



U.S. Department
of Transportation

Federal Transit
Administration

The Administrator

MAR - 2 2010
1200 New Jersey Avenue, SE
Washington, D.C. 20590

FEB 26 2010

The Honorable Linda Lingle
Governor of Hawaii
Honolulu, HI 96813

Dear Governor Lingle:

With respect to the telephone conversation between us and our staffs on January 15 regarding the Honolulu High Capacity Transit Corridor Project (HHCTCP), I write to follow-up and specifically to reiterate my urgent concern that the State of Hawaii has yet to designate a State Safety Oversight Agency (SSOA) for the project. It is absolutely imperative that Hawaii establish an SSOA to monitor the planning and design of an undertaking as large and complex as the HHCTCP. I thank you for giving this important matter your personal attention.

The safety of the traveling public on all forms of transportation is the single highest priority of the U.S. Department of Transportation and the Federal Transit Administration (FTA). I am sure that the safety of Hawaiian residents and visitors is no less important to you, the Hawaii Department of Transportation, and the city and county of Honolulu. I want to emphasize, however, that it would be a mistake for the State of Hawaii to defer the establishment of an SSOA until the city and county have completed the environmental analyses and ironed out the financing for the HHCTCP. To the contrary, it is in the interest of the State of Hawaii and the city and county of Honolulu to identify and resolve any safety concerns well before any construction or procurement of capital facilities and equipment in order to avoid any later necessity for costly change orders or work-arounds. Moreover, an SSOA's early familiarity with the project will enhance the effectiveness of your safety oversight program once the HHCTCP is in revenue operations.

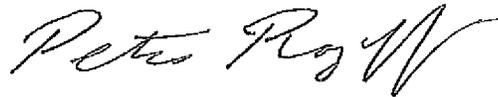
A state's early involvement in a rail transit project is not merely a good idea—it is Federal law. In 2005, the Congress amended 49 U.S.C. § 5330 to require the states to designate an SSOA during the design phase of a rail transit project; previously, the statute did not require the designation of an SSOA until a project entered revenue operations. Furthermore, the FTA regulations that carry out 49 U.S.C. § 5330 call for the designation of an SSOA to coincide with FTA's execution of a grant agreement for a New Starts project with a rail transit agency within the state's jurisdiction. *See*, 49 C.F.R. § 659.9(c). Please refer to FTA's letter to you dated February 10, 2009, which also sets forth certain FTA expectations for safety oversight of rail transit systems. A copy is provided for your review.

The State of Hawaii must submit to FTA within 60 days of the designation of an SSOA, the following information, per the rules at 49 C.F.R. Part 659:

- (1) The name of the SSOA that will implement the requirements of 49 C.F.R. Part 659;
- (2) Documentation of the SSOA's authority to provide state safety oversight;
- (3) Contact information for the representative identified by the SSOA with the responsibilities for state safety oversight activities;
- (4) A description of the organizational and financial relationship between the SSOA and the rail transit agency (to ensure that the SSOA does not have a conflict of interest proscribed by 49 C.F.R. § 659.41); and
- (5) A schedule for the SSOA's development of its State Safety Oversight Program, including the projected date of its initial submission as required by 49 C.F.R. § 659.39(a).

Again, I urge you to designate a state safety oversight agency for the HHCTCP as soon as possible. Should you have any questions or if I can provide further assistance, please do not hesitate to call me at (202) 366-4040.

Sincerely yours,



Peter Rogoff

Enclosure

cc: Mr. Brennon Morioka
Director, Hawaii Department of Transportation

Mr. Kenneth (Toru) Hamayasu
Second Deputy Director, Department of Transportation Services,
City and County of Honolulu

Mr. Leslie Rogers ✓
Regional Administrator, FTA Region IX



U.S. Department
of Transportation
**Federal Transit
Administration**

Deputy Administrator

1200 New Jersey Ave., S.E.
Washington, DC 20590

FEB 10 2009

The Honorable Linda Lingle
Governor, State of Hawaii
Executive Chambers
State Capitol
Honolulu, HI 96813

Subject: Federal Transit Administration's State Safety Oversight Rule

Dear Governor Lingle:

The Federal Transit Administration (FTA) is pleased to work with the City and County of Honolulu, Hawaii in the development of the Honolulu High-Capacity Transit Corridor Project (HCTCP), a proposed elevated fixed guideway transit system along Oahu's southern shore.

I want to take this opportunity to share with you FTA's expectations for states to provide safety oversight of rail transit systems within their jurisdiction. FTA's State Safety Oversight regulation (49 CFR Part 659) requires states to designate an oversight agency for a rail fixed guideway system that 1) is not regulated by the Federal Railroad Administration and 2) intends to be included in FTA's calculation of fixed guideway route miles to receive funding under FTA's formula program for urbanized areas (49 U.S.C. 5336). In Hawaii, this rule will apply to the HCTCP.

Part 659 provides that the State of Hawaii will have an integral role in providing safety oversight for the HCTCP system as it enters revenue service. Improved safety in operations is a direct result of the integration of system safety concepts during the developmental phases of rail transit projects. To this end, FTA encourages your State to designate an agency to provide state safety oversight during the project's preliminary engineering phase. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), signed into law on August 10, 2005 recognizes this importance and calls for state involvement during design (Section 5330 (a)).

Please be assured that if federal funding is approved, FTA is committed to providing assistance to the HCTCP and the State of Hawaii to ensure the development of a safe and successful transit system for the riding public in your State. If the project is approved into preliminary engineering, during the design, engineering and construction phases, FTA's Project Management Oversight team will partner with Hawaii in overseeing the development of the HCTCP. FTA's Office of Safety and Security will support your designated oversight agency as it works to develop its State Safety Oversight Program. Below, I have identified the short-term requirements for the State of Hawaii. We anticipate assisting the State Oversight Agency by conducting a technical capacity and capability review.

Section 659.9(c) states:

The state designation of the oversight agency shall:

- (1) Coincide with the execution of any grant agreement for a New Starts project between FTA and a rail transit agency within the state's jurisdiction; or
- (2) Occur before the application by a rail transit agency for funding under FTA's formula program for urbanized areas (49 U.S.C. 5336).

Section 659.9(d) specifies that:

Within (60) days of designation of the oversight agency, the state must submit to FTA the following:

- (1) The name of the oversight agency designated to implement requirements in this part;
- (2) Documentation of the oversight agency's authority to provide state oversight;
- (3) Contact information for the representative identified by the designated oversight agency with responsibility for oversight activities;
- (4) A description of the organizational and financial relationship between the designated oversight agency and the rail transit agency [to ensure that the designated agency does not have a conflict of interest, 659.41]; and
- (5) A schedule for the designated agency's development of its State Safety Oversight Program, including the projected date of its initial submission, as required in Sec. 659.39(a).

For your convenience, we have enclosed FTA's Implementation Guidelines for 49 CFR Part 659 which have been prepared to assist states and rail transit agencies in developing compliant programs. If you require additional information, or if there is any way that we can be of assistance, please feel free to contact me at (202) 366-1611 or Mr. Levern McBlveen, Program Manager, at (202) 366-1651.

We look forward to working with your State to ensure the design, construction, and operation of a safe and successful rail transit system.

Sincerely,



Matthew J. Welbes
Acting Deputy Administrator

Enclosure

cc: Mayor Mufi Hannemann, City of Honolulu
Leslie Rogers, Regional Administrator, FTA Region 9