From: Jeffrey_Durbin@nps.gov
To: Zelasko, Elizabeth (FTA)
Sent: 11/19/2010 4:08:34 AM
Subject: RE: Honolulu Transit Programmatic Agreement

Sure thing Liz!

Jeff

Jeffrey L. Durbin
Section 106 Compliance Program Officer, WASO
National Park Service
1201 "Eye" Street, NW, 7th Floor
Washington, DC 20005
Desk: 202-354-1816
Cell: 202-669-4610

<elizabeth.zelask
o@dot.gov>
To
11/17/2010 04:34 <Jeffrey_Durbin@nps.gov>
PM cc

Subject
RE: Honolulu Transit Programmatic
Agreement

Thank you for the edit. I am including it in the PAs that I am sending out in a couple of minutes.

Elizabeth Zelasko
Federal Transit Administration

-----Original Message-----
From: Jeffrey_Durbin@nps.gov [mailto:Jeffrey_Durbin@nps.gov]
Sent: Friday, November 12, 2010 3:47 PM
To: Zelasko, Elizabeth (FTA)
Cc: bsemmer@achp.gov; Bausch, Carl (FTA); VanWyk, Christopher (FTA); cvaughn@achp.gov; elaine_jackson-retondo@nps.gov; fmiyamoto@honolulu.gov; Frank_Hays@nps.gov; john.muraoka@navy.mil; Laura.Thielen@hawaii.gov; Pua.Aiu@hawaii.gov; Marler, Renee (FTA); Matley, Ted (FTA)
Subject: RE: Honolulu Transit Programmatic Agreement

Hi Liz--

I looked over the draft in the file labeled "changes between Oct 12 and Nov 5," and found a few typos. Please see the attachment and let me know if you have any questions.

Thanks,

Jeff

Jeffrey L. Durbin
Section 106 Compliance Program Officer, WASO
National Park Service
1201 "Eye" Street, NW, 7th Floor
Washington, DC 20005
Desk: 202-354-1816
Cell: 202-669-4610

(See attached file: PROGRAMMATIC AGREEMENT_changes between Oct 12 and Nov. 5 (jld edits).docx)

<elizabeth.zelasko@dot.gov>
To
11/12/2010 02:37 PM
cc
<bsemmer@achp.gov>,
<Carl.Bausch1111@dot.gov>,
<Christopher.VanWyk@dot.gov>,
<cvaughn@achp.gov>,
<elaine_jackson-retondo@nps.gov>,
<fmiyamoto@honolulu.gov>,
<Frank_Hays@nps.gov>,
<Jeffrey_Durbin@nps.gov>,
<john.muraoka@navy.mil>,
<Pua.Aiu@hawaii.gov>,
<Renee.Marler@dot.gov>,
<Ted.Matley@dot.gov>
Subject
RE: Honolulu Transit Programmatic Agreement

Laura,

Attached is a comparison of the programmatic agreement between October 12, 2010 and the version sent to the City Council on November 5, 2010. Also attached is a comparison between a May 12, 2010 version and the November 5, 2010 version of the PA. I plan to include the latter with the email to the consulting parties (which I am still drafting).

Thank you,

Liz

Elizabeth Zelasko
Federal Transit Administration

From: Laura.Thielen@hawaii.gov [mailto:Laura.Thielen@hawaii.gov]
Sent: Tuesday, November 09, 2010 7:36 PM
To: Zelasko, Elizabeth (FTA)
Cc: bsemmer@achp.gov; Bausch, Carl (FTA); VanWyk, Christopher (FTA);

cvaughn@achp.gov; elaine_jackson-retondo@nps.gov; fmiyamoto@honolulu.gov; Frank_Hays@nps.gov; Jeffrey_Durbin@nps.gov; john.muraoka@navy.mil; Pua.Aiu@hawaii.gov; Marler, Renee (FTA); Sinquefield, Robyn (FTA); Matley, Ted (FTA)
Subject: RE: Honolulu Transit Programmatic Agreement

Liz,

I just skimmed the attachment. It isn't redlined. Do you have a redlined copy?

