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

Deputy Administrator



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 McElveen, 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