITE	BLACK	HISP	ASIAN	NHPI	AIAN	2+	TOT FEM	
MGMT	13	4	0	0	4	0	0	1	9	1	0	0	3	0	0	0	4	8
% REP		30.8	0	0	30.8	0	0	7.7	69.2	7.7	0	0	23.1	0	0	0	30.8	61.5
% CLF		16.8	0.8	2.3	29.5	4.2	0.3	4.5	58.4	11.9	0.6	1.6	21.0	3.0	0.2	3.3	41.6	71.3
PROS	59	7	1	1	16	3	0	2	30	6	0	2	19	1	0	1	29	46
% REP		11.9	1.7	1.7	27.1	5.1	0	3.4	50.9	10.2	0	3.4	32.2	1.7	0	1.7	49.2	78.0
% CLF		14.7	0.8	1.7	23.4	2.6	0.3	2.8	46.3	17.0	0.9	2.0	27.1	3.1	0.4	3.3	53.8	68.3
ADMIN	17	1	0	0	2	1	0	1	5	2	0	1	6	1	0	2	12	14
% REP		5.9	0	0	11.8	5.9	0	5.9	29.4	11.8	0	5.9	35.3	5.9	0	11.8	70.6	82.4
% CLF		4.0	0.4	1.5	14.3	2.7	0.2	2.9	26.0	11.4	1.3	4.3	40.8	7.5	0.4	8.3	74.0	84.6

Cat = Category
 REP = Represented
 CLF = Civilian Labor Force
 TOT = Total

EMP = Employees
 Hisp = Hispanic
 NHPI = Native Hawaiian/Pacific Islander
 AIAN = American Indian/Alaskan Native

2+ = Two or more races
 Fem = Female
 Min = Minority
 MGMT = Management

PROS = Professionals
 TECHS = Technicians
 ADMIN = Administration

This report reflects the distribution and composition of HART's work force by the EEO categories. The data provides a snapshot of the total number of employees throughout HART by race/ethnicity and gender for each of the applicable EEO categories. The Civilian Labor Force (CLF) represented is for the Honolulu MSA for the year 2000.

Appendix C

Percent Distribution of the Civilian Labor Force by EEO-1 Job Categories, Sex and Race
Honolulu MSA, 2000
(Horizontal Percent Distribution)

NOT OF HISPANIC ORIGIN										
Job Categories	Total	White	Black	Asian	NHOPI	AIAN	Balance 2+ Races	Hispanic	Total Minority	Total Females
Total Civilian Labor Force	408,625	19.9%	1.6%	52.9%	9.9%	0.5%	9.7%	5.5%	80.1%	48.6%
Officials and Managers	44,583	28.7%	1.4%	50.5%	7.1%	0.5%	7.8%	3.9%	71.3%	41.6%
Professionals	76,948	31.7%	1.7%	50.5%	5.7%	0.7%	6.1%	3.7%	68.3%	53.7%
Technicians	8,684	20.6%	1.8%	55.4%	7.4%	0.6%	8.7%	5.5%	79.4%	47.5%
Sales Workers	50,560	17.5%	1.1%	57.1%	8.5%	0.4%	9.6%	5.7%	82.5%	59.0%
Administrative Support Workers	71,850	15.4%	1.7%	55.1%	10.2%	0.6%	11.2%	5.8%	84.6%	74.0%
Craft Workers	33,652	17.2%	1.2%	50.9%	11.7%	0.7%	12.1%	6.3%	82.8%	6.1%
Operatives	24,878	12.4%	1.8%	50.0%	15.3%	0.4%	13.1%	6.9%	87.6%	23.5%
Laborers and Helpers	16,824	13.7%	2.0%	47.5%	17.2%	0.3%	12.3%	7.0%	86.3%	14.6%
Service Workers	75,414	14.1%	1.6%	55.5%	11.7%	0.6%	9.9%	6.6%	85.9%	51.3%
Unemployed, No Civilian Work Experience	5,232	14.7%	2.0%	37.7%	21.8%	0.2%	14.5%	9.1%	85.3%	50.2%

Source: US Bureau of the Census, 2000 Special EEO Tabulation, <http://www.census.gov/eo2000/index.html>

Note: Totals may not add due to rounding

NHOPI: Native Hawaiian or Other Pacific Islander

AIAN: American Indian or Alaska Native

Data as of 8/18/04

Appendix D

HART JOB GROUP ANALYSIS

(rev 3/6/12)

Appendix E

As of: 3/6/12

EEO Category: 1 Management

Job Group: Upper Management

SC	Job Family Title	Total Emp	Male								Female								Total Min	
			White	Black	Hisp	Asian	NH PI	AI AN	2+	Total Male	White	Black	Hisp	Asian	NH PI	AI AN	2+	Total Fem		
AI	Chief of RT	1	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0
AG	Deputy Director	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0	1
AC	RT Program Administrator	1	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0
S	Asst. Deputy Project Officer	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0	1
T	ASO III	1	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0
X	Asst. TPO	1	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	1
X	Chief Planner	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1	1
Y	CE VII	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0	1
R	Civil Rights Officer	1	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0
V	Department Staff Executive Assistant	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1	1
R	Planner VII	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1	1
S	P & S Officer	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1	1
S	RE Acquisition Manager	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0	1
Total Job Group (#)		13	4	0	0	4	0	0	1	9	1	0	0	3	0	0	0	0	4	8
Total Job Group (%)		100	30.8	0	0	30.8	0	0	7.7	69.2	7.7	0	0	23.1	0	0	0	30.8	61.5	

SC = Salary Code
Emp = Employees
Hisp = Hispanic

NHPI = Native Hawaiian/Pacific Islanders
AIAN = American Indian/Alaskan Native
2+ = Two or more races

Fem = Female
Min = Minority

HART JOB GROUP ANALYSIS

(rev 3/6/12)

Appendix F

As of: 3/6/12

EEO Category: 3 Professionals

Job Group: Management Analysts

SC	Job Family Title	Total Emp	Male								Female								Total Min
			White	Black	Hisp	Asian	NH PI	AI AN	2+	Total Male	White	Black	Hisp	Asian	NH PI	AI AN	2+	Total Fem	
M	Conf Mgmt Spec	1	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	1	1
N	Cont Chg Spec	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1	0
M	Cont Chg Spec	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1	0
M	Contracts Off	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	1
H	Planner III	2	0	0	0	0	0	0	0	0	1	0	0	1	0	0	0	2	1
K	Planner III	2	0	0	0	0	0	0	0	0	0	0	0	2	0	0	0	2	2
L	Planner IV	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	1
K	Planner V	1	0	0	1	0	0	0	0	1	0	0	0	0	0	0	0	0	1
M	Planner V	1	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0
N	Planner VI	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	1
O	Planner VI	1	0	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	1
Q	Planner VI	2	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	1	1
R	Planner VI	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	1
O	IC Analyst II	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	1
Q	Multimed. Dir.	1	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	1
N	Asset Mgr	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	1
L	Accountant IV	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	1
M	RM Analyst	1	0	1	0	0	0	0	0	1	0	0	0	0	0	0	0	0	1
K	HR SP IV	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	1
O	HR SP V	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1	0
P	Info SP II	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	1
O	Info SP II	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	1
R	Info SP III	1	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0
M	P&S SP VI	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	1
N	Public Art Adm.	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	1

P	Project Mgr. II	1	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0
Q	Project Mgr. II	1	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0
N	Res. Analyst III	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	1
M	ROW Agent	2	0	0	0	0	0	0	0	0	0	0	0	2	0	0	0	2	2
Total Job Group (#)		32	4	1	1	5	1	0	1	13	5	0	0	14	1	0	0	20	24
Total Job Group (%)		100	12.5	3.1	3.1	15.6	3.1	0	3.1	40.6	15.6	0	0	43.8	3.1	0	0	62.5	75.0

SC = Salary Code
Emp = Employees
Hisp = Hispanic

NHPI = Native Hawaiian/Pacific Islanders
AIAN = American Indian/Alaskan Native
2+ = Two or more races

Fem = Female
Min = Minority

HART JOB GROUP ANALYSIS

(rev 3/6/12)

As of: 3/6/12

EEO Category: 3 Professionals

Job Group: Engineers

SC	Job Family Title	Total Emp	Male								Female								Total Min
			White	Black	Hisp	Asian	NH PI	AI AN	2+	Total Male	White	Black	Hisp	Asian	NH PI	AI AN	2+	Total Fem	
S	Project Mgr III	1	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0
G	CE I	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1
N	CE III	1	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	1
L	CE III	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	1
R	CE VI	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	1
T	CE VI	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	1
O	CE V	1	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1	1
L	CE IV	1	0	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	1
S	SC Mgr	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	1
Q	Traffic Eng II	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
U	TP Coord	1	0	0	0	0	1	0	0	1	0	0	0	0	0	0	0	0	1
L	System SE	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	1
M	System SE	1	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0
M	ME III	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	1
N	ME III	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	1
O	EE III	1	1	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0
M	EE III	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	1
N	EE IV	1	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	1
L	DT VI	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1
T	Architect VI	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	1
Total Job Group (#)		20	3	0	0	9	2	0	1	14	0	0	2	2	0	0	1	5	17
Total Job Group (%)		100	15.0	0	0	45.0	10.0	0	5.0	70.0	0	0	10.0	10.0	0	0	5.0	25.0	85.0

SC = Salary Code
Emp = Employees
Hisp = Hispanic

NHPI = Native Hawaiian/Pacific Islanders
AIAN = American Indian/Alaskan Native
2+ = Two or more races

Fem = Female
Min = Minority

Appendix G
HART JOB GROUP ANALYSIS
 (rev 3/6/12)

Appendix H

As of: 3/6/12

EEO Category: 3 Professionals

Job Group: IT Specialist

SC	Job Family Title	Total Emp	Male								Female								Total Min	
			White	Black	Hisp	Asian	NH PI	AI AN	2+	Total Male	White	Black	Hisp	Asian	NH PI	AI AN	2+	Total Fem		
F	IT Sup Tech II	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0	1
H	IT Sup Tech II	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0	1
I	IT Sup Tech II	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1	1
K	Proj Contl Spec	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1	0
H	DPS Analyst II	1	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1	1
Total Job Group (#)		5	0	0	0	2	0	0	0	2	1	0	0	2	0	0	0	0	3	4
Total Job Group (%)		100	0	0	0	40	0	0	0	40	20	0	0	40	0	0	0	0	60	80

SC = Salary Code
 Emp = Employees
 Hisp = Hispanic

NHPI = Native Hawaiian/Pacific Islanders
 AIAN = American Indian/Alaskan Native
 2+ = Two or more races

Fem = Female
 Min = Minority

HART JOB GROUP ANALYSIS

(rev 3/6/12)