Laura H. Thielen
Chairperson
Department of Land and Natural Resources
(808) 587-0401
laura.thielen@hawaii.gov

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<eliza
beth.z
elasko
@dot.g To
ov> <Laura.Thielen@hawaii.gov>
cc
<bsemmer@achp.gov>, <Carl.Bausch1111@dot.gov>,
11/09/ <Christopher.VanWyk@dot.gov>, <cvaughn@achp.gov>,
2010 <elaine_jackson-retondo@nps.gov>, <fmiyamoto@honolulu.gov>,
07:28 <Frank_Hays@nps.gov>, <Jeffrey_Durbin@nps.gov>,
AM <john.muraoka@navy.mil>, <Pua.Aiu@hawaii.gov>,
<Renee.Marler@dot.gov>, <Robyn.Sinquefield@dot.gov>,
<Ted.Matley@dot.gov>
Subject
RE: Honolulu Transit Programmatic Agreement

Laura,

Per the edits in attached draft PA, we assumed that it was your intent to have the same Historic Preservation Committee perform both functions. To me it makes sense to have this committee perform both the function of distributing funding on exterior improvements to eligible historic properties and addressing potential cumulative adverse effects in the Chinatown and Merchant Street Historic Districts.

For one, organizationally these functions are location in stipulations with

the same section within the PA and it may be a little more complicated to administer two separate committees focusing on historic structures and districts. Two, these functions would both require expertise and interest in similar areas. I realize that some organizations may have special emphasis concern on the historic districts, but it does not seem too far of a stretch for these organizations to also have interest or ability to weigh in on other historic properties within the APE.

To fit in the additional function of the Historic Preservation Committee, we made adjustments to extend the time period that the committee would operate. The draft PA now reads "The City will dissolve the HPC when the funds are exhausted, not before six (6) months after completion of the Project but no later than three (3) years after completion of the Project, whichever occurs first."

Regarding your email yesterday on the draft PA proposal before the City Council for approval, my understanding is that the City has decided that it is the appropriate time or them to present the major changes in the PA for their internal approval processes. FTA views that as their decision. FTA still intends to continue to work with your office and other signatories on edits, as needed, to the PA and intends to share the PA with the consulting parties for specific comment on the changes. We should be ready send an email out for comment to consulting parties shortly.

Please see attached for the current draft PA.

Thank you,

Liz

Elizabeth Zelasko
Federal Transit Administration

From: Laura.Thielen@hawaii.gov [mailto:Laura.Thielen@hawaii.gov]
Sent: Monday, November 08, 2010 7:07 PM
To: Zelasko, Elizabeth (FTA)
Cc: bsemmer@achp.gov; Bausch, Carl (FTA); VanWyk, Christopher (FTA); cvaughn@achp.gov; elaine_jackson-retondo@nps.gov; fmiyamoto@honolulu.gov; Frank_Hays@nps.gov; Jeffrey_Durbin@nps.gov; john.muraoka@navy.mil; Pua.Aiu@hawaii.gov; Marler, Renee (FTA); Sinquefield, Robyn (FTA); Matley, Ted (FTA)
Subject: RE: Honolulu Transit Programmatic Agreement

Hi Liz,

Pardon the delayed response. I had a crazy week last week.

It was not my intent to have the same group, but I am open to the discussion. I think it was coincidence on our part to use the same name.

Certainly it's easier on the staff side to work with the same group and there are advantages to concentrating information and building capacity within one group.

But the real determinant should be whether the group is appropriate for the task.

My understanding of the grant oversight group is that they'll be looking at historic properties along the entire route. The purpose of the reasonably foreseeable and cumulative effects group is to monitor and comments on the impacts on the historic districts up through the first six months of full operation. That is why I listed those three organizations. They appeared to be the ones that were more narrowly focussed on the historic districts.

As I said, I'm open to discussion on whether we should use the same group.

Laura H. Thielen
Chairperson
Department of Land and Natural Resources
(808) 587-0401
laura.thielen@hawaii.gov

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<eliza
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To
11/01/ <Laura.Thielen@hawaii.gov>
2010 cc
11:47 <bsemmer@achp.gov>, <Carl.Bausch1111@dot.gov>,
AM <Christopher.VanWyk@dot.gov>, <cvaughn@achp.gov>,
<elaine_jackson-retondo@nps.gov>, <fmiyamoto@honolulu.gov>,
<Frank_Hays@nps.gov>, <Jeffrey_Durbin@nps.gov>,
<john.muraoka@navy.mil>, <Pua.Aiu@hawaii.gov>,
<Renee.Marler@dot.gov>, <Robyn.Sinquefield@dot.gov>,
<Ted.Matley@dot.gov>
Subject
RE: Honolulu Transit Programmatic Agreement

Hello Laura,

Thank you for your edits and revised draft language on cumulative effects. We are reviewing the proposed changes and the PA to identify where other changes may need to be made in the agreement to incorporate that section. We will send you a revised draft PA soon.

