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

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

201 Mission Street
Suite 1650
San Francisco, CA 94105-1839
415-744-3133
415-744-2726 (fax)

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 (see, 49 U.S.C. Section 5330(a)(2)) 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 titled "Federal Transit Administration's State Safety Oversight Rule" (attached) with its enclosure (enclosed or not enclosed with this letter?) dated February 10, 2009. Specifically, 49 CFR Section 659.9 requires each state "with an existing ***or anticipated*** rail fixed guideway system (emphasis added) to designate an oversight agency to conduct activities required under Part 659. Consistent with Section 659.9(c), this designation must:

(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).

Comment [e1]:
Formatted: Right: 0"

Formatted: Highlight

Comment [RLW2]: Given the state's attitude thus far, do we want to give them an option that allows them to wait, or should we make that choice for them and require a designation now?

Comment [sl3]: Agree. They could follow this to the letter and end up waiting quite a while before designation. We need language to be emphatic that they begin the process now.

I urge you to designate your SSOA as soon as possible so this partnership can begin in earnest and thus avoid any potentially adverse implications, such as the withholding of up to five percent of the State of Hawaii or to the City and County of Honolulu's formula funds for urbanized areas, which I am authorized and able to do under Section 659.7(a) of the regulation

Comment [RLW4]: "willing"? "eager"?

Comment [sl5]: What about adding here something to the effect that "experience has shown that the earlier an SSOA is designated in the project development process the fewer number of safety issues have arisen (if in fact that is true); Mike?

FTA acknowledges that it will take the State of Hawaii time to ~~o~~ establish and fully implement the functions of the SSOA, but the requirements of the regulation to begin the process by designating a state oversight agency 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