Appendix I

As of: 3/6/12

EEO Category: 6 Administrative Support

Job Group: Administrative Support

SC	Job Family Title	Total Emp	Male								Female								Total Min	
			White	Black	Hisp	Asian	NH PI	AI AN	2+	Total Male	White	Black	Hisp	Asian	NH PI	AI AN	2+	Total Fem		
G	P&S Spec III	2	0	0	0	1	1	0	0	2	0	0	0	0	0	0	0	0	0	2
I	HR Spec II	1	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	1
F	RM Analyst I	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	
J	RM Analyst II	2	1	0	0	0	0	0	0	1	0	0	0	1	0	0	0	1	1	
H	RM Analyst II	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	1	
E	SR Clerk	2	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	2	2	
K	Adm Spec II	1	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1	1	
F	Sec I	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1	0	
H	Sec II	1	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1	1	
I	Sec II	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1	0	
G	Sec II	1	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1	1	
I	Sec III	1	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1	1	
J	Sec III	1	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1	1	
K	Sec IV	1	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	1	1	
Total Job Group (#)		17	1	0	0	2	1	0	1	5	2	0	1	6	1	0	2	12	14	
Total Job Group (%)		100	5.9	0	0	11.8	5.9	0	5.9	29.4	11.8	0	5.9	35.3	5.9	0	11.8	70.6	82.4	

SC = Salary Code
Emp = Employees
Hisp = Hispanic

NHPI = Native Hawaiian/Pacific Islanders
AIAN = American Indian/Alaskan Native
2+ = Two or more races

Fem = Female
Min = Minority

HART UTILIZATION ANALYSIS AND ANNUAL GOALS

(rev 3/6/12)
Appendix J

As of 3/6/12

JOB GROUP	INCUMBANTS								
	T	B	H	AS	NHPI	AIAN	2+	F	TM
MGMT	13	0	0	7	0	0	1	4	8
PRO	59	1	3	35	4	0	3	29	46
ADMIN	17	0	1	8	2	0	3	12	14

JOB GROUP	UTILIZATION																															
	BLACK				HISPANIC				ASIAN				NHPI				AIAN				2+ RACES				TOTAL MINORITY				FEMALE			
	%A	%C	UU	G	%A	%C	UU	G	%A	%C	UU	G	%A	%C	UU	G	%A	%C	UU	G	%A	%C	UU	G	%A	%C	UU	G	%A	%C	UU	G
MGMT	1.4	0	Y	1	3.9	0	Y	1	50.5	53.9	N	0	7.1	0	Y	1	0.5	0	Y	1	7.8	7.7	N	0	71.3	61.5	N	0	41.6	30.8	Y	1
PRO	1.7	1.7	N	0	3.7	5.1	N	0	50.5	59.3	N	0	5.7	6.8	N	0	0.7	0	Y	1	6.1	5.1	N	0	68.3	78.0	N	0	53.7	49.2	N	0
ADMIN	1.7	0	Y	1	5.8	5.9	N	0	55.1	47.1	N	0	10.2	11.8	N	0	0.6	0	Y	1	11.2	17.7	N	0	84.6	82.4	N	0	74	70.6	N	0

MGMT = Officials and Managers PRO = Professionals ADMIN = Administrative Support Workers
T = Total AS = Asian 2+ = Two or more races %A = Percent available G = Goal
B = Black NHPI = Native Hawaiian/Pacific Islanders F = Female %C = Percent in category
H = Hispanic AIAN = American Indian/Alaskan Native TM = Total Minority UU = Underutilization

The Utilization Analysis and Annual Goals form is used to show both a comparison of the actual employment of minorities and women (Job group Analysis) with their relative availability (Availability Analysis) in the applicable job groups and appropriate goals. The percent available (%A) represented is for the Honolulu MSA for the year 2000.

Underutilization is defined as having fewer minorities or women in a particular job group than would reasonably be expected by their availability. Where the utilization is less than the availability and the agency's significant test is satisfied, i.e. 80% method, underutilization is declared.

The 80% rule of thumb was followed in declaring underutilization and establishing goals when the actual employment of minorities or females is less than 80% of their availability. If the female/minority incumbency percent (%) is less than the female/minority availability percent (%) and the ratio of incumbency to availability is less than 80%, a placement goal should be included in the appropriate "G" column.

HART AVAILABILITY ANALYSIS

(REV 3/6/12)
Appendix K

As of: 3/6/12

EEO Category: Management

Factors	Raw Availability								Weight Factor	Weighted Availability								Source of Statistic
	Black	Hisp	Asian	NH PI	AI AN	2+	Total Min	Fem		Black	Hisp	Asian	NH PI	AI AN	2+	Total Min	Fem	
Percentage of minorities or females having requisite skills in the area which HART can reasonably recruit.	1.7	3.9	50.5	7.2	0.5	7.8	71.6	41.5	85%	1.7*	3.9	42.9	7.2*	0.5*	6.6	60.9	35.3	2000 Census Honolulu MSA, Hawaii
Percentage of minorities or females promotable, transferable and trainable within HART.	0	0	53.9	0	0	7.7	61.5	30.8	15%	0	0	8.1	0	0	1.2	9.2	4.6	Present staffing report as of 3/6/12
Total									100%	1.7*	3.9*	51.0	7.2*	0.5*	7.8	70.1	39.9	
Final Availability									100%	1.7*	3.9*	51.0	7.2*	0.5*	7.8	70.1	39.9	

(Raw Availability % X Weight Factor = Weighted Availability)

* This group is not represented in HART's staff as of 3/6/12. 100% will be recruited externally.

Hisp = Hispanic
NHPI = Native Hawaiian/Pacific Islanders
AIAN = American Indian/Alaskan Native

2+ = Two or more races
Min = Minority
Fem = Female

HART AVAILABILITY ANALYSIS

(REV 3/6/12)
Appendix L

As of: 3/6/12

EEO Category: Professional

Factors	Raw Availability									Weight Factor	Weighted Availability								Source of Statistic
	Black	Hisp	Asian	NH PI	AI AN	2+	Total Min	Fem	Black		Hisp	Asian	NH PI	AI AN	2+	Total Min	Fem		
Percentage of minorities or females having requisite skills in the area which HART can reasonably recruit.	1.7	3.7	50.5	5.7	0.7	6.1	68.4	53.8	85%	1.5	3.2	42.9	4.9	0.7*	5.2	58.1	45.7	2000 Census Honolulu MSA, Hawaii	
Percentage of minorities or females promotable, transferable and trainable within HART.	1.7	5.1	59.3	6.8	0	5.1	78.0	49.2	15%	0.3	0.8	8.9	1.0	0	0.8	11.7	7.4	Present staffing report as of 3/6/12	
Total									100%	1.8	4.0	51.8	5.9	0.7*	6.0	69.8	53.1		
Final Availability									100%	1.8	4.0	51.8	5.9	0.7*	6.0	69.8	53.1		

(Raw Availability % X Weight Factor = Weighted Availability)

* This group is not represented in HART's staff as of 3/6/12. 100% will be recruited externally.

Hisp = Hispanic
NHPI = Native Hawaiian/Pacific Islanders
AIAN = American Indian/Alaskan Native

2+ = Two or more races
Min = Minority
Fem = Female

HART AVAILABILITY ANALYSIS

(REV 3/6/12)
Appendix M

As of: 3/6/12

EEO Category: Administrative Support

Factors	Raw Availability								Weight Factor	Weighted Availability								Source of Statistic
	Black	Hisp	Asian	NH PI	AI AN	2+	Total Min	Fem		Black	Hisp	Asian	NH PI	AI AN	2+	Total Min	Fem	
Percentage of minorities or females having requisite skills in the area which HART can reasonably recruit.	1.7	5.8	55.1	10.2	0.6	11.2	84.6	74.0	85%	1.7*	4.9	46.8	8.7	0.6*	9.5	71.9	62.9	2000 Census Honolulu MSA, Hawaii
Percentage of minorities or females promotable, transferable and trainable within HART.	0	5.9	47.1	11.8	0	17.7	82.4	70.6	15%	0	0.9	7.1	1.8	0	2.7	12.4	10.6	Present staffing report as of 3/6/12
Total									100%	1.7	5.8	55.1	10.2	0.6	11.2	84.6	74.0	
Final Availability									100%	1.7	5.8	55.1	10.2	0.6	11.2	84.6	74.0	

(Raw Availability % X Weight Factor = Weighted Availability)

* This group is not represented in HART's staff as of 3/6/12. 100% will be recruited externally.

Hisp = Hispanic
NHPI = Native Hawaiian/Pacific Islanders
AIAN = American Indian/Alaskan Native

2+ = Two or more races
Min = Minority
Fem = Female



HONOLULU AUTHORITY for RAPID TRANSPORTATION

HART EEO Employee Data Capture Sheet

Appendix N

Name: _____ Position title: _____

Appointment type (permanent/contract): _____ Salary code from chart: _____

Full/Part time: _____ Sex (M/F): _____ Date of Birth: _____

The employer is subject to certain governmental recordkeeping and reporting requirements for the administration of civil rights laws and regulations. In order to comply with these laws, the employer invites employees to voluntarily self-identify their race or ethnicity. Submission of this information is voluntary and refusal to provide it will not subject you to any adverse treatment. The information obtained will be kept confidential and may only be used in accordance with the provisions of applicable laws, executive orders, and regulations, including those that require the information to be summarized and reported to the federal government for civil rights enforcement. When reported, data will not identify any specific individual.

Race and ethnic identification (please choose only one):

Hispanic or Latino - A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race. _____

White (Not Hispanic or Latino) - A person having origins in any of the original peoples of Europe, the Middle East, or North Africa. _____

Black or African American (Not Hispanic or Latino) – A person having origins in any of the black racial groups of Africa. _____

Native Hawaiian or Other Pacific Islander (Not Hispanic or Latino) - A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands. _____

Asian (Not Hispanic or Latino) - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent, including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam. _____

American Indian or Alaska Native (Not Hispanic or Latino) - A person having origins in any of the original peoples of North and South America (including Central America), and who maintain tribal affiliation or community attachment. _____

Two or More Races (Not Hispanic or Latino) - All persons who identify with more than one of the above five races. _____

HART Salary Codes

Appendix O

Salary Range	Code	Low Monthly/hourly rate
\$14,001 to \$18,000	A	1166.75/6.73
\$18,001 to \$22,000	B	1500.08/8.65
\$22,001 to \$26,000	C	1833.42/10.58
\$26,001 to \$30,000	D	2166.75/12.50
\$30,001 to \$34,000	E	2500.08/14.42
\$34,001 to \$38,000	F	2833.42/16.35
\$38,001 to \$42,000	G	3166.75/18.27
\$42,001 to \$46,000	H	3500.08/20.16
\$46,001 to \$50,000	I	3833.42/22.12
\$50,001 to \$54,000	J	4166.75/24.04
\$54,001 to \$58,000	K	4500.08/25.96
\$58,001 to \$62,000	L	4833.42/27.88
\$62,001 to \$66,000	M	5166.75/29.81
\$66,001 to \$70,000	N	5500.08
\$70,001 to \$74,000	O	5833.42
\$74,001 to \$78,000	P	6166.75
\$78,001 to \$82,000	Q	6500.08
\$82,001 to \$86,000	R	6833.42
\$86,001 to \$90,000	S	7166.75
\$90,001 to \$94,000	T	7500.08
\$94,001 to \$98,000	U	7833.42
\$98,001 to \$102,000	V	8166.75
\$102,001 to \$106,000	W	8500.08
\$106,001 to \$110,000	X	8833.92
\$110,001 to \$114,000	Y	9166.75
\$114,001 to \$118,000	Z	9500.08
\$118,001 to \$122,000	AA	9833.42
\$122,001 to \$126,000	AB	10166.75
\$126,001 to \$130,000	AC	10500.08
\$130,001 to \$134,000	AD	10833.42
\$134,001 to \$138,000	AE	11166.75
\$138,001 to \$142,000	AF	11500.08
\$142,001 to \$146,000	AG	11833.42
\$146,001 to \$150,000	AH	12166.75
\$150,001 and above	AI	12500.08

(rev 12/1/11)



HONOLULU AUTHORITY for RAPID TRANSPORTATION

HART EEO Category Descriptions

The major job categories are listed below, including a brief description of the skills and training required for occupations in that category and examples of the job titles that fit each category. The examples shown below are illustrative and not intended to be exhaustive of all job titles in a job category. These job categories are primarily based on the average skill level, knowledge, and responsibility involved in each occupation within the job category. The Officials and Managers category as a whole is to be divided into the following two subcategories: Executive/Senior Level Officials and Managers and First/Mid Level Officials and Managers. These subcategories are intended to mirror the employer's own well established hierarchy of management positions. Small employers who may not have two well-defined hierarchical steps of management should report their management employees in the appropriate categories.