One part where I would like clarification is on the term Honolulu High Capacity Transit Corridor Historic Preservation Committee - the three consulting parties that you mention in your email below. That term is used in Stipulation IX.B for the disposition of the $2 million fund. Is it your intent to propose that same body to be consulted regarding potential

cumulative effects in historic districts as mentioned in stipulation 3 of the your new cumulative effects language?

Thank you,

Liz

Elizabeth Zelasko
Federal Transit Administration

From: Laura.Thielen@hawaii.gov [mailto:Laura.Thielen@hawaii.gov]
Sent: Friday, October 29, 2010 10:58 PM
To: Zelasko, Elizabeth (FTA)
Cc: bsemmer@achp.gov; Bausch, Carl (FTA); VanWyk, Christopher (FTA); cvaughn@achp.gov; elaine_jackson-retondo@nps.gov; fmiyamoto@honolulu.gov; Frank_Hays@nps.gov; Jeffrey_Durbin@nps.gov; john.muraoka@navy.mil; Pua.Aiu@hawaii.gov; Marler, Renee (FTA); Sinquefield, Robyn (FTA); Matley, Ted (FTA)
Subject: RE: Honolulu Transit Programmatic Agreement

Aloha Liz,

I've attached two documents from the Hawaii SHPO.

First, we have a couple minor edits on the draft PA, which is attached.

To summarize, we edited two items:

1. addition of "report" to all Monitoring and assess language for the Kakoo (stip I.G)
2. Addition of "nothing in this section shall supersede HRS 6e-43.5 or HAR 213-300 in Stip III.B.4

Second, I've attached some draft language on the cumulative effects. ACHP provided us with the language used in the World Trade Center project. I think the language Blythe provided you is from that same project. We've edited that language in the attached document to be applicable for the Hawaii rail project.

I our version, which is very close to that used in the original WTC procedure, provides greater specificity and accountability for each group's roles and the process to follow up to an including the fist six months of full operation.

As in the WTC example, it includes a group of the concurring parties that focus on the historic district. I listed three of the concurring parties in our agreement as part of that group, and left open for discussion whether any of the other concurring parties would be applicable as well.

Thank you for the opportunity to discuss and prepare the comments, and I look forward to hearing back from you soon.

Laura H. Thielen
Chairperson
Department of Land and Natural Resources
(808) 587-0401
laura.thielen@hawaii.gov

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intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

<eliza
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10/26/
2010
02:19 To
PM <Laura.Thielen@hawaii.gov>
cc
<bsemmer@achp.gov>, <Carl.Bausch1111@dot.gov>,
<Christopher.VanWyk@dot.gov>, <cvaughn@achp.gov>,
<elaine_jackson-retondo@nps.gov>, <fmiyamoto@honolulu.gov>,
<Frank_Hays@nps.gov>, <Jeffrey_Durbin@nps.gov>,
<john.muraoka@navy.mil>, <Pua.Aiu@hawaii.gov>,
<Renee.Marler@dot.gov>, <Robyn.Sinquefield@dot.gov>,
<Ted.Matley@dot.gov>
Subject
RE: Honolulu Transit Programmatic Agreement

Hello Laura,

Thank you for your email. We agree with the advice provided by the ACHP and seconded by your office that we should circulate the draft PA for specific comment to the consulting parties.

Last week, either before or after your call with the ACHP and NPS, the Blythe provided some general suggestions on the cumulative effects language in the PA. I have revised it slightly to clarify the section and reflect her comments on including a specific process for resolving an indentified indirect or cumulative effect. I tried to link a specific process to what was already outlined in other sections of the PA, specifically I.G.j. See the language below. Edits are highlighted in yellow. I have shared these edits with Blythe and the City.

Please let me know if you have questions on the edits or other parts of the PA.

Thank you,

Liz

Section IX. Measures to address reasonably foreseeable indirect and cumulative effects caused by the project.

If any signatory to this PA finds during the duration specified in stipulation XIV.D or within six months of full operation of the entire project (whichever is earlier), that there is likely to be an adverse indirect or cumulative effect on a resource determined eligible for the National Register as part of the Section 106 process within the APE for this project and that the adverse effect was not evaluated in this PA or the FEIS, that signatory shall notify FTA or follow the procedures identified in Stipulation I.G.j.

If consulting parties identify during the duration of this PA or within six months of full operation of the entire project (whichever is earlier)an adverse indirect or cumulative effect on a resource determined eligible for the National Register as part of the Section 106 process within the APE for this project and that adverse effect was not evaluated in this PA or the FEIS, the consulting party shall follow procedures identified in Stipulation I.G.j.

Upon such notification, FTA will call a meeting of the consulting parties to discuss what next steps would be appropriate under the new circumstances to mitigate the effects on such resources.

