

Honolulu Historic Preservation Agreement Talking Points

The regulation of the Advisory Council on Historic Preservation (ACHP) implementing section 106 of the National Historic Preservations Act requires that, for Federally funded undertakings that adversely affect historic properties, a Section 106 agreement on actions to mitigate these adverse effects be developed and signed by the Federal funding agency, the State Historic Preservation Officer, and the ACHP, if the ACHP is participating in the consultation.

Standard FTA practice is to require that the grantee also be a full signatory to a historic preservation agreement, because such agreements require significant action by the grantee during final design and construction of the grantee's project. However, the grantee's signature is not explicitly required by the ACHP's historic preservation regulation.

In accordance with this standard practice, FTA is requiring the City and County of Honolulu to be a signatory to the Section 106 agreement for the Honolulu High Capacity Transit Corridor Project (along with the Hawaii State Historic Preservation Officer, the Advisory Council on Historic Preservation, which is participating in the consultation, and FTA).

FTA understands that the City has determined that a City Council action is required for the City to enter into a binding agreement such as the Section 106 agreement. FTA staff believes that any additional time required for this action will not significantly affect the project timeline and will provide for a higher degree of visibility and information among local officials of the mitigation activities that will be necessary as part of the project.

Given that a Full Funding Grant Agreement will not be in place until sometime in the future (the project is not yet approved into PE), and that the City is contemplating project actions before that time through Pre-Award Authority and Letters of No Prejudice, FTA staff is concerned that there be sufficient legal mechanisms in place to ensure compliance by all parties with the mitigation actions embodied in the Section 106 agreement.

FTA has prepared three major EISs in the past (in the 1980's, in the 1990's, and in 1999-2003) on New Starts projects in the same general Honolulu corridor, and none of these New Starts projects has been built. All died due to local opposition or state and local funding shortfalls. If the current project is destined to suffer the same fate in a City Council vote, it would be better if that happened sooner rather than later, after more funds have been wasted on project planning and design.