1) Executive/Senior Level Officials and Managers. Individuals who plan, direct and formulate policies, set strategy and provide the overall direction of enterprises/organizations for the development and delivery of products or services, within the parameters approved by boards of directors or other governing bodies. Residing in the highest levels of organizations, these executives plan, direct or coordinate activities with the support of subordinate executives and staff managers. They include, in larger organizations, those individuals within two reporting levels of the CEO, whose responsibilities require frequent interaction with the CEO. Examples of these kinds of managers are: chief executive officers, chief operating officers, chief financial officers, line of business heads, presidents or executive vice presidents of functional areas or operating groups, chief information officers, chief human resources officers, chief marketing officers, chief legal officers, management directors and managing partners.

2) First/Mid Level Officials and Managers. Individuals who serve as managers, other than those who serve as Executive/Senior Level Officials and Managers, including those who oversee and direct the delivery of products, services or functions at group, regional or divisional levels of organizations. These managers receive directions from the Executive/Senior Level management and typically lead major business units. They implement policies, programs and directives of executive/senior management through subordinate managers and within the parameters set by Executive/Senior Level management. Examples of these kinds of managers are: vice presidents and directors, group, regional or divisional controllers; treasurers; human resources, information systems, marketing, and operations managers. The First/Mid Level Officials and Managers subcategory also includes those who report directly to middle managers. These individuals serve at functional, line of business segment or branch levels and are responsible for directing and executing the day-to-day operational objectives of enterprises/organizations, conveying the directions of higher level officials and managers to subordinate personnel and, in some instances, directly supervising the activities of exempt and non-exempt personnel. Examples of these kinds of managers are: first-line managers; team managers; unit managers; operations and production managers; branch managers; administrative services managers; purchasing and transportation managers; storage and distribution managers; call center or customer service managers; technical support managers; and brand or product managers.

3) Professionals. Most jobs in this category require bachelor and graduate degrees, and/or professional certification. In some instances, comparable experience may establish a person's qualifications.

Examples of these kinds of positions include: accountants and auditors; airplane pilots and flight engineers; architects; artists; chemists; computer programmers; designers; dieticians; editors; engineers; lawyers; librarians; mathematical scientists; natural scientists; registered nurses; physical scientists; physicians and surgeons; social scientists; teachers; and surveyors.

4) Technicians. Jobs in this category include activities that require applied scientific skills, usually obtained by post secondary education of varying lengths, depending on the particular occupation, recognizing that in some instances additional training, certification, or comparable experience is required. Examples of these types of positions include: drafters; emergency medical technicians; chemical technicians; and broadcast and sound engineering technicians.

5) Sales Workers. These jobs include non-managerial activities that wholly and primarily involve direct sales. Examples of these types of positions include: advertising sales agents; insurance sales agents; real estate brokers and sales agents; wholesale sales representatives; securities, commodities, and financial services sales agents; telemarketers; demonstrators; retail salespersons; counter and rental clerks; and cashiers.

6) Administrative Support Workers. These jobs involve nonmanagerial tasks providing administrative and support assistance, primarily in office settings. Examples of these types of positions include: office and administrative support workers; bookkeeping; accounting and auditing clerks; cargo and freight agents; dispatchers; couriers; data entry keyers; computer operators; shipping, receiving and traffic clerks; word processors and typists; proofreaders; desktop publishers; and general office clerks.

7) Craft Workers (formerly Craft Workers (Skilled)). Most jobs in this category includes higher skilled occupations in construction (building trades craft workers and their formal apprentices) and natural resource extraction workers. Examples of these types of positions include: boilermakers; brick and stone masons; carpenters; electricians; painters (both construction and maintenance); glaziers; pipe layers, plumbers, pipefitters and steamfitters; plasterers; roofers; elevator installers; earth drillers; derrick operators; oil and gas rotary drill operators; and blasters and explosive workers. This category also includes occupations related to the installation, maintenance and part replacement of equipment, machines and tools, such as: automotive mechanics; aircraft mechanics; and electric and electronic equipment repairers. This category also includes some production occupations that are distinguished by the high degree of skill and precision required to perform them, based on clearly defined task specifications, such as: millwrights; etchers and engravers; tool and die makers; and pattern makers.

8) Operatives (formerly Operatives (Semi-skilled)). Most jobs in this category include intermediate skilled occupations and include workers who operate machines or factory-related processing equipment. Most of these occupations do not usually require more than several months of training. Examples include: textile machine workers; laundry and dry cleaning workers; photographic process workers; weaving machine operators; electrical and electronic equipment assemblers; semiconductor processors; testers, graders and sorters; bakers; and butchers and other meat, poultry and fish processing workers. This category also includes occupations of generally intermediate skill levels that are concerned with operating and controlling equipment to facilitate the movement of people or materials, such as: bridge and lock tenders; truck, bus or taxi drivers; industrial truck and tractor (forklift) operators; parking lot attendants; sailors; conveyor operators; and hand packers and packagers.

9) Laborers and Helpers (formerly Laborers (Unskilled)). Jobs in this category include workers with more limited skills who require only brief training to perform tasks that require little or no independent judgment. Examples include: production and construction worker helpers; vehicle and equipment cleaners; laborers; freight, stock and material movers; service station attendants; construction laborers; refuse and recyclable materials collectors; septic tank servicers; and sewer pipe cleaners.

10) Service Workers. Jobs in this category include food service, cleaning service, personal service, and protective service activities. Skill may be acquired through formal training, job-related training or direct experience. Examples of food service positions include: cooks; bartenders; and other food service workers. Examples of personal service positions include: medical assistants and other healthcare support positions; hairdressers; ushers; and transportation attendants. Examples of cleaning service positions include: cleaners; janitors; and porters. Examples of protective service positions include: transit and railroad police and fire fighters; guards; private detectives and investigators.

Appendix P (rev 12/1/11)



HONOLULU AUTHORITY for RAPID TRANSPORTATION

EEO Job Categories at HART

Officials and Upper Management

Chief of Rapid Transit
Rapid Transit Program Administrator
Administrative Services Officer
Assistant Transit Project Officer
Chief Planner
Civil Engineer VII
Procurement & Specifications Officer

Professionals

Human Resource Specialist V
Human Resource Specialist IV
Labor Relations Specialist
Configuration Management Specialist
Contract Change Specialist
Contracts Officer
Departmental Staff Executive Assistant
Internal Control Analyst II
Planner III
Planner IV
Planner V
Planner VI
Planner VII
Procurement & Specification Specialist VI
Planner V Permits Coordinator
Records Management Analyst IV
Accountant IV
Asset Manager
Real Estate Acquisition Manager
Right of Way Coordinator
IT Support Technician II
Multimedia Director
Contract Management Project Controls Specialist
DP Systems Analyst II
Lead Architect
Airport Guide way Contract Manager
Civil Engineer III
Civil Engineer VI

Civil Engineer V
Maintenance & Storage Facility Project Manager
Quality Engineer Construction & Manufacturing
Station Group Contract Manager
System Safety Engineer
Traffic Engineer II
Transit Project Coordinator, Design-Build Contracts
Electrical Engineer III
Electrical Engineer IV
Mechanical Engineer III
Drafting Technician VI
Information Specialist II
Information Specialist III

Administrative Support

Administrative Specialist II
Procurement & Specifications Specialist III
Human Resource Specialist II
Records Management Analyst I
Records Management Analyst II
HART Board Administrator (Secretary-Reporter)
Secretary I
Secretary II
Secretary III
Secretary IV
Senior Clerk

Appendix Q

(rev 12/1/11)



HONOLULU AUTHORITY for RAPID TRANSPORTATION

HART DISCRIMINATION COMPLAINT FORM

The purpose of this form is to assist you in filing a complaint with the Honolulu Authority for Rapid Transportation (HART). You are not required to use this form; a letter with the same information is sufficient. However, the information requested in the items marked with a star (*) must be provided, whether or not this form is used.

1. *State your name and address:

Name: _____

Address: _____

Telephone: Home: () _____ Work: () _____

2. *Person(s) discriminated against, if different from above:

Name: _____

Address: _____

Telephone: Home: () _____ Work: () _____

3. *Agency and department or program that has discriminated:

Name: _____

Any individual if known: _____

Address: _____

Telephone: () _____

4. *Non-employment: Does your complaint concern discrimination in the delivery of services or in other discriminatory actions in the department or agency in its treatment of you or others? If so, please indicate below the base(s) on which you believe these discriminatory actions were taken (e.g. "Race: African American" or "Sex: Female").

- | | | |
|-----|-----------------|-------|
| ___ | Race/Color | _____ |
| ___ | National Origin | _____ |
| ___ | Sex | _____ |
| ___ | Religion | _____ |
| ___ | Age | _____ |
| ___ | Disability | _____ |

*Employment: Does your complaint concern discrimination in employment by the department or agency? If so, please indicate below the base(s) on which you believe these discriminatory actions were taken (e.g., "Race: African American" or "Sex: Female").

___	Race/Color	_____
___	National Origin	_____
___	Sex	_____
___	Religion	_____
___	Age	_____
___	Disability	_____

5. What are the most convenient time and place for us to contact you about this complaint?

If we will not be able to reach you directly, you may wish to give us the name and phone number of a person who can tell us how to reach you and/or provide information about your complaint.
Name: _____

Telephone () _____

6. If you have an attorney representing you concerning the matters raised in this complaint, please provide the following:
Name: _____

Address: _____

Telephone: () _____

7. *To your best recollection, on what date(s) did the alleged discrimination take place?
Earliest date of discrimination: _____

Most recent discriminations: _____

8. Complaints of discrimination must generally be filed within 180 days of the alleged discrimination. If the most recent date of discrimination, listed above, is more than 180 days ago, you may request a waiver of the filing requirement. If you wish to request a waiver, please explain why you waited until now to file your complaint.

9. *Please explain as clearly as possible what happened, why you believe it happened, and how you were discriminated against. Indicate who was involved. Be sure to include how other persons were treated differently from you. (Please use additional sheets if necessary and attach a copy of written materials pertaining to your case.)

15. Have you filed or do you intend to file a charge or complaint concerning the matters raised in this complaint with any of the following?