After the process described in Appendix A with the Signatories, Invited Signatories, and appropriate concurring parties, if FTA determines that there would be an adverse indirect or cumulative effect not previously evaluated in the PA or FEIS, then the City, in coordination with the Kako'o, shall consider measures with respect to the Project to avoid, mitigate or minimize such effects. The City shall share written documentation of this consideration with consulting parties. Consulting parties shall have 30 days to review and comment on this documentation. The City, in coordination with the Kako'o and the FTA, shall consider comments made by consulting parties. The City shall share its final decision on measures to avoid, mitigate, or minimize these adverse effects with consulting parties as described in Stipulation XIV.E.

Elizabeth Zelasko
Federal Transit Administration

From: Laura.Thielen@hawaii.gov [mailto:Laura.Thielen@hawaii.gov]
Sent: Thursday, October 21, 2010 3:40 PM
To: Zelasko, Elizabeth (FTA)
Cc: bsemmer@achp.gov; Bausch, Carl (FTA); VanWyk, Christopher (FTA); cvaughn@achp.gov; elaine_jackson-retondo@nps.gov; fmiyamoto@honolulu.gov; Frank_Hays@nps.gov; Jeffrey_Durbin@nps.gov; john.muraoka@navy.mil; Pua.Aiu@hawaii.gov; Marler, Renee (FTA); Sinquefield, Robyn (FTA); Matley, Ted (FTA)
Subject: RE: Honolulu Transit Programmatic Agreement

Aloha Liz and everyone,

SHPD, NPS and ACHP held a call to discuss the most recent draft PA. At this point we think we can circulate our comments on that draft in writing and do not need a conference call. As agreed earlier, we will get our comments to you by Friday, October 29. We will wait to hear back from you

after then on whether the group needs to hold a call at that point or if we can finalize the draft PA.

I understand that ACHP has provided you with a letter stating that the final draft should be circulated to the consulting parties for final review and comment prior to signature. I agree with this position, and understand that was the intent during the consultation process. I also understand that some folks may feel the need to change the original intent due to timing and may be pushing to stop that last round of consultation. I believe that would be penny wise and pound foolish.

The draft PA has changed with multiple technical amendments, the two substantial amendments we had requested, and may also change on the third topic we are finalizing now. I think the consulting parties would feel offended if they were not given the courtesy to comment on those changes, especially if they are aware that earlier conversations did intend to run the final draft by them prior to signature.

The PA requires much ongoing discussion and consultation over the life of the project. I think the ultimate implementation of these PA processes will be smoother if we provide the consulting parties with the courtesy of review and comment on the final draft. If we skip that step, we all will be dealing with a lot of resentment during the implementation, and the constructive results will be diminished.

Accordingly, I recommend once we agree to a final PA, we discuss the most productive and efficient manner of organizing a final review and comment period from the consulting parties, and initiate that process together.

Laura H. Thielen
Chairperson
Department of Land and Natural Resources
(808) 587-0401
laura.thielen@hawaii.gov

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<eliza
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@dot.g
ov>

10/12/
2010
10:44
AM

To
<Laura.Thielen@hawaii.gov>
cc
<bsemmer@achp.gov>, <Carl.Bausch1111@dot.gov>,
<Christopher.VanWyk@dot.gov>, <cvaughn@achp.gov>,
<elaine_jackson-retondo@nps.gov>, <fmiyamoto@honolulu.gov>,
<Frank_Hays@nps.gov>, <Jeffrey_Durbin@nps.gov>,
<john.muraoka@navy.mil>, <Pua.Aiu@hawaii.gov>,
<Renee.Marler@dot.gov>, <Robyn.Sinquefield@dot.gov>,
<Ted.Matley@dot.gov>
Subject
RE: Honolulu Transit Programmatic Agreement

Laura,

Thank you for your prompt response. My schedule below was not intended to rush your review. It takes time to schedule a conference call and I was trying to get a sense of whether one is needed earlier than later. Your proposed schedule of a request for a conference call by October 22nd and final comments one week later on October 29th sounds reasonable.

Thank you,

Liz

Elizabeth Zelasko
Federal Transit Administration

From: Laura.Thielen@hawaii.gov [mailto:Laura.Thielen@hawaii.gov]
Sent: Tuesday, October 12, 2010 4:30 PM
To: Zelasko, Elizabeth (FTA)
Cc: bsemmer@achp.gov; Bausch, Carl (FTA); VanWyk, Christopher (FTA); cvaughn@achp.gov; elaine_jackson-retondo@nps.gov; fmiyamoto@honolulu.gov; Frank_Hays@nps.gov; Jeffrey_Durbin@nps.gov; john.muraoka@navy.mil; Pua.Aiu@hawaii.gov; Marler, Renee (FTA); Sinquefield, Robyn (FTA); Matley, Ted (FTA)
Subject: Re: Honolulu Transit Programmatic Agreement

Liz,

I understand the desire to have a quick response. However, it is not possible for SHPO to meet this deadline, and frankly it is a bit unreasonable.

