Comment [e1]:

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

REGION IX
Arizona, California,
Hawaii, Nevada, Guam
American Samoa,
Northern Mariana Islands

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

Re: Establishment of the State Safety Oversight Agency (SSOA)

Dear Governor Lingle:

We reference your letter dated August 3, 2009 to Raymond Sukys of our Region IX office concerning the designation of an SSOA for the Honolulu High Capacity Transit Corridor Project (HHCTCP). Designation of the SSOA is required during the early portion of the project's preliminary engineering phase (49 U.S.C. Section 5330(a)(2) refers) and not "based on the progress of the completion of the operational segments of the system" as stated in your letter.

Please refer to our letter entitled "Federal Transit Administration's State Safety Oversight Rule" (attached) with its enclosure dated February 10, 2009. Specifically, Federal funding is triggered under 49 CFR Part 659.9(c) requiring the state designation of the oversight agency to:

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

Additionally, and within 60 days of the designation of the oversight agency per Section 659.9 (d), the state must submit to FTA the following:

(1) The name of the designated oversight agency 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 the responsibilities 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 per Section 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 Section 659.39 (a).

I urge you to designate your SSOA as soon as possible so this partnership can begin in earnest and thus, avoid any potential implications, in particular, identified within Section 659.7(a)(2) entitled "Withholding of Funds for Noncompliance", and which states (a) the Administrator of the FTA may withhold up to five percent of the amount required to be distributed to any state or affected urbanized area in such state under FTA's formula program for urbanized areas, if (2) The Administrator determines that the state is not making adequate efforts to comply with this part.

FTA has routinely experienced that it will take the State time to establish and implement the functions of the SSOA, but the requirements of the regulation must still be met. As mentioned in our February 10, 2009 letter, FTA's Project Management Oversight Contractor will participate by overseeing the development of the HCTCP during the design, engineering and construction phases. We look forward to a favorable and prompt response. If you have any questions regarding this letter, please contact me at (202)366-4040.

Sincerely,

Peter M. Rogoff
Administrator

cc: Leslie Rogers, FTA Region IX
T. Hamayasu