- U.S. Equal Opportunity Commission
- Federal or State Court
- Hawaii Civil Rights Commission
- Grievance or complaint office

16. If you already filed a charge or complaint with an agency indicated in #15, above, please provide the following information (attach additional pages if necessary):

Agency: _____
Date Filed: _____
Case or Docket Number: _____
Date of Trial/Hearing: _____
Location of Agency/Court: _____
Name of Investigator: _____
Status of case: _____

Comments: _____

***We cannot accept a complaint if it has not been signed. Please sign and date this complaint form below.**

Signature Date

Please feel free to add additional sheets to explain the present situation to us. We will need your consent to disclose your name, if necessary, in the course of any investigation. Therefore, we will need a signed Complainant Consent/Release Form from you. If you are filing this complaint for a person whom you allege has been discriminated against, we will in most instances need a signed Complainant Consent/Release Form from that person. Please mail the complete, signed Discrimination Complaint Form and the signed Complainant Consent/Release Form (please make one copy of each for your records) to:

Honolulu Authority for Rapid Transportation
Charles Bayne, EEO Officer
1099 Alakea Street, 17th Floor
Honolulu, HI 96813
(808) 768-6223

Appendix R
(rev 3/27/12)



HONOLULU AUTHORITY for RAPID TRANSPORTATION

HART COMPLAINANT CONSENT/RELEASE FORM

Your Name: _____

Address: _____

Please read information below, initial the appropriate space, and sign and date this form on the lines at the bottom of this form.

As a complainant, I understand that in the course of a preliminary inquiry or investigation it may become necessary for the Honolulu Authority for Rapid Transportation (HART) to reveal my identity to persons at the organization or institution under investigation. I am also aware of the obligations of HART to honor requests under the Freedom of Information Act. I understand that it might be necessary for HART to disclose information, including personally identifying details, which it has gathered as a part of its preliminary inquiry or investigation of my complaint. In addition, I understand that as a complainant I am protected by federal regulations from intimidation or retaliation for having taken action or participated in action to secure rights protected by nondiscrimination statutes enforced by the federal government.

CONSENT/RELEASE

Initial on the above
if you give consent

CONSENT GRANTED: I have read and understand the above information and authorize HART to reveal my identity to persons at the organization or institution under investigation and to other Federal agencies that provide Federal financial assistance to the organization or institution or also have civil rights compliance oversight responsibilities that cover that organization or institution. I hereby authorize HART to receive material and information about me pertinent to the investigation of my complaint. This release includes, but is not limited to, applications, case files, personal records, and medical records. I understand that the material and information will be used for authorized civil rights compliance and enforcement activities. I further understand that I am not required to authorize this release and I do so voluntarily.

Initial on the above
if you deny consent

CONSENT DENIED: I have read and understand the above information and do not want HART to reveal my identity to the organization or institution under investigation, or to review, receive copies of, or discuss material and consent information about me, pertinent to the investigation of my complaint. I understand that this is likely to make the investigation of my complaint and getting all the facts more difficult and, in some cases, impossible, and may result in the investigation being closed.

Signature

Date



HONOLULU AUTHORITY for RAPID TRANSPORTATION

Applicant Flow Record

Appendix T

Applicant's Name: _____	Date of Application: _____
Race: _____ National Origin: _____	Sex: _____ DOB: _____
Referral Source: _____	
Position Applied For: _____	
Offered Job Applied For: _____	Offered Any Other Job: _____
If No, Why Not?: _____	

Applicant's Name: _____	Date of Application: _____
Race: _____ National Origin: _____	Sex: _____ DOB: _____
Referral Source: _____	
Position Applied For: _____	
Offered Job Applied For: _____	Offered Any Other Job: _____
If No, Why Not?: _____	

HART ANALYSIS OF AFFIRMATIVE ACTION PROGRAM PROGRESS

PRIOR YEAR APP CURRENT YEAR APP

(rev 12/1/11)
Appendix U

JOB GROUP*		GOAL PLACEMENT RATE (%)**	ACTUAL PLACEMENT RATE (%)***	ANALYSIS OF GOOD FAITH EFFORTS
	MINORITY			
	FEMALE			
	MINORITY			
	FEMALE			
	MINORITY			
	FEMALE			
	MINORITY			
	FEMALE			
	MINORITY			
	FEMALE			
	MINORITY			
	FEMALE			
	MINORITY			
	FEMALE			

* JOB GROUPS WHERE GOALS ARE REQUIRED

** GOAL PLACEMENT RATE EQUALS AVAILABILITY PERCENTAGE RATE FOR MINORITIES OR FEMALES AS APPLICABLE

*** ACTUAL PLACEMENT RATE FOR MINORITIES OR FEMALES FOR A PARTICULAR JOB GROUP IS EQUAL TO THE NUMBER OF MINORITY OR FEMALE PLACEMENTS DIVIDED BY THE TOTAL NUMBER OF PLACEMENTS. FOR EXAMPLE, IF JOB GROUP A EXPERIENCED 45 FEMALE PLACEMENTS OUT OF 90 TOTAL PLACEMENTS, THE ACTUAL PLACEMENT RATE FOR FEMALES IS (45/90=.50) OR 50%.

HART PERSONNEL TRANSACTION REPORT

(rev 12/1/11)
Appendix V

Date: _____

Summary				Minority								
		Total	White	Black	Hisp	Asian	NHPI	AIAN	2+	Total Min	Male	Female
Employees at Beginning of Period	#											
	%											
Employees at End of Period	#											
	%											
Net Increase (decrease)												
Personnel Transactions												
New Hires	#											
	%											
Promotions	#											
	%											
Demotions												
Separations												

Hisp = Hispanic

NHPI = Native Hawaiian/Pacific Islander

AIAN = American Indian/Alaskan Native

2+ = Two or more races

Min = Minority

The Personnel Transactions Report provides an agency-wide summary of the progress made toward achieving the established affirmative action plan goals for the reporting period. It shows a comparison of the total number of employees at the beginning and end of the report period, and the total number of completed personnel transactions.

ATTACHMENT C

Honolulu Authority for Rapid Transportation

RESOLUTION NO. 2012 – 5

RATIFYING THE DISADVANTAGED BUSINESS ENTERPRISE PROGRAM POLICY OF THE BOARD OF DIRECTORS OF THE HONOLULU AUTHORITY FOR RAPID TRANSPORTATION

WHEREAS, the Honolulu Authority for Rapid Transportation (HART) has been established pursuant to Article XVII of the Revised Charter of the City and County of Honolulu 1973, as amended (Charter); and

WHEREAS, Federal Transit Laws, 49 CFR § 26.7, provide that recipients of federal transit funds “must never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by this part on the basis of race, color, sex, or national origin;” and

WHEREAS, under Federal law, agencies receiving planning, capital and/or operating assistance who will award prime contracts exceeding \$250,000 in Federal Transit Administration (FTA) funds in a Federal fiscal year must develop and employ a Disadvantaged Business Enterprise (DBE) program that is approved by the U.S. Department of Transportation (USDOT); and

WHEREAS, HART has received federal transit funds from the USDOT; and

WHEREAS, HART has awarded prime contracts exceeding \$250,000 in FTA funds; and

WHEREAS, HART has developed a DBE program in accordance with USDOT regulations and signed an assurance with the USDOT that it will comply with 49 CFR Part 26; and

WHEREAS, HART is committed to the principles of nondiscrimination in the award and administration of USDOT-assisted contracts;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of HART as follows:

1. That the Disadvantaged Business Enterprise Program Policy, shown in Exhibit A attached hereto and made a part hereof by reference, be and hereby is, ratified as the policy of HART; and
2. That the Executive Director is authorized to implement the policy described in Exhibit A and to ensure that Authority staff and contractors, as appropriate, adhere to this policy; and
3. That this Resolution shall take effect immediately upon its adoption.

ADOPTED by the Board of the Honolulu Authority for Rapid Transportation on _____.

Exhibit A – Disadvantaged Business Enterprise Program Policy of the Honolulu Authority for Rapid Transportation

Board Chair

ATTEST:

Board Administrator



HONOLULU AUTHORITY for RAPID TRANSPORTATION

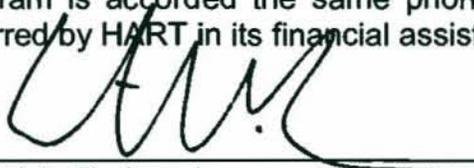
**DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
POLICY STATEMENT**

The Honolulu Authority for Rapid Transportation (HART) has established a Disadvantaged Business Enterprise (DBE) program in accordance with the regulations of the U.S. Department of Transportation (USDOT), Title 49, Code of Federal Regulations, Part 26 (49 CFR Part 26). HART has received federal financial assistance from USDOT, and as a condition of receiving this assistance, HART has signed an assurance with the USDOT that it will comply with 49 CFR Part 26.

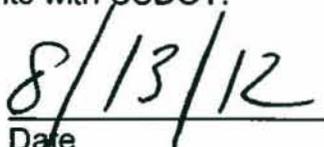
It is the policy of HART to ensure that DBEs as defined in 49 CFR Part 26 have an equal opportunity to receive and participate on USDOT-assisted contracts. It is also the policy of HART to:

1. Ensure nondiscrimination in the award and administration of USDOT-assisted contracts;
2. Create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts;
3. Ensure that the DBE Program is narrowly-tailored in accordance with applicable law;
4. Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. Help remove barriers to the participation of DBEs in USDOT-assisted contracting;
6. Assist in the development of firms that can compete successfully in the market place outside the DBE program.

The Executive Director of HART is responsible for implementation of this policy. The DBE Liaison Officer is designated with the authority and overall responsibility to implement HART's DBE program on a day-to-day basis. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by HART in its financial assistance agreements with USDOT.



Daniel A. Grabauskas
Executive Director and CEO



Date

HART

HONOLULU AUTHORITY for RAPID TRANSPORTATION

**Honolulu Authority for Rapid Transportation
Disadvantage Business Program**

2012

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INTRODUCTION

The Honolulu Authority for Rapid Transportation (HART) has established a Disadvantaged Business Enterprise (DBE) program in accordance with the regulations of the U.S. Department of Transportation (USDOT), Title 49, Code of Federal Regulations, Part 26 (49 CFR Part 26). HART has received federal financial assistance from USDOT, and as a condition of receiving this assistance, HART has signed an assurance with the USDOT that it will comply with 49 CFR Part 26.



HONOLULU AUTHORITY for RAPID TRANSPORTATION

**DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
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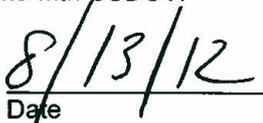
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4. Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. Help remove barriers to the participation of DBEs in USDOT-assisted contracting;
6. Assist in the development of firms that can compete successfully in the market place outside the DBE program.

The Executive Director of HART is responsible for implementation of this policy. The DBE Liaison Officer is designated with the authority and overall responsibility to implement HART's DBE program on a day-to-day basis. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by HART in its financial assistance agreements with USDOT.



Daniel A. Grabauskas
Executive Director and CEO



Date

DEFINITIONS

HART will adopt the definitions contained in 49 CFR Section 26.5 for this program.

ASSURANCES

HART shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any USDOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. HART shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of USDOT assisted contracts. HART's DBE program, as required by 49 CFR Part 26 and as approved by USDOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to HART of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

This language will appear in financial assistance agreements with sub-recipients.

Contract assurance

HART will ensure that the following clause is placed in every USDOT-assisted contract and subcontract:

The contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

The previous clause is contained as an attachment on all HART awarded contracts. The HART DBELO shall contact the winning contractor to fully explain their responsibilities and HART's expectations regarding the DBE program. Emphasis will be put on the primes responsibilities for all sub-contractors. Periodic checks will be conducted to monitor and enforce compliance.