At our last phone conference, over a month ago, we were asked to move quickly. However, it's taken over a month to get us these revisions.

I am in WesPac meetings and Land Board meetings this week. I have no time to go over these amendments with my staff. Furthermore, I'd like to

discuss this with ACHP and NPS before responding.

I would ask we have until Friday, October 22 to respond to the request about a conference call. Final comments should be due one week later if no call is needed; if we ask for a call to discuss, we can determine the deadlines at that call.

Laura H. Thielen
Chairperson
Department of Land and Natural Resources
(808) 587-0401
laura.thielen@hawaii.gov

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<eliza
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10/12/
2010
09:04
AM

To
<Pua.Aiu@hawaii.gov>, <Laura.Thielen@hawaii.gov>,
<feDb@so,ei_coroopg>
FnHspg><iyamoto@honolulu.gov>,
<Carl.Bausch1111@dot.gov>, <Ted.Matley@dot.gov>,
<Christopher.VanWyk@dot.gov>, <Renee.Marler@dot.gov>,
<Robyn.Sinquefield@dot.gov>, <john.muraoka@navy.mil>,
<bsemmer@achp.gov>, <cvaughn@achp.gov>
cc

Subject
Honolulu Transit Programmatic Agreement

Good afternoon,

Please find attached two versions (with and without track changes) of the latest version of the programmatic agreement for the Honolulu project. Since our last teleconference, FTA and the City made edits to the PA to reflect our last discussion, added language in Appendix A, and expanded language in the agreement on indirect and cumulative effects of the proposed transit project. Also attached is a letter from the Navy requesting to be an invited signatory to the agreement.

For indirect and cumulative effects, we are recommending the addition of a stipulation suggested by the Advisory Council on Historic Preservation providing for consideration of unanticipated but consequential indirect and cumulative effects that may result from implementation of the transit project.

An adverse effect occurs

when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feelings, or association. … Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be farther removed in distance or be cumulative.

36 C.F.R. § 800.5(a)(1) (emphasis supplied). Whether indirect or cumulative effects can be considered reasonably foreseeable depends on a number of factors, including the certainty with which predicted effects are likely to occur and the extent to which effects can be described with sufficient specificity to be useful. With respect to the Honolulu High-Capacity Transit Corridor Project, the Advisory Council on Historic Preservation recognized "that specific effects cannot be fully anticipated and described at this time" in its September 10, 2010 letter addressed to Ms. Elizabeth Zelasko. The Advisory Council recommended that a stipulation be included in the programmatic agreement to consider indirect and cumulative effects that may result from implementation of the transit project so "that unanticipated effects are addressed in a timely and inclusive manner and avoidance and mitigation strategies are explored."

We have added this language under Section IX.d proposing a process for identifying and discussing indirect and cumulative effects identified during the construction and initial operation of the proposed project. We are recommending the inclusion of such a stipulation to be effective until 6 months after the transit way is fully constructed.

Please review the changes and let us know this week whether you would like to have a conference call to discuss the proposed changes. If not, we would like comments back on the proposed changes by October 22nd.

As recommended previously, I will prepare an email to update the consulting parties on the inclusion of the Navy as an invited signatory to the PA.

Thank you,

Liz

Elizabeth Zelasko
Federal Transit Administration
1200 New Jersey Ave. SE s E45-340 s Washington, DC 20590
elizabeth.zelasko@dot.gov s (202) 366-0244
[attachment "CNRH 1273.pdf" deleted by Laura H Thielen/DLNR/StateHiUS]
[attachment "PA Draft Oct 12-2010.docx" deleted by Laura H
Thielen/DLNR/StateHiUS] [attachment "PA Draft Oct 12-2010_clean.docx"
deleted by Laura H Thielen/DLNR/StateHiUS] [attachment "PA Nov 8 2010 for
CC.DOC" deleted by Laura H Thielen/DLNR/StateHiUS] [attachment
"PROGRAMMATIC AGREEMENT_changes between Oct 12 and Nov. 5.docx" deleted by
Jeffrey Durbin/WASO/NPS] [attachment "PROGRAMMATIC AGREEMENT_changes since
May 2010.docx" deleted by Jeffrey Durbin/WASO/NPS]