Contract provisions

HART's contract provisions relative to the DBE program are contained in Attachment C of this program document.

PROGRAM ADMINISTRATION

Applicability 49 CFR Section 26.3

The DBE Program shall apply to contracts awarded subject to US Department of Transportation DBE regulations 49 CFR Part 26.

Non-discrimination 49 CFR Section 26.7

HART will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE program, HART will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

Record keeping requirements 49 CFR Section 26.11

HART will report DBE participation to USDOT as follows:

HART will report DBE participation on a semi-annual basis, using the Uniform Report of Awards or Commitments and Payments (Attachment A) to the Federal Transit Administration (FTA). These reports will reflect payments actually made to DBEs on USDOT-assisted contracts.

Bidders list 49 CFR Section 26.11(c)

HART shall create and maintain a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on USDOT-assisted contracts. The purpose of this requirement is to allow use of the bidder's list approach in calculating overall goals. The bidders list will include the name, address, DBE/non-DBE status, age, and range of annual gross receipts of firms.

HART will collect this information in the following ways:

A bidder's registration requirement will be included in bid documents. All bidders are responsible for submitting the Bidder Registration Form to HART's, DBE program, via U.S. mail, facsimile, e-mail or in person. The Bidder Registration Form is Attachment B of this program document.

All submitted proposals will be thoroughly reviewed and all primes and subcontractors relative information will be added to the bidders list.

Contract assurance 49 CFR Section 26.13b

HART will ensure that the following clause is placed in every USDOT-assisted contract and subcontract:

The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of USDOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

Contract provisions

HART's contract provisions relative to the DBE program are contained in Attachment C of this program document.

DBE program updates 49 CFR Section 26.21

HART will continue to carry out this program until all funds from USDOT financial assistance have been expended. HART will provide to USDOT updates representing significant changes in the program.

Responsibilities of staff and sub-recipients 49 CFR Section 26.25

DBE Liaison Officer:

The Executive Director has overall responsibility for the Honolulu Authority for Rapid Transportation, and has delegated the responsibility of DBE Liaison Officer to the Civil Rights Officer.

The DBELO is responsible for implementing all aspects of the DBE program and ensuring that HART complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Executive Director concerning DBE program matters.

The duties and responsibilities of the DBELO include, but are not limited to the following:

1. Gathers, reviews, and reports statistical data and other information as required by USDOT;
2. Reviews, approves, and submits HART's overall goals to the respective USDOT Operating Administrations;
3. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner;
4. Analyzes HART's and its sub-recipients' progress toward attaining DBE goals by maintaining a running tally of payments to DBE and non-DBE subcontractors;
5. Advises the Executive Director of HART on DBE matters and achievement;
6. Co-chairs with HDOT's DBELO, meetings of the DBE Advisory Committee;
7. Plans and participates in DBE training seminars;
8. Coordinates and conducts training for field personnel, project managers, consultants acting on behalf of HART, subrecipients, and other staff with DBE responsibilities on DBE requirements such as but not limited to, monitoring commercially-useful function, goal-setting, good faith efforts, and prompt payment provisions;
9. Coordinates and conducts training in cooperation with the divisions, for contractors, consultants, DBEs, and other stakeholders on topics such as, but not limited to, DBE regulatory requirements for bidders, project goals, good faith efforts, commercially useful function, and prompt payment provisions;
10. Provides outreach to DBEs and minority and women business organizations to assist small businesses with contracting opportunities and to help foster relationships with larger prime bidders/contractors. Such outreach activities may include, but shall not be limited to, networking workshops, small business fairs, business development training sessions, and mentor-protégé programs;
11. Conducts audits of prime contractors to ensure prompt payment requirements are met;
12. Monitors compliance of subrecipients; and

13. Maintains the HART's bidders list and DBE directory.

The DBELO contact information is provided below.

Charles L. Bayne
Honolulu Authority for Rapid Transportation
1099 Alakea Street, 17th Floor
Honolulu, HI 96816-4511

Phone: 808-768-6223
Fax: 808-768-1360
Email: cbayne@honolulu.gov

Sub-recipients of HART:

A sub-recipient is defined for the purposes of this program plan as an entity, public or private, that receives USDOT financial assistance through HART.

Sub-recipients shall develop a DBE program where required by law, or adopt and abide by HART's DBE Program Plan. HART will make an effort to ensure that sub-recipients comply with all requirements. A sub-recipient agreement shall be executed to ensure that sub-recipients include the appropriate DBE clauses in all of its federal-aid contracts and subcontracts.

A signed contract with HART serves as written confirmation that the sub-recipient has elected to adopt the HART DBE Program.

HART shall conduct an annual review of all sub-recipients having adopted HART's program document. HART shall submit an annual update to the USDOT Operating Administrators which includes a status statement regarding performance and compliance with HART's DBE program document.

HART shall provide all sub-recipients written notice of all document amendments. Sub-recipients shall provide written confirmation of adoption and incorporation of these amendments.

DBE financial institutions 49 CFR Section 26.27

It is the policy of HART to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on USDOT assisted contracts to make use of these institutions.

Prompt payment mechanisms 49 CFR Section 26.29

HART will include the following clause in each USDOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 calendar days from the receipt of each payment the prime contract receives from HART. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented, as required by HART. Full and prompt payment by the prime contractor to all subcontractors shall include retainage if applicable. Any delay or postponement of payment from the above referenced time frame may be considered a breach of contract and occur only

for good cause following written approval of HART. This clause applies to both DBE and non-DBE subcontracts, and all tiers of subcontracts.

All prime contractors shall submit the DBE Participation Report (Attachment D) with each request for payment. Payments to the prime contractor will not be processed if the DBE Participation Report is not properly completed and attached.

DBE Directory 49 CFR Section 26.31

HDOT maintains a directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, and type of work the firm has been certified to perform as a DBE. HDOT updates the Directory on a weekly basis. HART will update its copy of the HDOT directory available for public inspection on a monthly basis. HART will make the directory available as follows: Honolulu Authority for Rapid Transportation, 1099 Alakea Street, 17th Floor, Honolulu, HI 96813-4511 and it is posted on the HDOT/DBE webpage.

Overconcentration 49 CFR Section 26.33

HART has not identified that overconcentration exists in the types of work that DBEs perform. If, however, the issue of overconcentration arises, the DBE Liaison Officer after securing approval of the USDOT may initiate some of the following actions:

1. Work with prime contractors to find and use DBEs in other industry areas.
2. Discontinue assigning a goal on a contract that offers work in the concentrated field.
3. Establish a business development program such as a mentor-protégé program, to assist DBEs in performing work outside of the specified field that HART has determined to have an overconcentration of DBE participation.

Monitoring and enforcement mechanisms 49 CFR Section 26.37

HART will implement the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Section 26.37.

1. HART will monitor its DBE program to insure DBEs are getting the opportunity to perform the work committed to them. HART will bring to the attention of the USDOT any false, fraudulent, or dishonest conduct in connection with the program, so that USDOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
2. HART will consider similar action under its own legal authorities, including responsibility determinations in future contracts.
3. HART will adopt a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by DBEs. This will be accomplished by requiring pre-construction meetings with the prime contractor and subcontractors to discuss scope of work and performance expectations on contracts and subcontracts. HART will conduct field inspections and written certification on every contract on which DBEs are participating to ensure that DBEs are in fact performing a commercially useful function. HART will be monitoring all payments to subcontractors.
4. HART shall require its contractors and subcontractors to submit the "DBE Participation Report" and the "Final Report of DBE Participation" (Attachments D & E of this program

document) to verify that work committed to DBEs is actually being performed by DBEs with its own forces and reflecting payments made to DBE subcontractors.

5. On an annual basis, HART shall review the DBE policies and practices of its subrecipients to ensure that they are in compliance with 49 CFR, Part 26.
6. HART will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.
7. HART will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of HART or USDOT. This reporting requirement also extends to any certified DBE subcontractor.

Fostering small business participation 49 CFR Section 26.39

HART shall review the feasibility of initiating a mentor-protégé program as a race-neutral means to increase DBE participation. HART's mission is to breakdown as many barriers as possible. We will do what we can to act as a liaison between the primes, subcontractors, DBEs and small business to develop mutually beneficial business relationships.

HART shall strive towards unbundling large contracts to allow small businesses, including DBEs to compete for smaller, more manageable contracts. For all contracts HART shall require prime contractors to identify elements of a contract, or a specific subcontract that are of a size that small businesses, including DBEs can reasonably perform.

HART believes that disseminating contract information is critical in the effort to level the playing field and to provide DBEs and small businesses the opportunity to competitively participate in the procurement process. HART will be compiling an ongoing comprehensive list of DBEs and small businesses ready, willing and able to bid on our contracts. This will be a "living list" and there will be a constant proactive effort to add DBEs and small businesses. We will search out small businesses in the minority community, encourage and assist them in the DBE certification process to ensure as many as possible eligible DBEs are participating. As contracting opportunities become available on a contract and sub-contracting level, HART will inform DBEs and small businesses and offer whatever assistance is needed.

HART will conduct an extensive outreach program directed to the minority small business community through their leaders and organizations. We will be conducting periodic pre-bid conferences, seminars, workshops and business fairs to inform and encourage participation. We will be readily available to address and satisfy whatever special assistance needs that arise.

GOAL, GOOD FAITH EFFORTS, AND COUNTING

Set-asides or quotas 49 CFR Section 26.43

HART shall not impose quotas or set-asides for use of DBEs in its federally assisted contracting.

Overall Project Goal 49 CFR Section 26.45

HART will utilize a single Overall Project Goal applicable to all USDOT assisted contracts awarded under the Honolulu High Capacity Transportation Corridor Project (HHCTCP).

The overall DBE goal shall be based on the relative availability of ready, willing, and able DBE(s) to participate in contracting opportunities under the HHCTCP. The goal will reflect the level of DBE participation expected absent the effects of discrimination in HART contracting activities, and will be reviewed and adjusted, as necessary over the life of the Project.

Goal methodology

HART shall attempt to meet its overall goal through race-neutral means. Contract goals or other race or gender conscious means may be considered if, through constant monitoring, it becomes apparent that the overall project goal cannot be met race neutrally. Race-neutral DBE participation includes award under the race neutral small business element of this Program; any time a DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contractor that did not consider its DBE status in making the award (e.g., a prime contractor that uses a strict low bid system to award subcontracts).

Public participation & goal submittal process 49 CFR Section 26.45(f)

HART will publish a notice of the proposed Project Goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the DBE program office for 30 days following the date of the notice. It will also be posted on HART's website during this period. The notice shall include an address where comments may be submitted. HART will inform the public that HART will accept comments on the goal for 45 days from the date of the notice.

HART's Overall Project Goal submission to USDOT will include a summary of information and comments received during this public participation process and HART's responses.

HART will begin using its Overall Project Goal on July 11, 2012 and will monitor DBE participation during implementation of the HHCTCP to determine if adjustments need to be made to the goal

HART shall submit for approval to USDOT any significant adjustments made to the goal due to changed circumstances.

Transit vehicle manufacturer's goals 49 CFR Section 26.49

HART will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. HART will check that the TVM is listed as currently eligible on the FTA website and will require a written statement of compliance from the TVM. Alternatively, HART may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program.

Breakout of estimated race-neutral & race-conscious participation 49 CFR Section 26.51(a-c)

HART will adjust the estimated breakout of race-neutral and race-conscious participation to reflect the actual DBE participation, and will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not limited to:

1. DBE participation through a prime contract that a DBE obtains through customary competitive procurement procedures;
2. DBE participation through a subcontract under a prime contract that does not have a DBE goal; and
3. DBE participation through a subcontract under a prime contract that exceeds a contract goal.

HART shall meet the maximum feasible portion of its overall goals through race-neutral means and shall use the following methods to increase DBE participation:

1. Arranging solicitation times for presentation of bids, quantity specifications, and delivery schedules that will facilitate the participation of DBEs and other small businesses. This may include unbundling large contracts, and encouraging prime contractors to subcontract portions of their work that they may otherwise perform with their own forces.
2. Providing information and technical assistance to DBEs and other small businesses.
3. Distributing the DBE Directory through print and electronic means.

Contract goals 49 CFR Section 26.51(d-g)

As previously mentioned, HART shall attempt to meet its overall goal through race-neutral means. Contract goals or other race or gender conscious means may be considered if, through constant monitoring, it becomes apparent that the overall project goal cannot be met race neutrally. HART shall establish contract goals to the extent that contract goals will cumulatively meet any portion of the overall goal that HART projects it will not meet through race-neutral means. Contract goals will be expressed as a percentage of the total amount of a USDOT-assisted contract, less allowances and mobilization.

Contract goals will only be established on those USDOT contracts that have subcontracting possibilities.

Contract goals shall not be established on every contract. The amount of the goal shall be contingent upon the circumstances of the contract. Some of the following factors may be considered in determining whether a contract goal shall be established, and what the percentage of the goal shall be:

- The projected portion of the goal that will be met by establishing contract goals;
- The progress towards achieving the overall three-year goal;
- The types and breakdown of activities in the proposed contract;
- The availability of DBEs that are capable of performing the work called for in the contract;
- The unique conditions of the project that might affect the ability of the prime contractor to coordinate, utilize, or incorporate subcontractors or suppliers into the project; and
- The effect that the contract specific goal may have on the project's completion time.

Good faith efforts procedures 49 CFR Section 26.53

Demonstration of good faith efforts 49 CFR 26.53(a) & (c)

As previously mentioned, HART shall attempt to meet its overall goal through race-neutral means. Contract goals or other race or gender conscious means may be considered if, through constant monitoring, it becomes apparent that the overall project goal cannot be met race neutrally. When a contract goal is not met, the respective organization's DBELO shall conduct the initial review of good faith efforts submitted by the contractor. The DBELO shall determine whether the contractor has performed the quality, quantity, and intensity of efforts that demonstrate a reasonably active and aggressive attempt to meet the contract goal in accordance with 49 CFR Part 26, Appendix A.

The contractor bears the responsibility of demonstrating that it met the contract goal, or if the contract goal was not met, by documenting the good faith efforts it made in an attempt to meet the goal.

The contractor shall be required to document all actions taken to meet the contract goal. Good faith efforts by the bidder/offeror to meet the contract goal, may include, but are not limited to, the following actions:

1. Whether the contractor solicited through all reasonable and available means (e.g. attendance at meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform part or all of the work to be included under the contract. HART will also consider whether the bidder/offeror solicited the participation of potential DBEs in sufficient time to allow the DBEs to properly inquire about the project and respond to the solicitation, and will also review whether the bidder/offeror took appropriate steps to follow up with interested DBEs in a timely manner to facilitate participation by DBEs in this project;
2. Whether the contractor identified and broke up portions of work that can be performed by DBEs in order to increase the likelihood that DBEs would be able to participate, and the DBE goal could be achieved (e.g. breaking out contract items into economically feasible units to facilitate DBE participation, even when the bidder/offeror might otherwise prefer to perform these work items with its own forces);
3. Whether the contractor made available or provided interested DBEs with adequate information about the plans, specifications, and requirements of the project in a timely manner, and assisted them in responding to the bidder's/offeror's solicitation;
4. Whether the contractor negotiated in good faith with interested DBEs. Evidence of such negotiations includes documenting: a) the names, addresses, and telephone numbers of DBEs that were contacted by the bidder/offeror; b) a description of the information that was provided to DBEs regarding the plans and specifications; and c) detailed explanations for not utilizing individual DBEs in the project. The fact that there may be additional or higher costs associated with finding and utilizing DBEs are not, by themselves, sufficient reasons for a bidder's/offeror's refusal to utilize a DBE, or the failure to meet the DBE goal, provided that such additional costs are not unreasonable. Also, the ability or desire of a bidder/offeror to perform a portion of the work with its own forces, that could have been undertaken by an available DBE, does not relieve the bidder/offeror of the responsibility to make good faith efforts to meet the DBE goal, and

to make available and solicit DBE participation in other areas of the project to meet the DBE goal;

5. Whether the contractor rejected DBEs as being unqualified without sound reasons, or based on a thorough investigation of their capabilities. The DBE's standing within the industry, membership in specific groups, organizations, or associations, and political or social affiliation, are not legitimate bases for the rejection or non-solicitation of bids from particular DBEs;
6. Whether the contractor made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance;
7. Whether the contractor made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services; and
8. Whether the contractor effectively used the services of available minority/women community organizations, minority/women business groups, contractors' groups, local, state, and federal minority/women business assistance offices, or other organizations to provide assistance in recruitment and placement of DBEs.

It is the sole responsibility of the contractor to submit any and all documents, logs, correspondence, and any other records or information to HART that will demonstrate that the contractor made good faith efforts to meet the DBE goal. Additionally, for each DBE that was contacted but not utilized by the contractor for a contract, the contractor shall submit a detailed written explanation for each DBE detailing the reasons for the contractor's failure or inability to utilize, or to allow the DBE to participate in the contract. In its good faith effort evaluation, HART may, but shall not be required to perform the following as part of its evaluation:

1. Request additional information and documents from the contractor;
2. Compare the contractor's bid against the bids of other contractors on the same project, and comparing the DBEs and DBE work areas utilized by the contractor with the DBEs listed in other bids submitted for this contract;
3. Verify contacts by contractors with DBEs; and
4. Compare the DBE and the categories of DBE work targeted by the contractor for participation in the contract, with the total available pool of DBEs available for each particular subcontract targeted by the bidder.

Information to be submitted 49 CFR Section 26.53(b)

HART treats contractor's compliance with good faith efforts requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders/offerors to submit the following information:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;

3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and if the contract goal is not met, evidence of good faith efforts;
6. The dollar amount of each DBE and non-DBE subcontractor participating in the project; and
7. A written and signed confirmation by the participating DBE to verify its active status, as provided in the prime contractor's commitment.

Administrative reconsideration 49 CFR Section 26.53(d)

Within five (5) working days of being informed by the HART Executive Director that the contractor is not responsive because it has not documented sufficient good faith efforts, a contractor may request administrative reconsideration. Contractors should make this request in writing to the following official:

Executive Director
Honolulu Authority for Rapid Transportation
1099 Alakea Street, 17th Floor
Honolulu, Hawaii 96813
Attn: DBE

The Executive Director of HART or his designee shall not have played any role in the original determination that the contractor did not document sufficient good faith efforts.

As part of this reconsideration, the contractor will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The contractor will have the opportunity to meet in person with the reconsideration official, or his/her designee, to discuss the issue of whether it met the goal or made adequate good faith efforts to do so.

In an administrative reconsideration, HART may consider whether other contractors are able to attain the contract goal, as HART will review all previously submitted documents, oral, and written arguments, and other evidence presented in the reconsideration, in making its decision.

The Executive Director will inform the contractor in writing of HART's reconsideration decision within 45 days of the proceeding. The decision will state HART's findings with respect to whether or not the contractor met the contract goal, or whether the contractor exhibited good faith efforts to achieve the contract goal.

The reconsideration decision is not administratively appealable to the USDOT but is appealable under HRS 103D-709.

Sample bid specification:

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the Honolulu Authority for Rapid Transportation to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification.

These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of X.XX% percent has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.

Counting DBE participation 49 CFR Section 26.55

HART will count DBE participation toward contract goals as provided in 49 CFR §26.55, as follows:

1. The entire amount of work actually performed by DBEs on all tiers on a contract;
2. One hundred percent of the cost of materials that are obtained from DBE manufacturers;
3. The cost of materials and supplies obtained or equipment leased by DBEs (except from the prime contractor or its affiliate);
4. Sixty percent of the cost of materials that are purchased from DBE regular dealers;
5. The commissions or fees for transactions with DBE suppliers who are not regular dealers;
6. The total value of the transportation services of a certified DBE trucker if the DBE trucker uses trucks it owns, insures, and operates using drivers it employs.
7. The total value of the transportation services if a DBE trucker leases trucks from another DBE firm.
8. The value of the fees, commission or mark up from a lease arrangement if a DBE trucker leases trucks from a non-DBE firm and credit is not allowed for the lease amount.
9. The total value of the transportation services provided by a non-DBE lessee, not to exceed the value of transportation services provided by DBE-owned trucks on the contract. For additional participation by non-DBE lessees, credit will be awarded only for the fee or commission the DBE firm receives as a result of the lease arrangement.

EXAMPLE: DBE firm X uses two of its own trucks on a contract, leases two trucks from DBE Firm Y and six trucks from non-DBE Firm Z. DBE credit would be awarded for the total value of transportation services provided by Firm X and Firm Y, and may also be awarded for the total value of transportation services provided by four of the six trucks provided by Firm Z. In all, full credit would be allowed for the participation of eight trucks. With respect to the other two trucks provided by Firm Z, DBE credit could be awarded only for the fees or commissions pertaining to those trucks Firm X receives as a result of the lease with Firm Z.

Counting DBE Participation of Decertified DBEs:

1. If a DBE firm becomes decertified after the contract award but before the notice to proceed has been issued by HART, HART shall require the prime contractor to meet the DBE goal by continuing to subcontract with the decertified DBE, and by expending good faith efforts to find work not already subcontracted out to DBEs, in an amount sufficient to meet the DBE goal. The work performed, or supplies provided by an ineligible (i.e. decertified) DBE, shall not be counted towards the DBE contract goal or HART's overall goal.
2. If a prime contractor has executed a subcontract with the firm before the notice of ineligibility, the prime contractor may continue to use the DBE firm on the contract and may continue to receive credit toward its DBE contract goal for the firm's work. When HART has let a prime to the DBE that was later ruled ineligible, the portion of the ineligible firm's performance of the contract remaining after the issuance of the notice shall not count toward the overall goal, but may count toward the contract goal.
3. If a DBE firm becomes ineligible solely because it has exceeded the business size standard during performance of the contract, HART shall continue to count its participation on that contract towards HART's overall goal, as well as the contract goal.

Commercially useful function 49 CFR Section 26.55(c)(1)

To determine whether a DBE is performing a commercially useful function, HART shall evaluate the amount of work subcontracted to the DBE, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors. The DBE must perform at least 30 percent of the work with its own forces.

When a DBE is presumed not to be performing a commercially useful function, the DBE may present evidence to rebut this presumption. HART shall make the determination whether a DBE firm is performing a commercially useful function given the type of work involved and normal industry practices.

HART's decision on commercially useful function matters are subject to review by the concerned operating administration, but are not administratively appealable to USDOT.

Monitoring Commercially Useful Function Performance:

It shall be the prime contractor's responsibility to ensure that all certified DBEs selected to perform work on the contract and for which the prime contractor shall receive DBE credit, perform a commercially useful function.

HART shall conduct inspections at each project site at the start of the project and whenever DBEs begin work to ensure that certified DBEs are performing a commercially useful function. Field inspectors shall utilize the Commercially Useful Function Project Site Review CUF Form (Attachment F).

Commercially Useful Function of Trucking Firms:

The following factors are used in determining whether a DBE trucking company is performing a commercially useful function:

The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.

The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.

The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.

The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE lessees not to exceed the value of transportation services provided by DBE-owned trucks on the project. Additional participation by non-DBE lessees receives credit only for the fee or commission it receives as a result of the lease arrangement. If a recipient chooses this approach, it must obtain written consent from the appropriate operating administration.

Example: DBE firm X uses two of its own trucks on a contract, leases two trucks from DBE firm Y and six trucks from non-DBE firm Z. DBE credit would be awarded for the total value of transportation services provided by firm X and firm Y, and may also be awarded for the total value of transportation services provided by four of the six trucks provided by firm Z. In all, full credit would be allowed for the participation of eight trucks. With respect to the other two trucks provided by firm Z, DBE credit could be awarded only for the fees or commissions pertaining to those trucks firm X receives as a result of the lease with firm Z.

A lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

Use of Joint Checks Under the DBE Program

HART will not object to the use of joint checks when the following conditions are met:

1. The second party (typically the prime contractor) acts solely as a guarantor,

2. The DBE must release the check to the supplier,
3. The use of joint checks is a commonly recognized business practice,
4. HART will approve the practice before it is used. As a part of this approval process, HART will analyze industry practice to confirm the practice is commonly employed outside of the DBE program for non-DBE subcontractors on both federal and City funded contracts. Using joint checks shall not be approved if it conflicts with other aspects of the DBE regulations regarding commercially useful function (CUF).
5. HART shall monitor this use closely to avoid abuse.

The following shall be present to support joint checks:

1. Standard Industry practice applies to all contractors (federal and city contracts).
2. Use of joint checks must be available to all subcontractors.
3. Material industry sets the standard industry practice, not prime contractors.
4. Short term not to exceed reasonable time (i.e., one year, two years) to establish/increase a credit line with the material supplier.
5. No exclusive arrangement between one prime and one DBE in the use of joint checks that may compromise the independence of the DBE.
6. Non-proportionate ratio of DBE's normal capacity to size of contract and quantity of material to be provided under the contract.
7. DBE is normally responsible to install and furnish the work item.
8. DBE must be more than an extra participant in releasing the check to the material supplier.

General conditions for allowance by HART:

1. DBE submits request to HART for action.
2. HART will provide prior approval of the request.
3. There is a formalized agreement between all parties that specify the conditions under which the arrangement shall be permitted.
4. There is a full and prompt disclosure of the expected use of joint checks.
5. DBE remains responsible for all other elements of 49 CFR 26.55(c)(1).
6. The agreement states clearly that the DBE's independence is not threatened because it retains final decision making responsibilities.
7. HART will determine that the request is not an attempt to artificially inflate DBE participation.
8. Standard industry practice is only one factor and other factors shall be considered by HART prior to authorizing the use of joint checks.
9. HART will monitor and maintain oversight of the arrangement by reviewing cancelled checks and/or certification statement of payment.
10. HART will verify there is no requirement by prime contractor that DBE is to use a specific supplier nor the prime "contractors" negotiated unit price.

Replacement of a DBE on a contract 49 Section 26.53(f)

HART will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. HART will require the prime contractor to promptly provide written notice to the project manager or resident engineer of the DBE's inability or unwillingness to perform and provide reasonable documentation.

The written notice by the contractor must include the following:

1. The date the contractor determined that the certified DBE to be unwilling, unable or ineligible to perform work on the contract;
2. The projected date that the contractor shall require a substitution or replacement DBE to commence work if consent is granted by HART;
3. Documentation of facts that cite specific actions or inactions on the part of the affected DBE that led to the contractor's conclusion that the DBE is unwilling, unable, or ineligible to perform work on the contract;
4. A brief statement of the affected DBE's capacity and ability or inability to perform the work as determined by the contractor;
5. Documentation of contractor's good faith efforts to enable the affected DBE to perform the work;
6. The current percentage of work completed on each bid item by the affected DBE;
7. The total dollar amount currently paid per bid item for work performed by the affected DBE;
8. The total dollar amount per bid item remaining to be paid to the DBE for work completed but for which the DBE has not received payment, and with which the contractor has no dispute; and
9. The total dollar amount per bid item remaining to be paid to the DBE for work completed for which the DBE has not received payment, and with which the contractor and DBE have a dispute.

The prime contractor shall send a copy of the written notice to replace a certified DBE on a contract to the affected DBE. The affected DBE may submit a written response within five (5) calendar days to HART to explain its position on its performance on the committed work. HART shall consider both the prime contractor's request and DBE's stated position before approving the termination or substitution request, or determining if the contractor should reconsider its decision to replace a DBE and terminate its subcontract.

No substitution or termination of a DBE subcontractor shall be made at any time without the prior written consent of HART. Written consent shall be provided only if the prime contractor has demonstrated good cause, as determined by HART, to terminate the DBE. Good cause may include, but is not limited to the following circumstances:

1. The DBE subcontractor fails or refuses to execute a written contract.
2. The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards.
3. The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements.
4. The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
5. The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1200 or applicable state law;
6. HART has determined that the listed DBE subcontractor is not a responsible contractor;
7. The listed DBE subcontractor voluntarily withdraws from the project and provides to HART written notice of its withdrawal;
8. The listed DBE is ineligible to receive DBE credit for the type of work required;
9. A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract.

Proposed Substitution of a Certified DBE; Section 26.53

Upon termination of the certified DBE, the prime contractor shall make good faith efforts to replace the terminated DBE. The termination of the DBE does not relieve the prime contractor of meeting the DBE contract goal, and the unpaid portion of the terminated DBE's contract shall not be credited towards the DBE contract goal.

When a DBE substitution is necessary, the prime contractor shall submit in writing the name of another certified DBE firm, the proposed work to be performed by that firm, and the dollar amount of the work to replace the unfulfilled portion of the work of the originally committed DBE firm. The prime contractor shall furnish information such as the contract I.D. number, bid item, item description, bid unit and bid quantity, unit price, and total price.

If the prime contractor is unable to commit the remaining required dollar value to the substitute DBE, the prime contractor shall provide written evidence of good faith efforts made by the prime contractor in accordance with HART's Good Faith Efforts Procedures on pages 13 and 14 of this document.

If the contractor fails or refuses to comply in the time specified, HART's contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for a default proceeding.

CERTIFICATION

The State of Hawaii Department of Transportation is the sole certifying agency for the United States Department of Transportation DBE Program in the State of Hawaii. All applicants that are seeking DBE certification or re-certification will be directed to HDOT which will undertake the responsibility to review, investigate and determine DBE eligibility.

HDOT compiles, maintains and distributes a DBE Directory consisting of all eligible DBEs. A DBE Directory is printed and distributed annually. The electronic version is posted on the internet at www.state.hi.us/dot/administration/dbe/index.htm. The electronic DBE Directory is revised weekly and provides information on the previously certified DBEs and those DBEs that were certified or recertified in the previous week.

For the purpose of the Honolulu Authority for Rapid Transportation DBE program, HART will rely solely on the information supplied by HDOT.

Information, confidentiality, cooperation; Section 26.109

HART shall safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with federal, state, and local law. This includes disclosure of confidential business or personal information prohibited by Section 92F-13 of the Hawaii Revised Statutes.

Notwithstanding any contrary provisions of state or local law, HART will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than USDOT) without the written consent of the submitter.

UNIFORM REPORT OF DBE AWARDS OR COMMITMENTS AND PAYMENTS									
Please refer to the instructions sheet for directions on filling out this form									
1. Submitted to (check only one): <input type="checkbox"/> FHWA <input type="checkbox"/> FAA <input type="checkbox"/> FTA-Vendor Number									
2. AIP Numbers (FAA Recipients Only):									
3. Federal fiscal year in which reporting period falls: FY _____ 4. Date This Report Submitted: _____									
5. Reporting Period: <input type="checkbox"/> Report due June 1 (for period Oct. 1-Mar. 31) <input type="checkbox"/> Report due Dec. 1 (for period April 1-Sept. 30)									
6. Name of Recipient: _____									
7. Annual DBE Goal(s):									
Race Conscious Goal			Race Neutral Goal			OVERALL Goal			
%			%			%			
AWARDS/COMMITMENTS MADE DURING THIS REPORTING PERIOD (total contracts and subcontracts awarded or committed during this reporting period)									
A	B	C	D	E	F	G	H	I	
Total Dollars	Total Number	Total to DBEs (dollars)	Total to DBEs (number)	Total to DBEs /Race Conscious (number)	Total to DBEs/Race Conscious (number)	Total to DBEs/Race Neutral (dollars)	Total to DBEs/Race Neutral (number)	Percentage of total dollars to DBEs	
8. Prime contracts awarded this period									
9. Subcontracts awarded/committed this period									
TOTAL									
DBE AWARDS/COMMITMENTS THIS REPORTING PERIOD-BREAKDOWN BY ETHNICITY & GENDER									
A	B	C	D	E	F	G	H	I	
Black American	Hispanic American	Native American	Subcont. Asian American	Asian-Pacific American	Non-Minority Women	Other (i.e. not of any other group listed here)	TOTALS (for this reporting period only)	Year-End TOTALS	
10. Total Number of Contracts (Prime and Sub)									
11. Total Dollar Value									
ACTUAL PAYMENTS ON CONTRACTS COMPLETED THIS REPORTING PERIOD									
A		B		C		D		E	
Number of Prime Contracts Completed		Total Dollar Value of Prime Contracts Completed		DBE Participation Needed to Meet Goal (Dollars)		Total DBE Participation (Dollars)		Percentage of Total DBE Participation	
12. Race Conscious									
13. Race Neutral									
14. Totals									
15. Submitted by (Print Name of Authorized Representative)					16. Signature of Authorized Representative				
17. Phone Number					18. Fax Number				

Attachment A

HONOLULU AUTHORITY FOR RAPID TRANSPORTATION

1099 Alakea Street, 17th Floor
 Honolulu, HI 96813-4511
 Telephone: (808) 768-6223
 Fax: (808) 768-1360

Bidder Registration Form

Pursuant to 49 CFR 26.11(c), the Honolulu Authority for Rapid Transportation (HART) is required to create and maintain a bidders list consisting of all firms that bid on prime contracts or quoting subcontracts on federal assisted projects. All interested parties (Consultants, Vendors, Contractors, Suppliers, Manufacturers, Truckers, etc.) are required to register with HART.

1. Bidder Information:

Name of Firm (dba if applicable)		
Address	City / State	Zip Code
Mailing Address	City / State	Zip Code
Name of Contact Person	Telephone Number	
Email Address		

2. Check all that apply to the bidder:

<input type="checkbox"/> Prime Contractor	<input type="checkbox"/> Subcontractor
<input type="checkbox"/> Consultant	<input type="checkbox"/> Material Supplier
<input type="checkbox"/> Manufacturer	<input type="checkbox"/> Other

3. NAICS Code: _____ 4. Type of Work: _____
 5. Currently Certified as a DBE? Yes No
 6. Year that firm was established: _____ 7. License No.: _____

8. Check which best indicates the bidder's annual gross receipts:

<input type="checkbox"/> Less than \$500,000	<input type="checkbox"/> \$500,000 to \$999,999
<input type="checkbox"/> \$1,000,000 to \$4,999,999	<input type="checkbox"/> \$5,000,000 to \$9,999,999
<input type="checkbox"/> \$10,000,000 to \$16,999,999	<input type="checkbox"/> More than \$17,000,000

The completed Bidder Registration Form may be faxed to (808) 768-1360, emailed to cbayne@honolulu.gov or mailed to the address at the top of this form attn: Charles Bayne.

Rev. 8/8/12

HART Disadvantaged Business Enterprises (DBE) Contract Provisions

1) DBE Assurances: The contractor and its subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The contractor shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of U.S. DOT-assisted Agreements. Failure by the contractor to carry out these requirements is a material breach of this Agreement, which may result in termination of this Agreement or such other remedy, as HART deems appropriate.

The above paragraph shall be included in each subcontract the contractor signs with a subcontractor.

2) Prompt Payment: The contractor shall pay all subcontractors (DBEs and non-DBEs) for satisfactory performance of their subcontracts no later than thirty (30) days from receipt of payment by HART. Full and prompt payment by the contractor to all subcontractors shall include retainage, if applicable.

3) DBE Goal: HART has established a race neutral overall DBE goal of X.XX% for fiscal year 2011. Although HART has not established a DBE Agreement goal for this Project, DBE firms and small businesses shall have an equal opportunity to participate in the Agreement. The contractor shall adhere to the following requirements:

- a) Take affirmative steps to use as many of the race-neutral means of achieving DBE participation identified at 49 C.F.R. 26.51(b) as practical to afford opportunities to DBEs to participate in the agreement. A race-neutral measure is one that is, or can be, used to assist all small businesses.
- b) A DBE firm must perform a commercially useful function, i.e., must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work; and
- c) A DBE firm must be certified by the Hawaii State Department of Transportation before its participation is reportable under paragraph (d) below;

4) Reports to HART: The contractor shall report its DBE participation obtained through race-neutral means throughout the period of performance. The contractor shall submit the "DBE Participation Report" reflecting payments made by the contractor to DBE subcontractors. Payments to the contractor will not be processed if the DBE Participation Report is not properly completed and attached. The DBE Participation Report shall be prepared in the format set forth in Attachment E to this program.

5) Records: On request, the contractor shall make available for inspection, and assure that its subcontractors make available for inspection:

- a) Records of prompt payments made in accordance with Section 1.6(b), above;

- b) The names and addresses of DBE subcontractors, vendors, and suppliers under this Agreement;
 - c) The dollar amount and nature of work of each DBE subcontractor;
 - d) The social/economic disadvantaged category of the DBE firms, i.e. Black American, Hispanic American, Native American, Subcontinent Asian American, Asian Pacific American, Non-Minority women, or Other; and
 - e) Other related materials and information.
- 6) The contractor shall promptly notify HART, whenever a DBE subcontractor performing work related to this Agreement is terminated or fails to complete its work. The contractor shall also promptly notify HART. of a DBE subcontractor's inability or unwillingness to perform and provide reasonable documentation.

HART DBE PARTICIPATION REPORT

DBE PARTICIPATION REPORT				
Project Name:				
Contract No.:		Contractor Name:		
Federal ID No.:		Contract Amount	\$	
	Current			
Period Covered by this Report	(Invoice #)		Total to Date	
Total Invoice Amount	(A) \$		(B) \$	
Payment Requested:	DBE? (Yes/NO) DBE Code (if "Yes")	Prior Amount	Current Amount	Total Amount to Date
Prime Contractor		\$	\$	\$
Subcontractors (attach additional sheets as needed):				
Name: Type of Work:		\$	\$	\$
Name: Type of Work:		\$	\$	\$
Name: Type of Work:		\$	\$	\$
Name: Type of Work:		\$	\$	\$
Totals		\$	\$	(C) \$
DBE Participation to Date (C/B)	%			

HART FINAL REPORT OF DBE PARTICIPATION

This report must be submitted by the contractor with the final invoice or request for payment under this contract.

Project Title: _____
 Contractor Name: _____
 Project No.: _____ Contract No.: _____
 Period Covered by this report: _____
 Contract Amount (including amendments): \$ _____
 Final payment amount: \$ _____ Invoice No.: _____
 Total payment to DBE: \$ _____

All subcontractors (DBD and non-DBE) & DBE suppliers or manufacturers	Type of service or materials	Subcontract amount
Name Address Phone		

Add additional sheets as necessary.

Signature

Print name and title

INSTRUCTIONS FOR COMPLETING THE FINAL REPORT OF DBE PARTICIPATION

All subcontractors, suppliers and manufacturers should be listed on the FINAL REPORT OF DBE PARTICIPATION in the same order as listed in the proposal.

Project Title:	Self Explanatory
Project No.:	Self Explanatory
Period covered by this report:	Same period as invoice period.
Contractor Name:	Self Explanatory
Contractor No:	Self Explanatory
Contract Amount (including amendments):	Less Mobilization, Force Account Items and Allowance Items. Amendments should be listed separately with an explanation of how it was allocated to DBEs and non-DBEs
Invoice No:	Self Explanatory
Final Payment Amount:	Self Explanatory
Total Payment to DBE:	Total \$ amount paid to DBE.

**HART
DBE COMMERCIALY USEFUL FUNCTION (CUF)
PROJECT SITE REVIEW REPORT**

Project No:		Reviewer:			
		Review Date:			
Project Name:					
Prime Contractor:					
DBE Subcontractor:					
DBE Foreman/Supt:		DBE Start Date:		DBE Completion Date:	
DBE Foreman/Supt:		DBE Start Date:		DBE Completion Date:	
Work Item: (continue on back of form)	Work Item Description	Approximate % Complete as of this date	Subcontracted Dollar Amount		
REGARDING DBE'S FOREMAN/SUPT.					
Exclusively employed by DBE?		Yes	No	Shown on the DBE payroll?	
				Yes	No
Shown on any other firm's payroll?		Yes	No	If yes, whose?	
Directly reports to:					
REGARDING DBE'S EMPLOYEES					
Are DBE's employees shown on any other contractor's payrolls?				Yes	No
If yes, whose?					
Do the DBE's employees receive work assignments from DBE foreman?				Yes	No
REGARDING DBE'S EQUIPMENT					
Does the equipment have the DBE's name or logo?				Yes	No
If another firm's name or logo is shown, identify:					
Does the equipment belong to the DBE?				Yes	No
If leased or rented, is there a copy of the agreement in project file?				Yes	No
REGARDING DBE'S WORK PERFORMANCE					
Has any other contractor performed work that was to be performed by the DBE?				Yes	No
If yes, identify the contractor who performed the work:					
What work items did the identified contractor perform? (if more than two, write on back of form)					
1)					
2)					
Were these items on the DBE's subcontract?				Yes	No
Has the DBE owner been on the job site?				Yes	No
Does the DBE appear to have control over their work and employees?				Yes	No
Comments: (any comments pertaining to the performance or conduct of the DBE company)					
Has HART Civil Rights been notified of any problem(s) identified in this report?				Yes	No
If no, explain why:					

(Rev. 3/1/12)

HART DBE Commercially Useful Function (CUF) Project Site Review Report Instructions:

The HART CUF Form must be completed at least once for each DBE working on a HART FTA Construction Contract, during the life of the contract. Please refer to the following information for guidance in completing the CUF.

COMMERCIALLY USEFUL FUNCTION (CUF) – FTA 49CFR26.55(c)(1)

DBE CONTRACTOR MUST PERFORM A CUF TO SATISFY THE CONTRACT GOAL

MANAGE:

- **Manage the work themselves.**
 - Schedule work operations, order equipment and materials, hire and fire employees, including supervisory employees.

SUPERVISE:

- **Supervise daily operations**
 - Can use a skilled Superintendent employed by the DBE.

PERFORM:

- **Perform the work stated in the contract with their own equipment.**

Regular Equipment is owned or leased and operated on a long term agreement and not on an *ad hoc* or contract by contract agreement.

- a. The equipment would be used by the DBE firm on any other subcontract with any other contractor.
 - b. The equipment would be owned by the DBE firm. Or
The equipment would be leased/rented from traditional equipment lease/rental sources.
 - c. The DBE firm would have a rental/lease agreement for any rented or leased equipment.
 - d. The equipment cannot belong to:
 - (1.) Prime Contractor
 - (2.) Another subcontractor on the present project.
 - (3.) Supplier of materials being installed by the DBE firm.
 - e. The equipment cannot come from another contractor fully operated.
- **Perform the work with their own employees.**

Regular Employee is a person who:

- a. Would be working for the DBE firm on any other subcontract with any other contractor.
- b. Is a permanent employee of the DBE firm, Or
Has been recruited through the traditional recruitment and/or employment centers.

- c. Has not recently been employed by the prime contractor on the present project, another subcontractor on the present project, or the renter-lessor of equipment being used on the present project.
 - d. Is not a member of a construction crew, which regularly works for a non-DBE.
 - e. Is not a licensed contractor who is at the time “unemployed” or “between jobs.”
- **Subcontracting part of the work of the contract.**
 - When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward the DBE goal **only if the DBE subcontractor is itself a DBE**. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals.
 - **Trucks/Equipment must display name of DBE firm**
 - Printed name or logo
 - Leased or rented equipment: A copy of the lease/rental must be submitted to the project office and put in the project file.
 - **Supplier - Regular Dealer**

A regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. 60% of the cost of materials, supplies and delivery counts toward the DBE goal.
 - **Supplier – Service Provider**
 - Only the fees or commissions charged by the DBE Service Provider count toward DBE goals. The Cost of the materials or supplies are not counted toward the DBE goal.

TRUCKING CLARIFICATION (S)

HART shall use the following factors (as stated in the Special Provisions) in determining whether a DBE trucking company is performing a commercially useful function:

- a. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- b. The DBE must be responsible for the management and supervision of the entire trucking arrangement for the purpose of meeting DBE goals.
- c. The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
- d. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract. *See below for payroll reporting.
- e. The DBE who leases trucks from a non-DBE is **entitled to credit for the total value of the transportation services provided by non-DBE lessees not to exceed the value of transportation services provided by DBE-owned trucks on the contract**. Additional participation by non-DBE lessees receives credit only for the fee or commission it receives as a result of the lease arrangement.

Example: DBE Firm X uses two of its own trucks on a contract. It leases two trucks from DBE Firm Y and six trucks from non-DBE Firm Z. DBE credit would be awarded for the total value of transportation services provided by Firm X and Firm Y, and may also be awarded for the total value of transportation services provided by four of the six trucks provided by Firm Z. In all, full credit would be allowed for the participation of eight trucks. With respect to the other two trucks provided by Firm Z, DBE credit could be awarded only for the fees or commissions pertaining to those trucks Firm X receives as a result of the lease with Firm Z.

For purposes of this paragraph (d), a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck.